

TENDER DOCUMENTS



BHARAT HEAVY ELECTRICALS LIMITED
HEEP HARIDWAR INDIA-PIN 249403
FAX NO: 0091 1334 226462
PHONE NO: 0091 1334 281183

Framework agreement (FA)/ rate contract (RC) for Purchase of bar material for turbine blades NiCr20TiAl (NIMONIC 80A) for the enquiry No. MCX-T(Blade)/RC/2024-25/06 for one year.

- 1. General:** -These Items will be supplied against this RC/PO. Procurement will be carried out progressively through framework agreement valid for 1 year after its finalization with an option to short close (any item/ all items) it at any stage if required.
- 2.** Suppliers shall upload cost in Rs. /No (inclusive of packing, forwarding and freight etc) on FOR BHEL Haridwar basis in Price Bid /BOQ format on BHEL GeP NIC portal. Taxes will be separately mentioned in the techno-commercial bid.
- 3. Supply condition:** - All the items are to be supplied as specified in individual purchase orders/applicable Drawing & specification. Any rejection shall have to be replaced by the vendor free of cost.
- 4. FA/RC Quantity & Technical Parameters:** -Total estimated requirement which is envisaged to be purchased progressively as per requirement under the framework agreement is as follows: (Any change in requirement arising out of unforeseen reasons like customer approved vendor requirement at later stage, hold on projects etc. may change the quantity. Requirement may vary +25% of anticipated quantity).

SNO.	Material Grade	Material description	Specifications	Material Size	Anticipated QTY (Kg)
1	NiCr20TiAl (NIMONIC 80A)	BAR MATERIAL FOR TURBINE BLADES NiCr20TiAl	HW12784	Rectangular flat bar width "x" thickness (in mm) as per BHEL requirement through indent.	1,00,000.00

Indicative cross sections: 60X26,62X28,64X29,66X30,67X32,70x29,73x36,75X36.

Apart from cross-section requirements as mentioned in the tender documents, if there is requirement of any additional cross section, confirmation shall be taken from vendor before placement of PO against rate contract.

Quantity tolerance should be $\pm 10\%$ for each material size.

- 5. Pre-qualification Criteria (Mandatory for further consideration of offers):** All bidders to provide point wise reply/confirmation along with relevant supporting documents to each and every point of Pre-Qualification Requirement/PQR

TENDER DOCUMENTS

(**Annexure-PQR**) for all enquiry items. Non-compliance of these may lead to rejection of offer as these are essential condition for participating in tender enquiry.

6. All interested vendors must submit the endorsed NDA (Annexure-NDA) well in time to BHEL for getting drawings and specifications. The dully filled NDA shall be submitted to following email ids; su-pal@bhel.in; tuhindey@bhel.in; amit.garg@bhel.in
7. BHEL general instructions and standard terms & conditions (GISTC) is applicable in this case. In case of any deviation from GISTC, please clearly mention in your offer. BHEL reserves the right of non-consideration of offer in case of deviation from GISTC. For the clauses mentioned in BHEL GISTC pertaining to govt guidelines, only latest govt guidelines shall be applicable.
8. **Quality requirements:**
 - 8.1 Inspection by BHEL/BHEL TPIA as per BHEL approved quality plan.
 - 8.2 Bidders need to endorse the attached quality plan.
 - 8.3 As per customer requirement, there may be a requirement of approval of QP from customer. Bidders need to follow finally customer approved QP.
 - 8.4 As per end customer requirement, there may be a requirement of approval of vendor. Bidders need to provide the credentials as per customer formats.
9. **Bid opening** – Techno commercial bid (Part-I) of the offers shall be opened on the due date of tender opening on e-procurement portal. Clarifications if required on this part may be obtained from the bidders for their evaluation. The Price bid, Part-II of such bidders alone shall be opened on a later date on e-procurement portal whose PQR qualification and techno-commercial bids are found acceptable. The date of 'Price bid- Part- II' shall be intimated to technically qualified bidders later.
10. **Liquidated Damages (LD):** LD for Late Deliveries shall be applicable @0.5% per week or part thereof on the value of respective delayed supplies subject to maximum of 10% of the value of respective delayed supplies. If vendors do not mention anything about LD clause in their offer, then it shall be presumed to be acceptable. No further clarification shall be asked in this regard after opening of techno-commercial bid part-1.
11. Test certificates and Guarantee Certificate shall be submitted by vendors as per specification.

TENDER DOCUMENTS

12. BHEL Standard payment term is “Payment after receipt and acceptance of material/item at HEEP, BHEL-store” as per General Instruction and Standard Terms & Condition (GISTC), Version May-2024, Rev: 07.
13. Deviation with reference to specification, if any, should be clearly indicated on a separate sheet. The acceptance of these deviations would be at the discretion of BHEL and BHEL may reject the offer of bidder not meeting the enquiry conditions.
14. Revision of rates is not acceptable unless asked by BHEL due to major change in drawing / specification / tender quantity.
15. **Bid evaluation:** - The bids shall be evaluated on item wise total delivered cost to BHEL considering all duties/taxes/Cess/GST etc as could be applicable.
16. Vendors to submit duly signed & sealed Integrity Pact in BHEL format along with offer.
17. IEM's details are following:

SI	IEM	Email
1.	Shri Otem Dai, IAS (Retd.)	iem1@bhel.in
2.	Shri Bishwamitra Pandey, IRAS (Retd.)	iem2@bhel.in
3.	Shri Mukesh Mittal, IRS (Retd.)	iem3@bhel.in

18. Clause on IP in the tender

- (a) IP is a tool to ensure that activities and transactions between the company and its Bidder/Contractors are handled in a fair, transparent and corruption free manner. The above said Independent External Monitors (IEMs) on the present panel have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHEL.
- (b) The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part-I, in case of two/three-part bid). Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification.
- (c) Please refer Section-8 of IP for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to any of the above IEM(s). All correspondence with the IEMs shall be done through email only.

Note:

No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department's officials whose contact details are provided below:

TENDER DOCUMENTS

Contact Details of Purchase officer of BHEL are following.

a) Tuhin Kanti Dey, Manager (PPX-T), PH. No.-01334281183

E-mail-tuhindey@bhel.in

b) Rahul Kumar, Sr. Manager (PPX-T), PH. No.-01334281155

E-mail- kumar.rahul@bhel.in

19. Reverse auction: BHEL shall be resorting to reverse auction (RA) (guidelines as available on www.bhel.com) for this tender. RA shall be conducted among the techno-commercially qualified bidders. Price bids of all the techno-commercially qualified bidders shall be opened and same shall be considered for RA, in case any bidder(s) do(es) not participate in online reverse auction, their sealed envelope price bid along with applicable loading, if any, shall be considered for ranking bidders to give their acceptance with the offer for participation in RA.

20. Delivery Period: - Vendors to quote best possible delivery period in number of days/weeks/ months from the date of Purchase Order. The material is required at BHEL Haridwar and Bidders shall commit suitable delivery period on FOR destination basis. Delivery period in the purchase order shall be as per accepted delivery period quoted by the vendor or required delivery period by BHEL, whichever is later.

21. Validity of Framework agreement: - 12 months from the date of finalization of framework agreement (FA) by BHEL for ordering with additional time equal to delivery period for supplies. Further BHEL will have an option to short close the framework agreement within the validity of the FA/RC, if required by BHEL.

22. Validity of Offer: - Offer should be valid for a minimum period of 120 days from the date of techno-commercial bid (part I) opening for finalization of the contract.

23. EMD: Vendors must also remit the requisite EMD (Earnest Money Deposit) of Rs. 40,00,000/- (Rupees Forty lakhs only) in the form of Banker's cheque/Pay Order/ E-payment / Demand draft (drawn in favor of 'BHEL HARIDWAR')/Fixed deposit receipts/Bank Guarantee (in equivalent foreign exchange amount) issued/ confirmed from any of the scheduled commercial bank in India in an acceptable form/Insurance surety bonds. **If EMD is not submitted along with the offer (Part-I) then the offer shall be out rightly rejected.** EMD shall remain valid for a period of 45 (forty-five) days beyond the final bid validity period. EMD shall not carry any interest.

In case of pay order/demand draft, soft copy of transaction slip is to be uploaded along with Part 1 on portal while hard copy of the same shall be submitted to BHEL HEEP Haridwar. **For E-payment, the fund has to be credited to BHEL account before part-1 tender opening**

TENDER DOCUMENTS

“As per the OM No. F.No. 1(2)(1)/2016-MA dtd. 09.02.2017 issued from the Office of Development Commissioner (Micro, Small & Medium Enterprises), “Traders and agents should not be allowed to avail the benefits extended under the PP Policy.”

In view of this, it is clarified that benefits of MSE (such as EMD Waiver, Tender fee exemption, Price preference, Payment preference etc.) will be given only to those MSE Vendors who are manufacturers of offered items against the NIT. No MSE benefits shall be provided to Agents / Stockists / Dealers / Traders etc. for the items offered but not manufactured by themselves.”

For E-Payment, the RTGS details are mentioned as below:

Bank Details	SWIFT Details of bank
STATE BANK OF INDIA RANIPUR BRANCH, OPP: BHEL MAIN GATE, SECTOR-5, RANIPUR, HARIDWAR, UTTRAKHAND, INDIA PIN CODE : 249403	SWIFT NO: SBININBB225 CC ACCOUNT NO :10667995458 IFSC CODE : SBIN0000586

As per notification reference no. NSIC/HO/GP/15(4)/2013-14 dated 07.07.2013 Micro & Small Enterprises (MSEs) are not required to submit Tender fees. A Valid MSE certificate such as Udyam Certificate/NSIC/EM (Part-II) as per GISTC shall be submitted in support of Micro & Small Enterprises (MSEs). Central / State – PSUs / Government departments are exempted from submission of EMD subject to approval by BHEL management.

Micro & Small Enterprises (MSEs) are exempted from submission of EMD and/or Tender fees. Documents as detailed in **GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS (GISTC), Version May-2024, Rev: 07** hoisted on our website <https://hwr.bhel.com/bhelweb/Home.jsp> in are to be submitted for availing exemption from submission of Tender Fees & EMDs.

A bidder's EMD will be forfeited if the bidder withdraws or amends its/his tender or impairs or derogates from the tender in any respect within the period of validity of the tender or if the successful bidder fails to furnish the required performance security within the specified period mentioned in the Tender.

EMD by the tenderer to be withheld in case any action on the bidder is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" and forfeited/ released based on the action as determined under these guidelines.

24. Performance Security:

To ensure due performance of the contract, **Performance Bank Guarantee (PBG) or Security Deposit (SD)**, hereafter referred as **performance security** is to be obtained from the successful bidder awarded the contract.

TENDER DOCUMENTS

Total amount of **performance security shall be 10% of total PO value.**

Performance security is to be furnished by **14 days after date of PO and it should remain valid for a period of 60 days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations.**

Performance security may be furnished in the following forms:

- (i) Local cheques of Scheduled Banks (subject to realization)/ Pay Order/Demand Draft/ Electronic Fund Transfer in favour of BHEL.
- (ii) Bank Guarantee from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL.
- (iii) Fixed Deposit Receipt issued by Scheduled Banks / Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the bidder, a/c BHEL).
- (iv) Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of bidder furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).
- (v) Insurance Surety Bond.

(Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith)

The performance security will be forfeited and credited to BHEL's account in the event of a breach of contract by the supplier. **The Performance Security shall not carry any interest.**

25. Please submit your offer only for the above requirement subject to our **GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS (GISTC: Version May-2024, Rev: 07)**. Please visit our site <https://hwr.bhel.com/bhelweb/Home.jsp> for General Instructions and Standard Terms & Conditions (GISTC) for Tender Enquiries. All the bidders/vendors must ensure compliance of these GISTC. GISTC can also be referred by login to B2B Portal for Registered Vendors.

26. RESTRICTIONS UNDER RULE No. 144 (xi) of GFRs-2017 (ALL PROVISIONS SHALL BE APPLICABLE AS PER LATEST ORDER No. F.7/10/2021-PPD (1) dated 23.02.2023 OF DEPARTMENT OF EXPENDITURE (DOE)(ORDER COPY IS AVAILABLE AT <https://doe.gov.in/procurement-policy-divisions>).

- i. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. *Further, any bidder (including bidder from India) having specified Transfer of Technology (ToT) arrangement with an entity from a country*

TENDER DOCUMENTS

which shares a land border with India, shall also require to be registered with the same competent authority.

- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder (or entity) from a country which shares a land border with India" for the purpose of this Order means: -
 - a) An entity incorporated, established or registered in such a country; or
 - b) A subsidiary of an entity incorporated, established or registered in such a country; or
 - c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
 - d) An entity whose beneficial owner is situated in such a country; or
 - e) An Indian (or other) agent of such an entity; or
 - f) A natural person who is a citizen of such a country; or
 - g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- IV. The beneficial owner for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation-

 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.

TENDER DOCUMENTS

- VI. The registration shall be valid at the time of submission of bid and at the time of acceptance of bid.
- VII. If the bidder was validly registered at the time of acceptance/ placement of order, registration shall not be a relevant consideration during contract execution

27. The tender documents can be downloaded from our web site <https://www.bhel.com/> or <https://hwr.bhel.com>. After downloading the tender documents from web site, while submitting the tender as detailed in “Instruction to Bidders”, intending vendors must submit Tender Fee of Rs. 2,000/- (Rupees two thousand only) in the form of Pay Order /e-payment/ Demand Draft (drawn in favour of ‘BHEL HARIDWAR’) only. It may be noted that if hard copy of any tender documents are required, then the same may be collected against copy of Pay Order / e-payment/Demand Draft of requisite tender fee (while original to be submitted with Part-I). However, if no hard copy of any tender documents is required from BHEL, no tender fee is required to be submitted.

28. **Compliance to MAKE IN INDIA circular issued by GOI:** -This is a domestic open tender inviting participation from only class-I local supplier & class-II local supplier. Non-Local suppliers as per MII order dated 04.06.2020 are not eligible to participate. Bid of non-local suppliers (if any) shall be out rightly rejected.

For this procurement, the local content to categorize a supplier as a Class-I local supplier/ Class-II local supplier/ Non-local supplier and purchase preference to Class-I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 issued by DPIIT. In case of subsequent orders issued by nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT.

29. **Purchase preference to Micro and Small Enterprises (MSEs):** Purchase preference will be given to MSEs as defined in Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 dated 23.03.2012 issued by Ministry of Micro, Small and Medium Enterprises and its subsequent Orders/Notifications issued by concerned Ministry. If the bidder wants to avail the Purchase preference, the bidder must be the manufacturer of the offered product in case of bid for supply of goods. Traders are excluded from the purview of Public Procurement Policy for Micro and Small Enterprises. In respect of bid for Services, the bidder must be the Service provider of the offered Service. Relevant documentary evidence in this regard shall be uploaded along with the bid in respect of the offered product or service. If L-1 is not an MSE and MSE Seller (s) has/have quoted price within L-1+ 15% (Selected by Buyer) of margin of purchase preference/price band defined in relevant policy, such Seller shall be given opportunity to match L-1 price and contract will be awarded for 25% (selected by Buyer) percentage of total QUANTITY.

TENDER DOCUMENTS

30. E- invoicing –Vendor Contract clause regarding GST ITC and provision for E-invoices w.e.f. 01.04.2020:

1. W.e.f. 01.08.2023, vendor to ensure submission of E-Invoice who is having turnover of more than Rs. 05 Cr. in any preceding financial year from 2017-18 onwards.
2. It has been specified by the govt. That it is mandatory to mention a valid unique invoice reference no. (IRN) and GR code as generated from govt. Portal on a tax invoice. Based on such information, GST ITC as claimed by BHEL in GST returns shall be matched with the corresponding details uploaded by supplier in e-invoicing system.
3. In case the vendor / contractor delays or fails to provide all documents as per the purchase order / work order at the time of submitting tax invoice to BHEL, any subsequent financial loss to BHEL on account of vendor/contractor shall be to vendor's / contractor's account. BHEL has further right to take necessary steps to protect its interest at the time of release of payment. This further requires inclusion of IRN and QR code on tax invoice as announced by govt. Of india w.e.f. 01.04.2021.

31. Breach of contract, Remedies and Termination:

In case of breach of contract, wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case the value of the security instruments available is less than 10% of the contract value, the balance amount will be recovered in all or any of the following manners:

- i. from dues available in the form of Bills payable to defaulted supplier against the same contract.
- ii. from the dues payable to defaulted supplier against other contracts in the same Region/Unit /any other region/unit
- iii. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier. Further, levy of liquidated damages, debarment, termination, de-scoping, short-closure, etc., will be applied as per provisions of the contract.

32.Action against Bidders / vendor / supplier / contractor in case of default:

In order to protect the commercial interests of BHEL, BHEL shall take action against supplies / contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or

TENDER DOCUMENTS

influence the price etc. Suspension of Business Dealings could be in the form of “Hold” or “Banning” a supplier/ contractor or a bidder and shall be as per “Guidelines for Suspension of Business Dealings with Suppliers/ Contractors” available at BHEL’s website “<https://www.bhel.com/guidelines-suspension-business-dealings-supplierscontractors>”.

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

1.0 Integrity commitment, performance of the contract and punitive action thereof:

1.1. Commitment by BHEL: BHEL commits to take all measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity.

1.2. Commitment by Bidder/ Supplier/ Contractor:

1.2.1. The bidder/ supplier/ contractor commits to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.

1.2.2. The bidder/ supplier/ contractor will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by Govt. of India/ BHEL.

1.2.3. The bidder/ supplier/ contractor will perform/ execute the contract as per the contract terms & conditions and will not default without any reasonable cause, which causes loss of business/ money/ reputation, to BHEL.

If any bidder/ supplier/ contractor during pre-tendering/ tendering/ post tendering/ award/ execution/ post-execution stage indulges in malpractices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder/ supplier/ contractor as per extant guidelines of the company available on [www. bhel.com](http://www.bhel.com) and/or under applicable legal provisions.

TENDER DOCUMENTS

33. Conflict of Interest: *"A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. **The bidder found to have a conflict of interest shall be disqualified.** A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:*

- a) they have controlling partner (s) in common; **or***
- b) they receive or have received any direct or indirect subsidy/ financial stake from any of them; **or***
- c) they have the same legal representative/agent for purposes of this bid; **or***
- d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; **or***
- e) Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from. one bidding manufacturer in more than one bid; **or***
- f) In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:*

- i. The principal manufacturer directly or through one Indian agent on his behalf; and*
- ii. Indian/foreign agent on behalf of only one principal;*

Or

- g) A Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid, **· or***
- h) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business. "*

34. All the bidders/vendors must ensure compliance of latest GISTC Terms & Conditions.

TENDER DOCUMENTS

35. INSTRUCTIONS TO BIDDERS FOR SUBMITTING OFFER

DEFINITION

Registered Vendors - Are those who are registered with BHEL, Haridwar for Megawatt rating/ Size/ Weight of tendered components in respective steel grade or machining of such items.

Un-registered Vendors - Are those who are not registered with BHEL, Haridwar for Megawatt rating/ Size/ Weight of tendered components in respective steel grade or machining of such items.

TECHNICAL QUALIFICATION: Technical Requirement, Pre-Qualifying Requirements/PQR & Drawings to be submitted. It is the mandatory requirement. Offer of vendors not meeting these requirements may not be considered.

ESSENTIAL INSTRUCTIONS

Un-registered vendors may be approved by BHEL, if found suitable, on the basis of data furnished by them in Supplier Registration Form (SRF) for Foreign Vendors or Indigenous Vendors (as applicable). Vendor Registration Form shall be filled only by unregistered vendors on our website www.bhel.com.

BHEL team may visit the vendor(s) works for verification of capability and capacity claimed in tender documents/offer(s).

The tender shall be **submitted in two parts** in separate cover as described below on or before the due date:

Part I (Cover-1) - Containing the following:

1. Pre-Qualifying Requirements/PQR as per **Annexure (PQR)**
2. EMD (Earnest Money Deposit) **Or** Valid certificate/Document towards exemption of Tender fee and/or EMD (applicable for Micro and small Enterprises, Central / State – PSUs / Government departments etc.)
3. **Techno -Commercial Bid/Offer**
4. **Techno-commercial terms and conditions as per Annexure (Techno-commercial terms and conditions).**
5. **Annexure** (Self-Certification Certificate (MII))
6. **Annexure-QP** (Signed BHEL QP)
7. **Annexure** (Integrity pact)
8. **Annexure** (Certificate required as per order no F.No.6/18/2019-PPD of department of Expenditure(DoE))

Part II (Cover-2) - Containing the following

Price Bid as per attached Annexure (Price Bid Format)

Salient Details of Notice Inviting Tender (NIT)		
Sl. No.	Issue	Description
1	Item details	As per Annexure- Item details
2	Issue of Tender Documents	From BHEL eProcurement website https://eprocurebhel.co.in/nicgep/app (Tender documents will be available for downloading from BHEL e-Procurement website till due date of submission)

TENDER DOCUMENTS

3	Due Date of Offer Submission	Date: <u>13.12.2024</u> Time: <u>13:45 hrs</u> https://eprocurebhel.co.in/nicgep/app Offer to be submitted in online only through e-procurement Portal. (Bidders are requested to visit website to view corrigendum/ addenda/amendments/ extension/ modification etc. before submitting offer).
4	Opening of Tender (Techno-Commercial Bid, Part-1)	Date: <u>13.12.2024</u> Time: <u>14.00 Hrs</u> Notes: This tender being an e-tender, it shall be opened online only through the E-Procurement Portal. Participating bidders may witness the Opening online only.
5	Latest Updates	Latest updates on the important dates, Amendments, Correspondences, Corrigenda, Clarifications, Changes, Errata, Modifications, Revisions, etc to Tender Specifications will be hosted in BHEL e-tender portal https://eprocurebhel.co.in/nicgep/app and not in the newspapers. Bidders to keep themselves updated with all such information.

E-Procurement Portal Inputs

Procedure for Submission of Offer for E – Tender-Procedure for Submission of Tender is available in the “Bidder Manual for BHEL Bidders” at E-tender portal <https://eprocurebhel.co.in/nicgep/app>. Terms and conditions mentioned therein shall form integral part of the NIT and bidders shall abide by the same.

Hardware and Software requirements for participating in e-tender

Please refer the website for the minimum system requirements and setting document for Bidders under the link: <https://eprocurebhel.co.in/nicgep/app>

Digital Signature

To know the procedure for obtaining Digital Signature Certificate (DSC), suppliers who are not having the DSC are advised to visit our website <https://www.bhel.com>

NIC portal Helpdesk Contacts

For any technical related queries please call at 24 x 7 Help Desk Number

0120-4001 002

0120-4200 462

0120-4001 005

0120-6277 787

Email Support: Address: A) For any Issues or Clarifications relating to the published tenders,

bidders are requested to contact the respective Tender Inviting Authority

Technical - support-eproc@nic.in

Note:

Offers/tenders submitted in the E-tender portal shall only be considered for further evaluation. Offers sent by FAX / E-mail / any mode other than E-tender would not be entertained and shall be out rightly rejected.

TENDER DOCUMENTS

SPECIAL NOTE: All documents to be submitted should be uploaded in respective places in the E-procurement portal as per the list mentioned given in this NIT. BHEL shall not be responsible for in-complete documents.

For new vendors who are not registered with BHEL, Haridwar may kindly furnish copy of the following documents:

1. Company Name and Address Proof.
2. GST Number (Scan Copy of Acknowledgement)
3. PAN Copy
4. MSME Certificate (UDYAM if Any)

The offer shall be submitted on the NIC E-Procurement portal only.

Annexure-PQR

Specification: HW12784, Rev 03, HW0993008 and all cross-referred standards

Minimum Qualification Requirement for blade flats of material grade NiCr20TiAl, HW12784 Rev 03

1.0 Experience Requirement:

a. Vendor must satisfy following requirements:

- (i) Must have experience of manufacturing and supplying rectangular bars in material grade NiCr20TiAl (material number 2.4952) or other precipitation hardened Nickel based alloys like Alloy 105, Alloy 115 etc.
Must have manufactured and executed at least one purchase order of flat bars of NiCr20TiAl or other precipitation hardened Nickel based alloys e.g. Alloy 105, Alloy 115 etc. in the last 7 years.

In support of above vendor to submit experience details in enquired grade preferably in format given below:

Sl. No	Name of customer	Purchase order No	Size	Date of supply	Quantity

b. Following documents are to be submitted in support of experience:

- Test certificate duly witnessed/certified by Third party inspection agency / customer of above referred purchase order. Test certificates shall include - chemical & mechanical properties, heat treatment details and dimensions.

c. Vendor must have creep rupture data of NiCr20TiAl as per the requirement of EN/AMS/ASTM etc. In support, vendor has to submit Creep Rupture Data for flat or round bars or forgings etc., of NiCr20TiAl.

2.0 Manufacturing and Testing Facilities:

a. **Vendor to confirm** that they have in house rolling/forging and heat treatment facility to manufacture rectangular bars as per enquiry specification HW12784 and enquiry dimensions and tolerances as per HW0993008.

Following in house facility details are to be submitted:

- Rolling/forging
- Heat treatment facility

b. Vendor to furnish details of in house melting and refining facilities to manufacture raw material for further rolling/forging for turbine blade flats as per enquiry specification. At least one test certificate for material grade NiCr20TiAl manufactured in house to be submitted with offer.

In case, melting & refining facility is not available in house, vendor to inform their source of raw material with following details of their source – Experience for enquiry material grade with at least one mill test certificate of enquiry material grade, melting & refining facilities.

c. Vendor to confirm that they have in house testing facilities as per the requirement of enquiry specification. Details of in house facility to be submitted.


In case of outsourcing of any test, vendor to agree to carry out testing at Government accredited labs only.

3.0 Supply length is 2.5 meter to 5 meter with 10% short down to 1 meter as per Specification no HW 0993008. In case vendor wants to offer in shorter lengths wrt this specification, supply in shorter lengths will be acceptable only as cut pieces of fixed length. "For example bars of say 70x30mm will have to be supplied in fixed lengths of 230 mm." BHEL will inform exact lengths for each cross section, in case of offer of lengths shorter than specified, by vendor.

Annexure-QP

MANUFACTURER'S NAME AND ADDRESS			STANDARD QUALITY PLAN				TO BE FILLED BY BHEL		TO BE FILLED BY BHEL			
BHEL	VENDOR'S NAME	ITEM	BAR MATERIAL FOR TURBINE BLADES		QP NO.	QA/CF/QP/358						
				REV.	03							
		DRG. NO.	-									
		SPEC.	HW12784									
		REV	AS PER PO			Page 1 of 2						
SL. NO.	COMPONENT & OPERATIONS	CHARACTERISTICS	CLASS	TYPE OF CHECK	QUANTUM OF CHECK	REFERENCE DOCUMENT	ACCEPTANCE NORMS	FORMAT OF RECORDS	AGENCY			REMARKS
									M	B	N	
1	2	3	4	5	6	7	8	9	D	10		11


1.	VACCU INDUCTION MELTING	CHEMICAL COMPOSITION	MAJOR	SPECTRO ANALYSIS	EACH HEAT	HW12784	HW12784	TC		P	V		
2.	ELECTRO SLAG REMELTING (ESR) OR VACCU ARC REMELTING (VAR)	CHEMICAL COMPOSITION	MAJOR	SPECTRO ANALYSIS	EACH HEAT	HW12784	HW12784	TC		P	V		
3.	ROLLING / FORGING					AS PER VENDOR'S PRACTICE		IR		P	-	-	
4.	HEAT TREATMENT	TIME & TEMPERATURE	MAJOR	HT CHART	100%	HW12784	HW12784	TC		P	V		
5.	STRAIGHTENING	STRAIGHTNESS	MAJOR	STARIGHTNESS	100%	HW12784 & AS PER VENDOR'S PRACTICE		TC		P	V		TO BE PERFORMED IF REQUIRED
6.	HARDNESS TEST	HARDNESS	MAJOR	HARDNESS	10% PER HEAT PER HT BATCH OR MIN 10 BARS WHICHEV ER IS MAXIMU M	HW12784	HW12784	TC		P	W		
7.	MECHANICAL TESTING	0.2% PROOF STRENGTH TENSILE % ELONGATION % REDUCTION IN AREA IMPACT	MAJOR	MECHANICAL TEST	HARDEST AND SOFTEST BAR PER HEAT PER HT BATCH	HW12784	HW12784	TC		P	W		

MANUFACTURER/SUBCONTRACTOR	 <small>Digitally signed by INORA BHUSHAN KUMAR DN: cn=INORA BHUSHAN KUMAR, o=BHEL, ou=HQEP, email=ibkumar@bhel.in, c=IN Date: 2021.07.13 09:36:49 +05'30' Adobe Acrobat Reader version: 2021.005.20048</small>	LEGEND: ! RECORDS IDENTIFIED WITH 'TICK' SHALL BE ESSENTIALLY INCLUDED BY CONTRACTOR IN QA DOCUMENTATION. M: MANUFACTURER / SUBCONTRACTOR B: BHEL NOM. INSPECTION AGENCY "TUV" (INDIAN VENDORS) THIRD PARTY INSPECTION AGENCY LRS/TUB/BV (FOR FOREIGN VENDORS) N: CUSTOMER INDICATE 'P' PERFORM 'W' WITNESS AND 'V' VERIFICATION ALL 'W' INDICATED IN COLUMN 'N' SHALL BE 'CHP' OF CUSTOMER	FOR CUSTOMER USE	APPROVED BY

MANUFACTURER'S NAME AND ADDRESS			STANDARD QUALITY PLAN				TO BE FILLED BY BHEL		TO BE FILLED BY BHEL				
BHEL	VENDOR'S NAME	ITEM	BAR MATERIAL FOR TURBINE BLADES	QP NO.	QA/CF/QP/358								
		REV.		03									
		DRG. NO.	-										
		SPEC.	HW12784										
REV	AS PER PO			Page 2 of 2									
SL. NO.	COMPONENT & OPERATIONS	CHARACTERISTICS		CLASS	TYPE OF CHECK	QUANTUM OF CHECK	REFERENCE DOCUMENT	ACCEPTANCE NORMS	FORMAT OF RECORDS		AGENCY		REMARKS
1	2	3		4	5	6	7	8	9	D	10	11	

		CREEP RUPTURE TEST	MAJOR	CREEP	AS PER SPEC	HW12784	HW12784	TC		P	V		
8.	METALLOGRAPHIC EXAMINATION IN CORNER AND IN CENTER POSITION	GRAIN SIZE / MICROSTRUCTURE	MAJOR	METALLOGRAPHIC	HARDEST AND SOFTEST BAR PER HEAT PER HT BATCH	HW12784	HW12784	TC		P	V		
9.	PROCESS QUALIFICATION FOR EACH FABRICATION FACILITY (FOR SUPPLY AS PER SPEC)												
9.1	MECHANICAL TESTING IN EDGE POSITION	0.2% PROOF STRENGTH TENSILE % ELONGATION % REDUCTION IN AREA IMPACT HARDNESS	MAJOR	MECHANICAL TEST	AS PER SPEC	HW12784	HW12784	TC		P	W		
9.2	METALLOGRAPHIC EXAMINATION IN LONGITUDINAL DIRECTION	MICROSTRUCTURE & GRAIN SIZE	MAJOR	METALLOGRAPHIC	AS PER SPEC	HW12784	HW12784	TC		P	V		
10.	NDT	SURFACE DEFECTS INTERNAL DEFECTS	MAJOR	VISUAL DP, UT	100%	HW12784	HW12784	TC		P	W		
11.	MATERIAL IDENTIFICATION / VERIFICATION CHECK	CHEMICAL (PMI)	MAJOR	SPECTRO OR PMI BY OTHER MEANS	100%	HW12784	HW12784	TC		P	W		
12.	VISUAL & DIMENSIONAL CHECK	VISUAL & DIMENSION	MAJOR	VISUAL & MEASURE	100%	PURCHASE ORDER	PURCHASE ORDER	TC		P	W*		*10% RANDOM
13.	IDENTIFICATION MARKING	MARKING	MAJOR	VISUAL	100%	HW12784	HW12784	TC		P	V		

TEST CERTIFICATES SHALL BE SUBMITTED BY THE VENDOR WITH CLEAR MARKING OF QP CLAUSE NUMBER AT THE TOP OF THE EACH PAGE. ALSO, TEST CERTIFICATES SHALL BE ARRANGED QP CLAUSE WISE.

MANUFACTURER/SUBCONTRACTOR	 <small>Digitally signed by B. Kumar, DN: cn=B. Kumar, o=BHEL, ou=HEEP, email=B.kumar@bhel.in, c=IN, Reason: 2023.07.13 09:37:08 +05'30'</small> <small>Adobe Acrobat Reader version: 2021.005.20048</small>	LEGEND: ! RECORDS IDENTIFIED WITH 'TICK' SHALL BE ESSENTIALLY INCLUDED BY CONTRACTOR IN QA DOCUMENTATION. M: MANUFACTURER / SUBCONTRACTOR B: BHEL NOM. INSPECTION AGENCY "TUV" (INDIAN VENDORS) THIRD PARTY INSPECTION AGENCY LRS/TUB/BV (FOR FOREIGN VENDORS) N: CUSTOMER INDICATE 'P' PERFORM 'W' WITNESS AND 'V' VERIFICATION ALL 'W' INDICATED IN COLUMN 'N' SHALL BE 'CHP' OF CUSTOMER	FOR CUSTOMER USE	APPROVED BY



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

Table of Contents

1. GENERAL.....	1
2. ORIGIN OF QUOTATION	1
3. SUBMISSION OF TENDER.....	1
4. TENDER OPENING.....	2
5. SPECIFICATION, DRAWINGS & STANDARD	2
6. PRICE SCHEDULE.....	3
7. REVERSE AUCTION.....	3
8. DELIVERY TERMS	3
9. LD FOR LATE DELIVERY	4
10. PAYMENT TERMS.....	4
11. TAXES & DUTIES.....	5
12. BANK GUARANTEE.....	6
13. GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS	6
14. QUALITY REQUIREMENT.....	6
15. VALIDITY	6
16. RIGHT OF ACCEPTANCE	6
17. TRANSIT INSURANCE	7
18. RISK PURCHASE	7
19. FORCE MAJEURE CLAUSE.....	7
20. NON-DISCLOSURE AGREEMENT	8
21. SETTLEMENT OF DISPUTES / ARBITRATION.....	8
22. WHARFAGE / DEMURRAGE RESPONSIBILITY.....	8
23. CONDITIONS FOR AVAILING MICRO & SMALL ENTERPRISES (MSE'S) BENEFITS	8
24. INFORMATION TO THE BIDDERS	10
25. MAKE IN INDIA (GOVT-NOTIFICATION)	10
26. RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRs), 2017	12
27. NOTE.	12

1. GENERAL.

These general terms & conditions shall apply to all the Tender Enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd., HEEP, Haridwar (hereinafter referred to as BHEL or the Purchaser). In case of placement of order these conditions will become part of Purchase Order (P.O) until unless the deviations are specifically agreed by BHEL.

2. ORIGIN OF QUOTATION.

A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of Procuring Entity's interests. **The bidder found to have a conflict of interest shall be disqualified.** A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:

- they have controlling partner (s) in common; **or**
- they receive or have received any direct or indirect subsidy/ financial stake from any of them; **or**
- they have the same legal representative/agent for purposes of this bid; **or**
- they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; **or**
- Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid; **or**
- In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorise only one agent/dealer. There can be only one bid from the following:
 - The principal manufacturer directly or through one Indian agent on his behalf; and
 - Indian/foreign agent on behalf of only one principal;**or**
- A Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid; **or**
- In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/similar line of business. "

3. SUBMISSION OF TENDER.

- Bid / Quotation must be enclosed in sealed cover on which tender enquiry number and the due date MUST BE written and be invariably sent under REGISTERED POST / SPEED POST / COURIER / Dropped in the Tender Box: addressed as follows:

Quotation against Enquiry No. _____

Dated: _____

Due on: _____

To,

**THE HEAD OF MATERIALS MANAGEMENT,
Heavy Electrical Equipment Plant,
Bharat Heavy Electricals Limited,
HARIDWAR-249403 (Uttarakhand), INDIA.**

- TENDER ROOM is located at: Room No. - 415, 4th Floor, Main Admin. Building, BHEL-HEEP, Haridwar.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

- c) In case of Three / Two Part Bid, technical bid containing technical offer, duly signed and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.
- d) The bid / quotation must be posted before due date, keeping allowance for postal transit time. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer / bid shall be signed and stamped in each page by authorized representative of the bidder.
- e) Any additional documents submitted by supplier / bidder, during processing of registration application / tender or after placement of order shall not be accepted unless it is submitted with forwarding letter and duly signed and stamped.
- f) The bids of the bidders who are on the banned list and also the bids of the bidders, who engage the services of the banned firms, shall be rejected. The cutting / overwriting in the bid / offer must be duly attested by the signatories to the bid. The list of firms banned by BHEL is available on BHEL web site www.bhel.com.
- g) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion such PMD vendor from BHEL's approved vendor list.
- h) The bidders will submit Integrity Pact, duly signed by its authorized signatory, along with their bids wherever estimated tender value is Rs. 2 Crore or more.
- i) In case of open tender, technically qualified unregistered bidders may apply online for registration through <http://www.bhel.com/index.php/vender>.
- j) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL can also consider awarding of part of the tendered quantity to other than L-1 bidder at L1 counter offered rates, if the quantity offered by the L-1 bidder is less than the quantity tendered for.
- k) In case of e-Tendering (Online bidding through e-portal), offline bid submitted in hard copy or in any other form by the vendor / supplier will not be accepted and will be rejected out rightly. Only e-portal bid will be accepted.

4. TENDER OPENING.

Tender opening is scheduled to start in the Tender Room at 2:00 PM, on the due date. Therefore, bid / quotations must reach this office / tender Box latest by 1:45 PM on due date. Only participating bidders are allowed to attend tender opening. **TENDERS RECEIVED AFTER THE SPECIFIED TIME OF THEIR 'SUBMISSION' WILL BE TREATED AS LATE TENDERS AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.** The bidders or their authorized representatives may be allowed to attend tender opening if duly authorized by their principals, through a tender specific letter on that particular day. General authorization letter is not acceptable.

Note: - Foreign bidders willing to attend the bid opening has to provide the requisite documents to the concerned Purchase executives for arranging gate pass for them.

5. SPECIFICATION, DRAWINGS & STANDARD.

- a) Bidders must give their detailed specification in the quotation along with relevant technical literature / catalogue etc. against the tender enquiry.
- b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

If these documents are not furnished, the offer is liable to be rejected.

- c) Wherever national / international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.
- d) All Drawings and Standards are proprietary of BHEL. It must not be used in anyway detrimental to the interest of BHEL or without permission of BHEL.

6. PRICE SCHEDULE.

- a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.
- b) Prices quoted should not be more than the prices quoted to any other BHEL units / offices / divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid. In case no order has been placed on such items, specific confirmation that no order has been placed on such items should be provided.
- c) Prices should be quoted on F.O.R. Destination basis. Transit insurance shall be arranged by BHEL and not to be included in the prices. The offers quoted on other than F.O.R destination basis may result in non-consideration of such bids.
- d) In case BHEL accepts the EX-Works prices, such offers will be loaded by 1.5% of EX-Works value towards freight or with actual freight charges as per BHEL freight rate contract whichever is higher.
- e) In case of Indigenous items covered by DGS & D Rate Contract, the bidders should submit latest valid copy of the rate contract along with bid / quotation
- f) Applicable **IGST / CGST / SGST** and any other statutory levy should be indicated separately and clearly in the bid / quotation.

- g) Bidders can dispatch goods through any Indian Bank Association approved transporters having their branch at HARIDWAR / destination. If material is dispatched through other than Indian Bank Association approved transporter, material to be delivered on door delivery BHEL Stores basis.
- h) In case of dispatch of material through any other unapproved transporter, payment shall be made only after receipt of material and any additional charges payable to the transporter shall be to the bidder's account.
- i) Any demurrage / godown rent payable to the transporter / or to godown's owner due to any delay attributed by the supplier shall be recovered from supplier's account.
- j) Currency of Evaluation shall be INR.

NB: Financial evaluation of L1, L2Status will be on the basis of Landed Cost to BHEL.

7. REVERSE AUCTION.

Wherever RA is declared in the special terms and conditions of tender enquiry, following shall be applicable and Bidders to confirm the same:

"BHEL shall be resorting to Reverse Auction (RA) (Guidelines as available on www.bhel.com) for this tender. RA shall be conducted among all the techno-commercially qualified bidders.

Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in RA. In case any bidder(s) do(es) not participate in online Reverse Auction, their sealed envelope price bid along with applicable loading, if any, shall be considered for ranking."

8. DELIVERY TERMS.

- a) Goods shall be delivered on 'FOR Destination' basis to the named destination unless otherwise called for in the tender enquiry.
- b) Loading on account of 3rd party inspection charges in case of Indian bidders shall be 0.20%.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

9. LIQUIDATED DAMAGES (LD) FOR LATE DELIVERY.

a) Where items of Purchase Order are independently usable.

Liquidated Damages (LD) for Late Deliveries shall be applicable @0.5% per week or part thereof on the value of respective delayed supplies subject to a maximum of 10% of the value of respective delayed supplies. Value of delayed supplies will mean the Gross Value payable to the vendor (Before LD) against such supplies excluding taxes and duties.

b) Where the total items are required for a main equipment and items are interdependent.

Liquidated Damages (LD) for Late Deliveries shall be applicable @0.5% per week or part thereof on total value of Purchase Order subject to maximum of 10% of the total value of Purchase Order. Purchase Order value for this purpose shall be the Total Gross Value payable to the vendor (Before LD) excluding taxes and duties.

c) Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.

d) Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.

e) Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.

f) DELIVERY IN CASE OF REJECTION: In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

g) DELIVERY AGAINST BANK DOCUMENTS: In case payment terms quoted by bidder are documents through bank, and the delivery terms being "FOR Haridwar / FOR Transporter Go-down" then date of delivery will be date of intimation by transporter / bidder of delivery of material at Haridwar for the LD purpose.

h) Where the payments are through bank, the documents may be presented for negotiation to BHEL authorized / nominated bank.

i) Payment of Liquidated Damages (LD) shall not in any way relieve the vendor from any of its obligations & liabilities under the contract.

10. PAYMENT TERMS.

a) BHEL's standard payment term is Payment after receipt and acceptance of materials / items at HEEP, BHEL-Store or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.

b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.

c) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.

d) 100% payment along with taxes, freight & insurance will be made after receipt and acceptance of material and within 75 days from the date of invoice subject to submission of non-discrepant documents within 15 days of supply as per terms and conditions of Purchase Order. In case any discrepancy found in the documents, BHEL will notify the same to vendor within 7 days of receipt. Vendor has to clear all the discrepancies in one go within 7 days thereafter else the payment of vendor may get delayed.

e) For MSEs (covered under MSME Act) which are registered and periodically renewed with BHEL, the payment will be made within 45 days or as prescribed in the relevant act.

f) Adherence to the above time schedule of payment is contingent upon Vendor complying with GST Rules w.r.t availment of Input Tax Credit by BHEL.

g) In case GST credit is delayed / denied to BHEL, due to non / delayed receipt of goods and / or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reason not attributable to BHEL, GST amount shall be recoverable from Vendor along with interest levied / leviable on BHEL.

h) The taxes and duties that are reimbursed would be the ones applicable as on the contractual Purchase order delivery date or the amount actually paid whichever is less.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

i) **The loading criteria for the different payment terms shall be as under:**

Payment Terms	Days of Loading
After Receipt & Acceptance of material within 75 days of supply.	No Loading
Against Delivery at BHEL-Stores Haridwar.	45
Against documents through bank (CAD):	45
Letter of Credit (LC)	120
Usance LC	No Loading if usance period is > 120 Days.
	Loading of days' difference i.e. difference between 120 days and usance period if the usance period is < 75 days.
Advance	Delivery Period + 120 Days - Advance Payment Days.

11. TAXES & DUTIES.

- a) The bidder to specify in their offer (part 1 bid) the category of their registration under GST like Registered, Unregistered and composite dealer.
- b) The provisional GST registration number of Bharat Heavy Electrical Ltd, Heavy Electricals Equipment Plant, Ranipur, Haridwar is "05AAACB4146P1ZL" with state Code as "05" and State Name as "Uttarakhand".
- c) Please quote our provisional GST registration number in all invoices raised for supply of goods and services under GST regime and also ensure filing of timely return and payment of tax and compliance of other applicable provisions on supplier under GST regime.
- d) No GST will be reimbursed to unregistered or composite dealer. In the event, any GST is quoted by composite dealer, the same shall be added to the cost of supply in evaluating the bid.
- e) Since, input credit of GST will be available to BHEL-Haridwar only after correct filing of return and payment of applicable GST by supplier, reimbursement of GST shall be made by

BHEL-Haridwar on matching of vendor inputs at GST portal, ensuring availability of input credit to BHEL Haridwar. Payment of GST will be made to vendor after matching of input credit and vendor to ensure submission of their invoices along with consent to accept payment of tax after such matching in all cases where bills are submitted directly to BHEL-Haridwar or through bank or under LC or through any other mode.

- f) In the event of any disallowance of input credit or applicability of interest or any other financial liability arises on BHEL-Haridwar due to any default of supplier under GST, such implication shall be to supplier's account.
- g) In the event of any change in the status of the vendor after the submission of the bid but before the supply, GST applicable at the time of supply or in the bid, based on the registration status of the vendor, whichever is lower shall be payable.
- h) Where ever applicable If PAN (Permanent Account Number) of the recipient is not available, income tax is deductible either at the normal rate or at the rate of 20 percent, whichever is higher as per Section 206AA of Indian Income Tax Act 1961.
- i) The bidder shall clearly indicate HSN (*Harmonised System Nomenclature*) / SAC (*Service Accounting Code*), its description and applicable rate of GST for each item in his techno-commercial bid.
- j) Statutory Variation in Taxes & duties as applicable at the time of supply shall be payable. However, in the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder.
- k) **IMPORTED GOODS OFFERED BY INDIAN BIDDERS AGAINST DEALER INVOICE:** Wherever the material being offered is imported, the bidder must quote the prices inclusive of IGST. The rate and value of IGST as included in the price must be indicated separately. In case quantum of IGST is not mentioned by the bidder the same will not be considered for



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

evaluation. However, bidder will have to pass on the benefit of IGST to BHEL at the time supply.

- l) In case of directly dispatchable items to Customer's Site, BHEL-Haridwar will inform the GST registration number of the respective customer which must be mentioned on the vendor's invoice. Vendor to ensure availability of such information from BHEL-Haridwar before dispatch of any material. However, while filing GSTN-1, BHEL Haridwar GSTN number to be quoted.

Note: - Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Haridwar due to fault / non-compliance by the vendor will be to the vendor's account.

12. BANK GUARANTEE.

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of this tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branch of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website www.bhelhwr.co.in. However, in case the bank guarantee is not from BHEL consortium banks, then the bidder has to get the bank guarantee confirmed from one of the Indian branch of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

13. GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS.

Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 18 months from the date of receipt. If the delivery is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and

replaced on Delivered Duty Paid (DDP) (FOR - BHEL Stores / designated destination basis) within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate, including Repair / Replenish rejected goods & disposal of rejections, at the risk & cost of the Seller. In case the defects attributable to Seller are detected during processing of the goods at BHEL or at our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.

- b) **RETURN OF REJECTED MATERIAL FOR REPLACEMENT:** The bidder shall have to pay 5% incidental charges while taking back supplied material if it is found rejected on receipt. The rejected material shall be sent back only after receipt of replacement / submission of BG / refund of amount paid.

14. QUALITY REQUIREMENT.

Your bid / quotation should have specific confirmation regarding meeting all our quality requirements such as. (i) Test Certificate (TC), (ii) Guarantee Certificate (GC) / Warranty Certificate (WC), (iii) Quality Plan (QP) (if applicable); and (iv) Pre-Dispatch Inspection at your works (if applicable).

15. VALIDITY.

The quotation should be valid for a minimum period of 90 days effective from the date of opening of tender, unless otherwise specified in the tender enquiry.

16. RIGHT OF ACCEPTANCE.

- a) **BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR** reserves the right to reject any or all the bids / quotations without assigning any reason thereof. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.
- b) Any discount / revised offer / bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer / bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

- c) Unsolicited discounts / revised offers / bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.
- d) In case of changes in scope and / or technical specification and / or commercial terms & conditions having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for then the latest price bid shall prevail. However, in both situations, original price bid will be necessarily opened.
- e) The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.
- f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.

17. TRANSIT INSURANCE.

- a) Transit Insurance will be covered by BHEL under its open Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR /GR, Invoice value etc.) to "Finance department (Store bill Section), BHEL Ranipur, Haridwar (Uttarakhand-India) with value of consignment to the Purchaser within 07 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages / losses suffered by the Purchaser.
- b) If Quoted Prices are inclusive of transit insurance, no weightage shall be given while evaluating the bids for Cost of Insurance, being in BHEL Scope.

18. RISK PURCHASE.

In case of abnormal delays (beyond the maximum late delivery period as per LD clause) in supplies / defective supplies or non-fulfillment of any other terms and conditions given in Purchase Order, BHEL may cancel the Purchase Order in full or part thereof, and may also make the purchase of such material from elsewhere / alternative source at the risk and cost of the supplier. BHEL will take all reasonable steps to get the material from alternate source at optimum cost. If bidder does not agree to the above Risk Purchase Clause, BHEL reserves the right to reject the offer. In case for compelling reasons BHEL accepts the offer without acceptance of this clause by the bidder and in the eventuality of Risk Purchase, appropriate action will be taken as per BHEL extant rules. This will be without prejudice to any other right of BHEL under the contract or under General Law.

19. FORCE MAJEURE CLAUSE.

Notwithstanding any other thing contained anywhere else in the contract or PO (Purchase Order), In case the discharge of obligation under the contract by either party is impeded or made unreasonably onerous, neither party shall be considered in breach of the contract to the extent that performance of their respective obligation is prevented by an event of Force Majeure that arises after the effective date (PO date).

In the above clause, Force Majeure means an event beyond the control of the parties to the contract which prevents a party from complying with any obligation of the contract including but not limited to:

- a) Act of God (Such as but not limited to earthquake, drought, tidal waves, floods etc.).
- b) War (whether war be declared or not), Hostilities Invasion, Act of foreign enemy etc.
- c) Rebellion, revolution, insurrection, civil war etc.
- d) Contamination of Radio Activity from any nuclear fuel or from any other nuclear waste or any other hazardous materials.
- e) Riots, commotions, strike unless restricted to the employees of supplier.
- f) Acts of terrorism.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

- g) Other unforeseeable circumstances beyond the control of the parties and which the affected party cannot avoid even by using its best efforts.
- h) Cancellation of contract by customer.
- i) Change in law / government. Regulation making the performance impossible.
- j) Pandemic or Epidemic.

The party claiming to be affected by force majeure shall notify the other party in writing immediately without delay on the intervention and on the cessation of such circumstances.

Irrespective of any extension of time, if an event of force majeure occurs and its effect continues for more than 180 days the affected party shall have right to cancel the contract.

As soon as reasonably practicable following the date of commencement of a Force Majeure Event, and within a reasonable time following the date of termination of a Force Majeure Event, either Party invoking it shall submit to the other Party reasonable proof of the nature of the Force Majeure Event and of its effect upon the performance of the Party's obligations under this Agreement.

The party shall, and shall ensure that its Subcontractors shall, at all times take all reasonable steps within their respective powers and consistent with Good Operating Practices (but without incurring unreasonable additional costs) to:

- a) Prevent Force Majeure Events affecting the performance of the party's obligations under this Agreement.
- b) mitigate the effect of any Force Majeure Event and
- c) Comply with its obligations under this Agreement.

If the war like situation has developed in a country where a seller's works is located in this P.O. or there is political instability and Indian Embassy located in that country forbids or advises for not having any business dealing with the sellers located in such zone / region/ country, then BHEL reserves the right to cancel the order.

20. NON-DISCLOSURE AGREEMENT.

All Drawing and Technical Documents relating to the product or it's manufacture submitted by one party to the other, prior or

subsequent to the formation of contract, shall remain property of the submitting party. Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. Patterns supplied by BHEL will remain BHEL's property which shall be returned by the bidder on demand to BHEL. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others or to gain a commercial advantage. BHEL reserves the right to claim damages from the bidder, or take appropriate action as deemed fit against the bidder, for any infringement of the provisions contained herein as available under law or equity.

21. SETTLEMENT OF DISPUTES / ARBITRATION.

In case of any dispute arising out of as in connection with this contract, the same shall be referred to arbitration under Arbitration & Conciliation Act 1996 of a sole arbitrator who shall be appointed by mutual consent of the parties. The seat & venue of arbitration shall be Haridwar.

The proceedings shall be conducted in English. The Governing law of contract shall be the substantive law of India.

22. WHARFAGE / DEMURRAGE RESPONSIBILITY.

In the event of delay in receipt of documents by Manager (Stores-Shipping) BHEL-Haridwar and in case where dispatches are made through Unapproved Transporter the sole responsibility for wharfage / demurrage for such delay shall be that of supplier.

23. CONDITIONS FOR AVAILING MICRO & SMALL ENTERPRISES (MSE'S) BENEFITS.

- a) "MSE Suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate having deemed validity (**five years** from the date of issue of acknowledgement in EM II) or valid NSIC certificate or EM II certificate along with attested copy of a CA certificate



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

(Format enclosed at annexure-1 where deemed validity of EM II certificate of five years has expired) applicable for the relevant financial year (latest audited). Date to be reckoned for determining the deemed validity will be the date of bid opening (Part 1 in case of two-part bid) or vendor has to give Udyog Adhar Memorandum (UAM). Non submission of such documents will lead to consideration of their bid at par with other bidders. No benefit shall be applicable for this enquiry if any deficiency in the above required documents is found or the requisite documents are not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer. **UAM need not required to be notarized or attested.**

b) Any new supplier will be eligible for registration with BHEL as MSE supplier provided at least any one of the following documents are submitted along with application for registration: -

1. Udyog Adhar Memorandum (UAM).
2. Valid National Small Industries Commission (NSIC) Certificate.
3. Entrepreneurs Memorandum part II (EM II) certificate (valid based on deemed validity of 5 years) or
4. EM II certificate along with attested copy of CA Certificate (as per prescribed format at annexure-A) applicable for the relevant financial year (latest audited), where the deemed validity of EM II is over.
5. However, credentials of all MSE suppliers will be verified before advancing the intended benefits.
6. MSE bidders claiming SC/ST status will have to submit SC/ST certificate of the Proprietor from competent authority. Attested (notarized or attested by Gazetted officer) copy to be submitted along with the offer.
7. In case techno-commercial accepted bidders include MSE source and their prices (based on landed cost – considering quoted prices) are within the price band of 15% w.r.t. L-1 bidder, then BHEL can offer **25%** of quantity of respective item (rounded off to nearest number) to MSE bidders at L-1 price and in case, more than one MSE bidder is in 15 % band and the same is accepted by more than one MSE bidders then **25%** quantities of respective items will be considered for ordering on proportionate basis amongst MSE bidders.

8. There will be minimum of **3%** reservation for women owned MSEs within the above mentioned 25% reservation.
9. The reservation for MSEs owned by SC/ST will be **6.25%** { 25% out of target of 25% - refer para 4 of Public Procurement Policy for the Micro and Small Enterprises(MSEs)}.
10. The definition of MSEs owned by Women Entrepreneurs is clarified as under:
 - a) In case of proprietary MSE, proprietor shall be Woman.
 - b) In case of partnership MSE, the Woman partners shall be holding at least 51% of share in the unit.
 - c) In case of Private Limited companies, at least 51% share shall be held by Women promoters.
11. The definition of MSEs owned by SC/ST is clarified as under:
 - a) In case of proprietary MSE, proprietor(s) shall be SC/ST.
 - b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% of shares in the unit.
 - c) In case of Private Limited companies, at least 51% share shall be held by SC/ST promoters.
12. While distributing the **25%** quantity amongst MSE bidders the decimal points in quantity shall be ignored for all the bidders except the L-1 amongst MSE bidders. Balance quantity after allocating the quantity to other MSE bidders ignoring the quantities in decimal, shall be given to L-1 (amongst MSE) bidder. However, if there are more than one MSE bidder at the same price level than preference for additional quantities due to ignoring off the decimal (as mentioned above) shall be given to the bidder offering favorable terms to BHEL and if the conditions offered are also same then preference will be given to the bidder having high SPR rating.
13. In case there are more than one MSE bidders (with different landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given to the MSE bidder with lowest landed cost.
14. In case there are more than one MSE bidders (with same landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given first, based on the favorable terms in the bid and in case terms are also same, the bidder with high SPR rating shall be given preference.
15. If L1 bidder is MSE bidder, entire quantity will be given to such MSE bidder only.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

16. Note: It may however be noted that MSE guidelines as on date (Date of Technical Bid Opening Part-1) shall prevail.

17. "As per the OM No. F.No. 1(2)(1)/2016-MA dtd. 09.02.2017 issued from the Office of Development Commissioner (Micro, Small & Medium Enterprises), "Traders and agents should not be allowed to avail the benefits extended under the PP Policy."

In view of this, it is clarified that benefits of MSE (such as EMD Waiver, Tender fee exemption, Price preference, Payment preference etc.) will be given only to those MSE Vendors who are manufacturers of offered items against the NIT. No MSE benefits shall be provided to Agents / Stockists / Dealers / Traders etc. for the items offered but not manufactured by themselves."

24. INFORMATION TO THE BIDDERS.

a) Purchase related information is available at our Business-to-Business (B2B) Portal available on our website <https://hwr.bhel.com>. The user ID & password can be obtained by sending a request to concerned purchase executives.

b) Intimate your change in mail address or communication address or changes, if any, by email to AGM (SDX/MM) giving your bidder Code.

c) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site <https://hwr.bhel.com>

d) Copy of this Tender Enquiry is being sent through the post.

e) The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

In case, the bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/guidelines.

f) Supplier must upload digitally signed e-Invoice on B2B portal for processing of Bills.

In other cases, inked signed hard copy of Invoice to be submitted for processing of Bills.

25. MAKE IN INDIA (GOVT-NOTIFICATION).

A. This tender enquiry shall be governed by notification no. P-45021/2/2017-PP (BE-II) dated 04.06.2020 of government of INDIA and subsequent circulars issued afterwards. Accordingly, the minimum local content, the margin of purchase preference and the procedure for preference to make in INDIA shall be adhered.

B. The margin of purchase preference shall be 20%.

- 'Class-I local Supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under this order.
- 'Class-II local Supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under this order.
- 'Non- local Supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20%, as defined under this order.

C. Vendor to specifically confirm if they are Class-I or Class-II local supplier or not as per above mentioned notification.

Accordingly, the 'Class-I local supplier' / 'Class-II local Supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier' / 'Class-II local Supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.

D. In cases of Procurement for a Value in Excess of Rs. 10 Crores, the 'Class-I local supplier' / 'Class-II local Supplier' shall be required to provide a Certificate from the Statutory Auditor or Cost Auditor of the Company (in the case of companies) or from a practicing Cost Accountant or practicing Chartered Accountant (in respect of suppliers other than companies) giving the percentage of Local Content.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

E. Requirement of Purchase Preference:

Purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified hereunder -

- a. In the procurements of goods or works, which are covered by para 3(b) of mentioned Govt. circular and which are divisible in nature, the 'class-I local supplier' shall get purchase preference over 'Class-II supplier' as well as 'Non-local supplier', as per following procedure:
 - i. Among All qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract for full quantity will be awarded to L1.
 - ii. If L1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L1 price for the remaining 50% quantity subject to the class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local supplier, then such balance quantity may also be ordered on the L1 bidder".
- b. In the procurements of goods or works, which are covered by para 3(b) of mentioned Govt. circular and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'class-I local supplier' shall get purchase preference over 'Class-II supplier' as well as 'Non-local supplier', as per following procedure:
 - i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier', the contract will be awarded to L1.
 - ii. If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling

within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.

- iii. In case such lowest eligible 'Class-I local supplier', fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L1 prices, the contract may be awarded to the L1 bidder.

- c. 'Class-II local supplier' will not get purchase preference in any procurement, undertaken by procuring entities.

- F. For this procurement, the local content to categorize a supplier as a Class-I local supplier/ Class-II local supplier/ Non-local supplier and purchase preference to Class-I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 issued by DPIIT. In case of subsequent orders issued by nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT.

- G. Procurements where estimated value to be procured is less than Rs. 5 lakhs shall be exempted from GOI order No. P-45021/2/2017-PP (BE-II) dated 04.06.2020.

- H. For procurement of Goods & Services which are divisible in nature, following shall be operated for **MSE bidders** under Public procurement Policy for the Micro and Small Enterprises (MSEs) Amendment Order, 2019, Ref. No. AA: SSP: MSE: Amndt, dtd. 30.11.2018, Circular No. 44 of 2018-19;-

- a. If L1 bid is not from "Class-I local Supplier" and price quoted by MSE bidder falls within the margin of Purchase preference (L1+15% for MSEs), then 25 % of total order quantity of respective item (rounded off to nearest number) shall be awarded to MSE bidder, subject to MSE bidder matching the L1 Price. Out of Remaining 75% quantity, distribution shall be operated as per below sub-clause (2) –
- b. If "Class- I Local Supplier" (Next to L1, other than MSE) quoted price falling within the Margin of Purchase Preference, and "Class-I local supplier" matches the L1 price,



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

then 50% of remaining Quantity (after allocation of 25% to MSE) i.e. 37.5% shall be awarded to local supplier and 37.5% shall be awarded to foreign bidder.

Note: L1 Price refers to lowest evaluated / landed cost to Company.

For Further details, please refer GOI order no. P-45021 / 2 / 2017 - PP (BE-II) dated 04.06.2020.

26. RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRs), 2017

All provisions of Order No. F.No.6/18/2019-PPD of Department of Expenditure (DoE) shall be applicable for this tender enquiry (Order copy is available at <https://doe.gov.in/procurement-policy-divisions>). Accordingly, any bidder from a country which shares a land border with India (except the countries to which the Govt. of India has extended lines of credit or in which the Govt. of India is engaged in development projects for which list is available at <https://www.mea.gov.in/>) will be eligible to bid in this tender only if the bidder is registered with the Competent Authority as specified in Annex I of the said Order of DoE.

Updated list of the countries to which lines of credit have been extended or in which development projects are undertaken are available on the Ministry of External affairs website (<https://www.mea.gov.in/>)

For the purpose of this order, definition of Bidder from a country which shares a land border with India shall be same as defined in the Annex III of the said order.

Registration with the competent authority as stipulated in the said order is responsibility of bidder. Bidder has to submit a certificate certifying following along with offer:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India;

I certify that bidder (.... Name of Bidder) is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that bidder (.....Name of bidder) fulfils all requirements in this regard and is eligible to be considered"

If the bidder is from such country which shares a land border with India evidence of valid registration by the Competent Authority shall also be attached along with offer."

27. NOTE.

- Special conditions of enquiry, if enclosed by BHEL, will supersede the respective standard / general terms of enquiry.
- Any other Standard terms and Conditions of the bidder attached / referred against the tender enquiry will be treated as null and void ab initio.
- In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers / contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business / money / reputation, indulged in malpractices, cheating, bribery, fraud or any other misconducts or formation of cartel so as to influence the bidding process or influence the price etc. Guidelines for Suspension of Business Dealings with Suppliers / Contractors shall prevail over which is available at BHEL website <http://www.bhel.com>
- The bidder along with its associate / collaborators / sub-contractors / sub-vendors / consultants / service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL-Management about any fraud or suspected fraud as soon as it comes to their notice.
- "BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life / permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below;
 - Victim:** Any person who suffers permanent disablement or dies in an accident as defined below.
 - Accident:** Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)

For Indian Bidders (Version May-2024, Rev: 07)

occurrence caused during the manufacturing / operation and works incidental thereto at BHEL factories/ **offices and precincts** thereof , project execution , erection and commissioning, services, repairs and maintenance, trouble shooting, serving , overhaul, renovation and retrofitting , trial operation, performance guarantee testing undertaken by the company or during any works / during working at BHEL Units/ Offices/ townships and premises/ project sites.

3. Compensation in respect of each of the victims:

- (i) In the event of death or **permanent disability** resulting from **Loss of both limbs**: Rs. 10,00,000/-(Rs. Ten Lakh).
- (ii) In the event of **other permanent disability**: Rs. 7,00,000/- (Rs. Seven Lakh).

4. Permanent Disablement: A disablement that is classified as a permanent total disablement under the proviso to Section 2(l) of the Employees Compensation Act, 1923."

f) The bidder shall be in compliance with applicable laws, rules and regulations throughout the terms of the contract for conducting its business generally and to perform its obligations under this contract.

INTEGRITY PACT**Between**

Bharat Heavy Electricals Ltd. (BHEL), a company registered under the Companies Act 1956 and having its registered office at "BHEL House", Siri Fort, New Delhi - 110049 (India) hereinafter referred to as "The Principal", which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

and

_____, (description of the party along with address), hereinafter referred to as "The Bidder/ Contractor" which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for _____

_____ (hereinafter referred to as "Contract"). The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal will appoint panel of Independent External Monitor(s) (IEMs), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1- Commitments of the Principal

- 1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
 - 1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - 1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - 1.1.3 The Principal will exclude from the process all known prejudiced persons.
- 1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

Section 2 - Commitments of the Bidder(s)/ Contractor(s)

- 2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. The Bidder(s)/ Contractor(s) commits himself to observe the following principles during participation in the tender process and during the contract execution.

- 2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he/ she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- 2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- 2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant Indian Penal Code (IPC) and Prevention of Corruption Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 2.1.4 Foreign Bidder(s)/ Contractor(s) shall disclose the name and address of agents and representatives in India and Indian Bidder(s)/ Contractor(s) to disclose their foreign principals or associates.. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- 2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 2.3 The Bidder(s)/ Contractor(s) shall not approach the Courts while representing the matters to IEMs and shall await their decision in the matter.

Section 3 - Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process, terminate the contract, if already awarded, exclude from future business dealings and/ or take action as per the separate "Guidelines on Banning of Business dealings with Suppliers/ Contractors", framed by the Principal.

Section 4 - Compensation for Damages

- 4.1 If the Principal has disqualified the Bidder (s) from the tender process before award / order acceptance according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.
- 4.2 If the Principal is entitled to terminate the Contract according to Section 3, or terminates the Contract in application of Section 3 above, the Bidder(s)/ Contractor (s) transgression through a violation of Section 2 above shall be construed breach of contract and the Principal shall be entitled to demand and recover from the Contractor an amount equal to 5% of the contract value or the amount equivalent to Security Deposit/ Performance Bank Guarantee, whichever is higher, as damages, in addition to and without prejudice to its right to demand and recover compensation for any other loss or damages specified elsewhere in the contract.



Section 5 - Previous Transgression

- 5.1 The Bidder declares that no previous transgressions occurred in the last 3 (three) years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- 5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason or action can be taken as per the separate "Guidelines on Banning of Business dealings with Suppliers/ Contractors", framed by the Principal.

Section 6 - Equal treatment of all Bidder (s)/ Contractor (s) / Sub-contractor (s)

- 6.1 The Principal will enter into Integrity Pacts with identical conditions as this Integrity Pact with all Bidders and Contractors.
- 6.2 In case of Sub-contracting, the Principal Contractor shall take the responsibility of the adoption of Integrity Pact by the Sub-contractor(s) and ensure that all Sub-contractors also sign the Integrity Pact.
- 6.3 The Principal will disqualify from the tender process all Bidders who do not sign this Integrity Pact or violate its provisions.

Section 7 - Criminal Charges against violating Bidders/ Contractors /Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

Section 8 -Independent External Monitor(s)

- 8.1 The Principal appoints competent and credible panel of Independent External Monitor (s) (IEMs) for this Integrity Pact. The task of the IEMs is to review independently and objectively, whether and to what extent the parties comply with the obligations under this Integrity Pact.
- 8.2 The IEMs are not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.
- 8.3 The IEMs shall be provided access to all documents/ records pertaining to the Contract, for which a complaint or issue is raised before them as and when warranted. However, the documents/records/information having National Security implications and those documents which have been classified as Secret/Top Secret are not to be disclosed.
- 8.4 The Principal will provide to the IEMs sufficient information about all meetings among the parties related to the Contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the IEMs the option to participate in such meetings.



- 8.5 The advisory role of IEMs is envisaged as that of a friend, philosopher and guide. The advice of IEMs would not be legally binding and it is restricted to resolving issues raised by a Bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some Bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- 8.6 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process or during execution of Contract, the matter should be examined by the full panel of IEMs jointly, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 8.7 The IEMs would examine all complaints received by them and give their recommendations/ views to the CMD, BHEL at the earliest. They may also send their report directly to the CVO, in case of suspicion of serious irregularities requiring legal/ administrative action. Only in case of very serious issue having a specific, verifiable Vigilance angle, the matter should be reported directly to the Commission. IEMs will tender their advice on the complaints within 30 days.
- 8.8 The CMD, BHEL shall decide the compensation to be paid to the IEMs and its terms and conditions.
- 8.9 IEMs should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging mala fide on the part of any officer of the Principal should be looked into by the CVO of the Principal.
- 8.10 If the IEMs have reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant Indian Penal Code / Prevention of Corruption Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the IEMs may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.11 After award of work, the IEMs shall look into any issue relating to execution of Contract, if specifically raised before them. As an illustrative example, if a Contractor who has been awarded the Contract, during the execution of Contract, raises issue of delayed payment etc. before the IEMs, the same shall be examined by the panel of IEMs. Issues like warranty/ guarantee etc. shall be outside the purview of IEMs.
- 8.12 However, the IEMs may suggest systemic improvements to the management of the Principal, if considered necessary, to bring about transparency, equity and fairness in the system of procurement.
- 8.13 The word 'Monitor' would include both singular and plural.


Section 9 - Pact Duration

- 9.1 This Integrity Pact shall be operative from the date this Integrity Pact is signed by both the parties till the final completion of contract for successful Bidder, and for all other Bidders 6 months after the Contract has been awarded. Any violation of the same would entail disqualification of the bidders and exclusion from future business dealings.
- 9.2 If any claim is made/ lodged during currency of this Integrity Pact, the same shall be binding and continue to be valid despite the lapse of this Pact as specified above, unless it is discharged/ determined by the CMD, BHEL.




Section 10 - Other Provisions

- 10.1 This Integrity Pact is subject to Indian Laws and exclusive jurisdiction shall be of the competent Courts as indicated in the Tender or Contract, as the case may be.
- 10.2 Changes and supplements as well as termination notices need to be made in writing.
- 10.3 If the Bidder(s)/ Contractor(s) is a partnership or a consortium or a joint venture, this Integrity Pact shall be signed by all partners of the partnership or joint venture or all consortium members.
- 10.4 Should one or several provisions of this Integrity Pact turn out to be invalid, the remainder of this Integrity Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.5 Only those bidders / contractors who have entered into this Integrity Pact with the Principal would be competent to participate in the bidding. In other words, entering into this Integrity Pact would be a preliminary qualification.
- 10.6 In the event of any dispute between the Principal and Bidder(s)/ Contractor(s) relating to the Contract, in case, both the parties are agreeable, they may try to settle dispute through Mediation before the panel of IEMs in a time bound manner. In case, the dispute remains unresolved even after mediation by the panel of IEMs, either party may take further action as the terms & conditions of the Contract. The fees/expenses on dispute resolution through mediation shall be shared by both the parties. Further, the mediation proceedings shall be confidential in nature and the parties shall keep confidential all matters relating to the mediation proceedings including any settlement agreement arrived at between the parties as outcome of mediation. Any views expressed, suggestions, admissions or proposals etc. made by either party in the course of mediation shall not be relied upon or introduced as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of mediation proceedings. Neither of the parties shall present IEMs as witness in any Alternative Dispute Resolution or judicial proceedings in respect of the dispute that was subject of mediation.



For & On behalf of the Principal
(Office Seal)

Place Haridwar
Date _____

Witness:  BHEL
(Name & Address) Haridwar
JOHAN KANTI DEY

For & On behalf of the Bidder/ Contractor
(Office Seal)

Witness: _____
(Name & Address) _____

Self-certification

As per Government Public procurement order no. P-45021/2/2017-BE-II dt.15.06.2017 & P-45021/2/2017-PP(BE-II) dated 28.05.2018,29.5.2019 & 04.6.2020, it is hereby certifying that we

.....

(supplier name) are(Class-I/Class-II) local supplier and will meet the requirement of minimum local content of (50%/20%) as defined in public procurement order dated 04.6.2020 for material against Enquiry no.

.....

Details of location at which local value addition will be made is as follows: -

.....

.....

We also understand, false declarations will be in breach of the code of integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the general financial rules along with such other actions as may be permissible under law.

Seal & Signature of Supplier

ANNEXURE: CERTIFICATE REQUIRED AS PER ORDER NO F.No.6182019-PPD UNDER RULE 144(XI)
OF GENERAL FINANCIAL RULES (GFRS) 2017

ON COMPANY LETTER HEAD

Date -

**CERTIFICATE REQUIRED AS PER ORDER NO F.No.6182019-PPD UNDER RULE 144(XI) OF GENERAL
FINANCIAL RULES (GFRS) 2017**

To,
M/s Bharat Heavy Electricals Ltd.
Heavy Electrical Equipment Plant
Haridwar – 249403

Ref:
Tender No. –

I have read the clauses regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that bidder (.....) is not from such a country or, if from such a country, has been registered with the competent authority. I hereby certify that bidder (.....) fulfils all requirements in this regard and is eligible to be considered. (Where applicable, evidence of valid registration by the competent authority shall be attached).

Authorized

Annexure-NDA

NON DISCLOSURE AGREEMENT

THIS NON DISCLOSURE AGREEMENT (this "Agreement") entered into on this day of June, 20.. (the "Effective Date")

By and Between

Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India), a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "BHEL" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL").

And

ABC, a Company incorporated under the laws of and having its registered office at (hereinafter referred to as "ABC").

The party who is receiving information would be referred as Receiving Party and the party who is disclosing information would be referred as Disclosing Party, as the context requires.

WHEREAS

- (A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose ofproducts in India ('the Purpose');
- (B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;
- (C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and
- (D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

NOW, THEREFORE and in consideration of the promises made herein, their mutual and individual interests, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

Annexure-NDA

1. **PURPOSE:** Purpose to be mentioned here.
2. **DISCLOSING PARTY.** means a Party that discloses the confidential information to the other party under this agreement.
3. **RECEIVING PARTY** means a Party that receives the confidential information from the other party under this agreement.
4. **Confidential Information**
 - (a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.
 - (b)
 - (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.
 - (ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.
 - (c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:
 - (1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;
 - (2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;
 - (3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or

Annexure-NDA

(4) is hereafter furnished to the Receiving Party by a third party, as a matter of right and without restriction on disclosure.

(d) Notwithstanding any other provision of this Agreement, the Receiving Party shall be permitted to disclose Confidential Information if such disclosure is in response to a valid order of a court or other governmental body, provided, however, that the Receiving Party shall be required to give prior notice in writing to the Disclosing Party so that the Disclosing Party may seek an appropriate protective order including that the Confidential Information so disclosed be used only for the purposes for which the order was issued;

5. Disclosure

In consideration of the disclosure of Confidential Information by the Recipient hereby agrees to:

- (a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
- (b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
- (c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
- (d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;
- (e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
- (f) not disclose any Confidential Information received by it to any third party; and
- (g) not to copy or reverse engineer any such Confidential Information.
- (h) not to use the Confidential Information for any purpose other than the Transaction.
- (i) not use the information for any scientific research or any other research.
- (j) Confidential information does not include information:
 - a. Which is generally available to the public other than as a result of a breach of this Agreement; or
 - b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder; or

Annexure-NDA

- c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or
 - d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
 - e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
- (k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing or other data protection agreement

6. Restriction on Use

- (a) The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
 - (i) disclose the Confidential Information to any third party; or
 - (ii) use the Confidential Information for any purpose other than the permitted Purpose.
- (b) The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
- (c) The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
- (d) The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.

Annexure-NDA

(e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information

- (a) The Receiving Party represents and warrants that it shall protect the Confidential Information received with utmost care and diligence.
- (b) All Confidential Information shall be promptly returned to the Disclosing Party after the Receiving Party's need for it has expired, or upon request of the Disclosing Party, and in any event, upon completion or termination of this Agreement.

8. No Further Warranties

The Confidential Information shall be disclosed on an "as is" basis only and without any warranties of any kind, including but not limited to, warranties of merchantability or fitness for a particular purpose.

9. No Further Business Arrangement

Nothing contained herein shall be construed to obligate either Party to enter into any further agreements with each other. This Agreement does not create any other business arrangement, including but not limited to any partnership, agency or joint venture, between the Parties.

10. Term

The term of this Agreement shall commence on the Effective Date and valid for the period of two (2) years. The Disclosing party shall have a right to terminate this Agreement by giving a written notice of 30 days to the Receiving Party. However, the Receiving Party obligation to protect and restrict the use of Confidential Information under this Agreement shall continue until such time as the Disclosing Party discloses it to the public or when it otherwise becomes part of the public domain through no action of the Receiving Party.

11. Injunctive remedy

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the

Annexure-NDA

Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity. The affected Discloser shall be entitled to recover all its damages, costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

14. Survival

Annexure-NDA

The provisions of Clauses 8, 9 & 10 of this Agreement, and the rights and obligations contained there under shall not terminate upon termination of this Agreement.

15. Governing Law & Dispute Resolution

The contract shall be governed by the Law for the time being in force in the Republic of India. Civil Court having original Civil Jurisdiction at (name of Place) shall alone have exclusive jurisdiction in regard to all matters in respect of this agreement.

Except as provided 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 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 arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.

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 _____(the place from where the contract is issued)

16. No Publication

Neither Party shall disclose, publicise or advertise in any manner the discussions or negotiations contemplated by the Agreement without the prior written consent of the other Party, except as may be required by law.

17. Miscellaneous

- (a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
- (b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

Annexure-NDA

- (c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
- (d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
- (e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.
- (f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

All notices, documents, consents, approvals or other communications (a "Notice") to be given hereunder shall be in writing and shall be transmitted by first class registered or recorded delivery mail to the person at the address specified herein below, or by telex, facsimile or other electronic means in a form generating a record copy to the party being served at the relevant address for that party shown herein below. Any Notice sent by mail shall be deemed to have been duly served on receipt of delivery confirmation. Any Notice sent by telex facsimile or other electronic means shall be deemed to have been duly served at the time of transmission.

Notice if to:

BHEL, then to,

Phone :

Annexure-NDA

Fax :

E-mail :

ABC, then to,

(Name)_____

(Designation)_____

Phone :

Fax :

E-mail :

19. Counterparts, Telefax Signatures

This Agreement may be signed in two counterparts, each of which is to be considered an original, and taken together as one and the same document.

IN WITNESS WHEREOF, of their Agreement to the terms and conditions contained herein, the undersigned have caused this Agreement to be executed by their duly authorized representatives:

For Bharat Heavy Electricals Limited	For ABC
Signature:	Signature:
Name:	Name:
Designation:	Designation:
Signature:	Signature:
Name:	Name:
Designation:	Designation: