



PURCHASE GENERAL CONDITIONS OF CONTRACT (GCC)

**BHARAT HEAVY ELECTRICALS LIMITED
POWER SECTOR WESTERN REGION**



Vol-IB: General Conditions of the Contract (GCC)

GCC Issued on 19-08-2021 (Rev 01)

GCC Issued on 10-05-2021 (Rev 00)

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1.	<p>Technical bid will be opened at stipulated time on Due Date. The Technical cum Commercial bid should accompany with a copy of this enquiry duly signed & stamped on all pages as a token of acceptance of Technical & Commercial T & C and copy of documents like authorized dealership certificate, earlier supply order details of similar equipment and their performance feedback from customers, company profile and present status, product catalogue of the models offered, technical specifications of the product, commercial Terms & Conditions and other relevant documents etc. Please fill up all the columns of all formats of this enquiry.</p> <p>Price bid should be submitted as per the 'Price Format' given in this enquiry. Quotations not accompanying filled in 'Price Format' are likely to be rejected. Terms and condition if any enclosed with price bid, shall not be considered. Tenders received as single bid indicating the price is liable to be rejected.</p>
2.	Price bid of technically accepted bidders only will be opened. No revision of prices will be entertained after Tenders are opened, unless mentioned in our enquiry / asked so by BHEL.
3.	Manufacturer's name, Trade Mark or Patent No. if any, shall be specified in the Technical cum Commercial Bid
4.	Please mention the relevant national / international standard code of the product quoted for in the Technical cum Commercial bid.
5.	The purchaser shall be under no obligation to accept the lowest or any other tender and shall be entitled to accept or reject any tender in part or full without assigning any reason whatsoever.
6.	The tenders received after the specified time of their submission or treated as 'Late tenders' and shall not be considered under any circumstances.
7.	Price quoted shall be valid for 03 Months from the date of opening.
8.	Price shall be quoted as per enclosed 'Price Format' only. Quotations not accompanying filled in 'Price Format' are likely to be rejected. Please fill in all the columns of all formats
9.	<u>Performance Guarantee (PBG/CEBG)</u> : The supplier shall have to furnish Bank Guarantee (Cash/DD/Bank Guarantee from a Scheduled Bank) if so specified in the tender under Special Terms & Conditions.
10.	<u>Packing and Marking</u> : The supplier shall arrange for secure protective packing of the goods suitable for tropical conditions to avoid loss, damage, atmospheric action during handling and transit. The packing standards will comply with relevant national standard/carrier's conditions of packing or established

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	practice. If any damage is sustained and the carrier or underwriter attributes it to improper packing, the seller shall be liable to replace the material or reimburse the value of the loss notwithstanding any transit insurance arranged by him or not. The following marking shall be made on each package in black bold letters. NAME & ADDRESS OF CONSIGNEE, DIMENSION OF PACKAGE, WEIGHT DETAILS: GROSS, TARE & NETT These markings should be stenciled or written in bold letters on the package. Should the package be small, suitable cards/metal tags giving these details may be tagged or nailed.
11.	Inspection: Final inspection will be carried out the destination/site/Purchaser's works by the authorized inspecting Officer, if so specified in the tender under Special Terms & Conditions. Whenever preliminary or stage inspection is to be carried out at supplier's works the same is subject to final acceptance after receipt of the material at the destination/Purchasers works and the decision of the purchaser shall be final. The propriety of goods shall not pass until final acceptance by the purchaser
12.	Rejection: The seller shall intimate the purchaser in writing within 15 days (after being intimated about rejection of goods) regarding disposal action of the rejected material. If no advice is received within this time the purchaser shall be at liberty to return the material at the cost and risk of the seller after receiving the cost if any paid by the Purchaser including inward freight and other incidental charges. The Purchaser will not be responsible for the rejected material thereafter and no claim will rest on him.
13.	Delivery: Purchaser shall not be liable to receive and pay for any supply made after delivery date stipulated in the order unless the delivery date is formally extended by the purchaser. Wherever the terms of delivery of the order is other than F.O.R. destination, delivery date will be reckoned as the date of dispatch or the date of readiness after inspection of the material where the Purchaser has agreed for inspection or collection.
14.	Test Certificate: The seller shall carry out such tests as prescribed by the purchaser / as required in accordance to the relevant national or international standards, in his works and/or and other places as stipulated in the order. Necessary test certificate shall be submitted with delivery of materials. The seller shall also provide at no extra cost the required number of catalogues, drawing and other manuals related to materials under this order.
15.	<p>Terms of Payment: As per Technical Conditions of the Contract document.</p> <p>The seller shall send dispatch requisite documents, invoice etc. in such quantum and manner as provided in the order.</p> <p>(I) It is expressly understood that in the event of rejection of the materials for which payment has been made against documents through bank the Purchaser reserves the right to claim from the seller the amount paid and the incidental charged incurred in the same manner i.e. negotiating return dispatch documents, through Bank and the Seller shall honor such claim and retire the documents from the Bank.</p> <p>(ii) Bank charges for any payment claimed through Bank shall be borne by the seller and the seller shall also agree to bear any demurrage or other charges arising out of any delay in retirements or documents from Bank due to delayed, insufficient incorrect information furnished.</p>

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	(iii) The seller shall also ensure that the Carriers do not delay dispatch of the consignment once the carrier's receipt is obtained.
16.	<u>Guarantee/Warranty:</u> The materials shall be warranted for design material and workmanship and also for performance warranty as specially stipulated by the purchaser in the order in its annexure.
17.	<u>Insurance:</u> Wherever specifically agreed to and directed, the supplier will insure the goods for all transit risks upto delivery of the goods at the final destination. In all other cases supplier must furnish particulars of dispatch for each consignment immediately after the dispatch of goods. Failure to do this will make the supplier responsible for making good any loss, which otherwise might have been recovered from underwriters.
18.	<p><u>Delivery Failure, Termination & Liquidated Damage:</u> The parties hereto agree that the timely dispatch/delivery and completion of the other schedules as stipulated in order/contract shall be the essence of the Order/Contract. If the Supplier fails to complete the dispatch/ delivery and other schedules within the time period stipulated in the order/contract, or within any extension of time granted by the purchaser, it shall be lawful for the purchaser to recover damages for the breach of order/contract without prejudice to any other rights and/or remedies provided for, in order/contract and hereunder.</p> <p>The purchaser reserves the right to recover from the Supplier, as agreed liquidated damages and not by way of penalty, a sum equivalent to half percent {½% of the total contract price per week part thereof, subject to a maximum of ten percent @ 10%} of the total contract price excluding elements of taxes, duties and freight, if Supplier has failed to deliver any part of the goods within the period stipulated in the Order/Contract.</p> <p>The purchaser reserves the right to purchase from elsewhere on account of and at the risk and cost of the Supplier without notice to the Supplier of goods not so delivered or their equivalent, without canceling the order/contract in respect of the goods not yet due for delivery.</p> <p>The purchaser reserves the right to cancel the order/contract or a portion thereof for the goods not so delivered at the risk and cost of the Supplier and the Supplier shall be liable to the purchaser for any excess costs thereof.</p> <p>In case of staggered delivery schedule, LD shall be 0.5 % of the undelivered portion per week of delay or part thereof subject to a maximum of 10% of the total order value. However, even if a staggered delivery schedule for Capital Machine/ BOPs is agreed, the LD cap will be levied on total order value and not undelivered portion of the order value.</p>
19.	<p><u>Execution of Contract</u></p> <p>The successful tenderer's responsibility under this contract commences from the date of issue of the Letter of Intent/ Purchase Order/ Work Order by Bharat Heavy Electricals Limited. The Tenderer shall submit an unqualified acceptance to the Letter of Intent/Award within the period stipulated therein.</p>

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	The successful tenderer shall be required to execute an agreement in the prescribed form, with BHEL, within a reasonable time after the acceptance of the Letter of Intent/Award, and in any case before releasing the first running bill. The contract agreement shall be signed by a person duly authorized/empowered by the tenderer. The expenses for preparation of agreement document shall be borne by BHEL.
20.	<p><u>Risk Purchase:</u> In the event the supplier has failed to deliver or dispatch whole of the goods or any part within the time stipulated or if the same were not available in his stock, the best and the nearest available substitute thereof may be purchased/arranged by purchaser from elsewhere at the risk and the cost of the seller.</p>
21.	<p><u>RIGHTS OF BHEL:</u></p> <ol style="list-style-type: none"> 1) BHEL reserves the following rights in respect of this contract during the original contract period or its extensions if any, as per the provisions of the contract, without entitling the Supplier for any compensation. 2) To withdraw any portion of work and/or to restrict/alter quantum of work as indicated in the contract during the progress of work and get it done through other agencies to suit BHEL's commitment to its customer or in case BHEL decides to advance the date of completion due to other emergent reasons/ BHEL's obligation to its customer. 3) To terminate the contract or withdraw portion of work and get it done through other agency, at the risk and cost of the Supplier after due notice of a period of 14 days" by BHEL in any of the following cases: <ol style="list-style-type: none"> i. Supplier's poor progress of the work vis-à-vis execution timeline as stipulated in the Contract, backlog attributable to Supplier including unexecuted portion of work does not appear to be executable within balance available period considering its performance of execution. ii. Withdrawal from or abandonment of the work by Supplier before completion of the work as per contract. iii. Non-completion of work by the Supplier within scheduled completion period as per Contract or as extended from time to time, for the reasons attributable to the Supplier. iv. Termination of Contract on account of any other reason (s) attributable to Supplier. v. Assignment, transfer, subletting of Contract without BHEL's written permission. vi. Non-compliance to any contractual condition or any other default attributable to Supplier. <p><u>Risk & Cost Amount against Balance Work:</u></p> <p>Risk & Cost amount against balance work shall be calculated as follows:</p> $\text{Risk \& Cost Amount} = [(A-B) + (A \times H/100)]$ <p>Where,</p> <p>A= Value of Balance scope of Work (*) as per rates of new contract</p>

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	<p>B= Value of Balance scope of Work (*) as per rates of old contract being paid to the Supplier at the time of termination of contract i.e. inclusive of PVC & ORC, if any.</p> <p>H = Overhead Factor to be taken as 5</p> <p>In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero).</p> <p>* Balance scope of work (in case of termination of contract):</p> <p>Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for "Termination of Contract", shall be taken as balance scope of Work for calculating risk & cost amount.</p> <p>Contract quantities are the quantities as per original contract. If, Contract has been amended, quantities as per amended Contract shall be considered as Contract Quantities.</p> <p>Items for which total quantities to be executed have exceeded the Contract Quantities based on drawings issued to Supplier from time to time till issue of Termination letter, then for these items total Quantities as per issued drawings would be deemed to be contract quantities.</p> <p>Substitute/ extra items whose rates have already been approved would form part of contract quantities for this purpose. Substitute/ extra items which have been executed but rates have not been approved, would also form part of contract quantities for this purpose and rates of such items shall be determined in line with contractual provisions.</p> <p>However, increase in quantities on account of additional scope in new tender shall not be considered for this purpose.</p> <p>NOTE: Incase portion of work is being withdrawn at risk & cost of Supplier instead of termination of contract, contract quantities pertaining to portion of work withdrawn shall be considered as "Balance scope of work" for calculating Risk & Cost amount.</p> <p><u>LD against delay in executed work in case of Termination of Contract:</u></p> <p>LD against delay in executed work shall be calculated in line with the LD terms cited in Tender, for the delay attributable to Supplier. For limiting the maximum value of LD, contract value shall be taken as Executed Value of work till termination of contract.</p> <p>Method for calculation of "LD against delay in executed work in case of termination of contract" is given below.</p> <ol style="list-style-type: none"> Let the time period from scheduled date of start of work till termination of contract excluding the period of Hold (if any) not attributable to Supplier = T1 Let the value of executed work till the time of termination of contract= X Let the Total Executable Value of work for which inputs/fronts were made available to Supplier

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	<p>and were planned for execution till termination of contract = Y</p> <p>iv. Delay in executed work attributable to Supplier i.e. $T2 = [1 - (X/Y)] \times T1$</p> <p>v. LD shall be calculated in line with the LD terms cited in Tender for the delay attributable to Supplier taking "X" as Contract Value and "T2" as period of delay attributable to Supplier.</p> <p>4) In case Supplier fails to deploy the resources as per requirement, BHEL can deploy own/hired/otherwise arranged resources at the risk and cost of the Supplier and recover the expenses incurred from the dues payable to Supplier. Recoveries shall be actual expenses incurred plus 5% overheads or as defined in TCC.</p> <p>5) <u>Recoveries arising out of Risk & Cost and LD or any other recoveries due from Supplier</u></p> <p>Following sequence shall be applicable for recoveries from Supplier:</p> <p>a. Dues available in the form of Bills payable to Supplier, SD, BGs against the same contract.</p> <p>b. Demand notice for deposit of balance recovery amount shall be sent to Supplier, if funds are insufficient to effect complete recovery against dues indicated in (a) above.</p> <p>c. If Supplier fails to deposit the balance amount to be recovered within the period as prescribed in demand notice, following action shall be taken for balance recovery:</p> <p>i. Dues payable to Supplier against other contracts in the same Region shall be considered for recovery.</p> <p>ii. If recovery cannot be made out of dues payable to the Supplier as above, balance amount to be recovered, shall be informed to other Regions/Units for making recovery from the Unpaid Bills/Running Bills/SD/BGs/Final Bills of Supplier.</p> <p>iii. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against Supplier.</p> <p>6) To terminate the contract or to restrict the quantum of work and pay for the portion of work executed in case BHEL's contract with their customer are terminated for any reason, as per mutual agreement.</p> <p>7) While every endeavor will be made by BHEL to this end, they cannot guarantee uninterrupted work due to conditions beyond their control. The Supplier will not be normally entitled for any compensation/extra payment on this account unless otherwise specified elsewhere in the contract.</p> <p>8) In case the execution of works comes to a complete halt or reaches a stage wherein worthwhile works cannot be executed and there is no possibility of commencement of work for a period of not less than two months, due to reasons not attributable to the Supplier and other than Force Majeure conditions, BHEL may consider permitting the Supplier to de mobilize forthwith and remobilize at an agreed future date. Cost of such demobilization/remobilization shall be mutually agreed. ORC in such cases shall not be applicable for the period between the period of demobilization and re mobilization. The duration of contract/time extension shall accordingly get modified suitably. In case of any conflict, BHEL decision in this regard shall be final and binding on the Supplier.</p> <p>9) In the unforeseen event of inordinate delay in receipt of materials, drawings, fronts, etc, due to</p>

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	<p>which inordinate discontinuity of work is anticipated, BHEL at its discretion may consider Supplier's request to short close the contract in following cases:</p> <ol style="list-style-type: none"> The balance works (including but not limited to Trial Operation, PG Test, etc) are minor vis a vis the scope of work envisaged as per the contract. There has been no significant work in past 6 months OR no significant work is expected in next 6 months (example in Hydro projects or in projects where work has stopped due to reasons beyond the control of BHEL) The balance works cannot be done within a reasonable period of time as they are dependent on unit shutdown or on other facilities of customer or any other reasons not attributable to the Supplier. <p>10) At the point of requesting for short closure, Supplier shall establish that he has completed all works possible of completion and he is not able to proceed with the balance works due to constraints beyond his control. In such a case, the estimated value of the unexecuted portion of work (or estimated value of services to be provided for carrying out milestone/stage payments like Trial Operation/PG Test, etc.) as mutually agreed, shall however be reduced from the final contract value.</p>
22.	<p><u>Law Governing the Contract and Court Jurisdiction</u></p> <p>The contract shall be governed by the Law for the time being in force in the Republic of India. The Civil Court having original Civil Jurisdiction at Nagpur shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.</p>
23.	<p><u>Arbitration & Conciliation:</u></p> <p><u>Arbitration:</u></p> <p>a) Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in Conciliation Clause herein below or otherwise) 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 (hereinafter referred to as the „Dispute“), then, either Party may, commence arbitration in respect of such Dispute by issuance of a notice in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the “Notice”). The Notice shall contain the particulars of all claims to be referred to arbitration in sufficient detail and shall also indicate the monetary amount of such claim. The arbitration shall be conducted by a sole arbitrator to be appointed by the Head of the BHEL Power Sector Region issuing the Contract within 60 days of receipt of the complete Notice. The language of arbitration shall be English.</p> <p>The Arbitrator shall pass a reasoned award.</p> <p>Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory</p>

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	<p>modifications or re-enactments thereof and the rules made thereunder as in force from time to time shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be ____ (the place from where the contract is issued) The Contract shall be governed by and be construed as per provisions of the laws of India. Subject to this provision cited above regarding ARBITRATION, the principal civil court exercising ordinary civil jurisdiction over the area where the seat of arbitration is located shall have exclusive jurisdiction over any DISPUTE to the exclusion of any other court.</p> <p>b) In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:</p> <p>In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018 as amended from time to time.</p> <p>c) The cost of arbitration shall initially be borne equally by the Parties subject to the final allocation thereof as per the award/order passed by the Arbitrator.</p> <p>d) Notwithstanding the existence of any dispute or differences and/or reference for the arbitration, the Supplier shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner unless the dispute inter-alia relates to cancellation, termination or short-closure of the Contract by BHEL.</p> <p><u>CONCILIATION:</u></p> <p>If at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the agreement, contract), which the Parties are unable to settle mutually, arise inter-se the Parties, the same may, be referred by either party to Conciliation to be conducted through Independent Experts Committee (IEC) to be appointed by competent authority of BHEL from the BHEL Panel of Conciliators.</p> <p><u>Notes:</u></p> <ol style="list-style-type: none"> 1) No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators. 2) Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators <p>The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in Procedure 2.3 to this GCC. The Procedure 2.3 together with its Formats will be treated as if the same is part and parcel hereof and shall</p>

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	<p>be as effectual as if set out herein in this GCC. The Supplier hereby agrees that BHEL may make any amendments or modifications to the provisions stipulated in the Procedure 2.3 to this GCC from time to time and confirms that it shall be bound by such amended or modified provisions of the Procedure 2.3 with effect from the date as intimated by BHEL to it.</p> <p><u>No Interest payable to Supplier:</u></p> <p>Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Supplier on any moneys or balances including but not limited to the Security Deposit, EMD, Retention Money, RA Bills or the Final Bill, or any amount withheld and/or appropriated by BHEL etc., which becomes or as the case may be, is adjudged to be due from BHEL to Supplier whether under the Contract or otherwise</p>
24.	<p><u>OTHER ISSUES</u></p> <p>a) Value of Non judicial Stamp Paper for Bank Guarantees and for Contract Agreement shall be not less than Rs.100/- unless otherwise required under relevant statutes.</p> <p>b) In case of any conflict between the General Conditions of Contract and Special Conditions of Contract, provisions contained in the Special Conditions of Contract shall prevail.</p> <p>c) Unless otherwise specified in NIT, offers from consortium/JVs shall not be considered.</p> <p>d) BHEL may not insist for signing of Contract Agreements in respect of low value and short time period contracts like providing services for Hot water flushing, Chemical Cleaning, Transportation, etc.</p> <p>e) The consultant / firm (and any of its affiliates) shall not be eligible to participate in tender/s for the related works or services for the same project, if they were engaged for the consultancy services.</p>
25.	<p><u>Suspension of Business dealings</u></p> <p>1) BHEL reserves the right to take action against Suppliers who fail to perform or indulge in malpractices, by suspending business dealings with them.</p> <p>2) Suspension could be in the form of 'Hold', 'De-listing' or 'Banning' a Supplier.</p> <p>3) A bidder may be put on HOLD for a period of 6 months, for future tenders for specific works on the basis of one or more of the following reasons:</p> <p>a) Bidder does not honour his own offer or any of its conditions within the validity period.</p> <p>b) Bidder fails to respond against three consecutive enquires of BHEL.</p> <p>c) After placement of order, Bidder fails to execute a contract.</p> <p>d) Bidder fails to settle sundry debt account, for which he is legitimately liable, within one year of its occurrence.</p> <p>e) Bidder's performance rating falls below 60% in specific category (more fully described in Chapter</p>

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	<p data-bbox="357 197 667 226">'Performance Monitoring'.</p> <p data-bbox="309 241 1002 271">f) Bidder works are under strike/ lockout for a long period.</p> <p data-bbox="256 333 1501 405">4) A Bidder may be de-listed from the list of registered Bidders of the region for a period of 1 year on the basis of one or more of the following reasons: -</p> <p data-bbox="309 454 1501 526">a) Bidder tampers with tendering procedure affecting ordering process or commits any misconduct which is contrary to business ethics.</p> <p data-bbox="309 542 1501 613">b) Bidder has substituted, damaged, failed to return, short returned or unauthorizedly disposed off materials/ documents/ drawings/ tools etc of BHEL.</p> <p data-bbox="309 629 1501 701">c) Bidder no longer has the technical staff, equipment, financial resources etc. required to execute the orders/ contracts.</p> <p data-bbox="256 763 1501 835">5) A Bidder can be banned from doing any business with all Units of BHEL for a period of 3 years on the basis of one or more of the following reasons:</p> <p data-bbox="309 884 1501 956">a) Bidder is found to be responsible for submitting fake/ false/ forged documents, certificates, or information prejudicial to BHEL's interest.</p> <p data-bbox="309 972 1501 1043">b) In spite of warnings, the Bidder persistently violates or circumvents the provisions of labour laws/ regulations/ rules and other statutory requirements.</p> <p data-bbox="309 1059 932 1088">c) Bidder is found to be involved in cartel formation.</p> <p data-bbox="309 1104 1501 1176">d) The Bidder has indulged in malpractices or misconduct such as bribery, corruption and fraud, pilferage etc which are contrary to business ethics.</p> <p data-bbox="309 1191 1501 1263">e) The Bidder is found guilty by any court of law for criminal activity/offences involving moral turpitude in relation to business dealings.</p> <p data-bbox="309 1279 1501 1350">f) The Bidder is declared bankrupt, insolvent, has wound up or been dissolved; i.e ceases to exist for all practical purposes.</p> <p data-bbox="309 1366 1501 1438">g) Bidder is found to have obtained Official Company information/documentation by questionable means.</p> <p data-bbox="309 1453 1501 1525">h) Communication is received from the administrative Ministry of BHEL to ban the Bidder from business dealings.</p> <p data-bbox="256 1574 1501 1646">6) Contracts already entered with a Supplier before the date of issue of order of 'HOLD' or 'DE-LISTING' shall not be affected.</p> <p data-bbox="256 1695 1501 1767">7) All existing contracts with a 'BANNED' Supplier shall normally be short closed. Once the order for suspension is passed, existing offers/new offers of the Supplier shall not be entertained</p> <p data-bbox="256 1816 1501 1888">8) The above guidelines are not exhaustive but enunciate broad principles governing action against Suppliers.</p> <p data-bbox="256 1937 1501 2009">9) The above guidelines are not exhaustive but enunciate broad principles governing action against Suppliers.</p>

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	<p>10) EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provision of extant "Guidelines on Suspension of business dealing with supplier/contractors" and forfeited/released based on the action as determined under these guidelines.</p> <p>11) Offers from tenderers who are under suspension (banned) by any Unit/Region/Division of BHEL shall not be considered.</p> <p>12) Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL, or tenderer under suspension (hold/banning /delisted) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt. of India.</p> <p>13) BHEL reserves the right to take action against Suppliers who either fail to perform or Tenderers/Supplier who indulge in malpractices, by suspending business dealings with them in line with BHEL guidelines issued from time to time.</p>
26.	This order or any part thereof shall not be sub-contracted without the Purchaser's consent.
27.	<u>Metric System</u> : Supplier is requested to indicate metric system measurements in all documents.
28.	<u>Indemnity</u> : The Seller shall indemnify the Purchaser against any claim due to any breach of patent, negligence, defective material or injury to seller or his agent.
29.	In the event of any reduction in the price, due to change of Govt. duties after award to the work and before delivery commencement, purchaser is entitled to such reduction and may negotiate fresh price at its discretion.
30.	<u>GENERAL</u> : The purchaser reserves the right to split up the tender and place orders for individual item on different suppliers and also increase or decrease the quantity.
31.	<u>Force Majeure</u> : Acts of God, Acts of Government, War, Sabotage, Riots, Civil commotion, Police action, Revolution, Natural Calamities, Epidemic, Pandemic and other similar causes over which the supplier has no control, will amount to Force Majeure. Delay attributable to Force Majeure will be condoned; however the onus of establishing the reason of delay lies with the Supplier.
32.	<p>The offers of the bidders who are on the banned list as also the offer of the bidders, who engage the services of the banned firms, shall be rejected. The list of banned firms is available on BHEL web site</p> <p>(www.bhel.com ---> Tender Notification ---> List of Banned Firms)</p>
33.	<p><u>MSE Clause</u></p> <p><u>Important Note</u>:</p> <p>1) IF L-1 BIDDER IS OTHER THAN Micro and Small Scale Enterprises (MSEs).</p>

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	<p>a) In tender, participating Micro and Small Scale Enterprises (MSEs) quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE (L1+15%), L-3 onwards bidders will be given opportunity to match the L-1 prices, provided their predecessors in terms of Price standing refuses to match L-1 prices.</p> <p>b) Total tendered quantity shall be divided as follows:</p> <p>In the ratio of 75 : 18.75 : 6.25 (if L-1 bidder is non MSE), where 75% order will be placed on L-1 bidder, 18.75% on MSE and 6.25% on MSE (owned by SC/ST) subjected to following conditions:</p> <p>I. MSEs Matches L-1 price.</p> <p>II. If no MSE owned by SC/ST has participated in the tendering process, portion earmarked (6.25%) will be awarded entirely to other MSE (not owned by SC/ST) i.e. total 25% will be awarded to them.</p> <p>c) If no MSE matches the L-1 price, then entire order shall be awarded to L-1 bidder.</p> <p>2) IF L-1 BIDDER IS Micro and Small Scale Enterprises (MSEs) (NOT OWNED BY SC/ST).</p> <p>In tender, participating MSEs, owned by SC/ST, quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price. MSE (owned by SC/ST) shall be allowed to supply up to 25% of total tendered value/quantity. In case of more than one such MSE (L1+15%), L3 onwards bidders will be given opportunity to match the L-1 prices, provided their predecessors in terms of Price standing refuses to match L-1 prices.</p> <p>3) IF L-1 BIDDER IS Micro and Small Scale Enterprises (MSEs) (OWNED BY SC/ST).</p> <p>100% order will go to the L-1 bidder.</p> <p>4) Participating MSEs should be registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or Udyog Aadhaar Memorandum and their ownership is established in case they are claiming the portion earmarked for MSEs owned by SC/STs.</p> <p>5) Bidder who is claiming 6.25% of the quantity earmarked for MSEs owned by SC/STs are required to submit the documentary evidence to establish the ownership of MSE firm. Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.</p> <p>6) Bidder who is claiming 6.25% of the quantity earmarked for MSEs owned by SC/STs are required to submit the documentary evidence to establish the ownership of MSE firm.</p> <p>a) In case of proprietary MSE, proprietor(s) shall be SC/ST.</p> <p>b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the unit.</p>

Cl. No	DESCRIPTION
	<p>c) In case of Private limited companies, at least 51% share shall be held by SC/ST promoters.</p> <p>Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.</p> <p>7) Minimum of 3% reservation for women owned MSEs within the above mentioned 25% reservation shall be applicable. Bidder who is claiming 3% of the quantity earmarked for Women entrepreneurs are required to submit the documentary evidence to establish the ownership of MSE firm owned by Women entrepreneurs.</p> <p>a) In case of proprietary MSE, proprietor(s) shall be a Women.</p> <p>b) In case of partnership MSE, the Women partners shall be holding at least 51% shares in the unit.</p> <p>c) In case of Private limited companies, at least 51% share shall be held by Women promoters.</p> <p>Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.</p> <p>Note: All these preferences are applicable, subject to the submission of applicable certificates (i.e. District Industries Centers OR Khadi and Village Industries Commission OR Khadi and Village Industries Board OR Coir Board OR National Small Industries Corporation OR Directorate of Handicrafts and handloom OR Udyog Aadhaar Memorandum OR any other body specified by Ministry of Micro Small and Medium Enterprises).</p> <p>8) MSE suppliers can avail the intended benefits only if they submit along with offer, attested copies of either ENTREPRENEUR MEMORANDUM PART II certificate having deemed validity (Five years from the date of issue of acknowledgement in EM-II) or valid NSIC certificate or ENTREPRENEUR MEMORANDUM PART II certificate along with CA certificate (Format enclosed as per MSE Annex - I) applicable for the year, certifying quantum of investment in plant and machinery within the permissible limit as per the act for relevant status (Micro or small) where the deemed validity of ENTREPRENEUR MEMORANDUM PART II is over. Date to be reckoned for determining the deemed validity will be the last date of technical bid submission. Non submission of such documents will lead to consideration of their bids at par with other bidders and MSE status of such suppliers shall be shifted to Non MSE supplier till the supplier submits these documents.</p>
34.	<p>For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017, 28.05.2018, 29.05.2019 & 04.06.2020 and subsequent Orders issued by the respective Nodal Ministry shall be applicable even if issued after issue of this NIT but before finalization of contract/ PO/ WO against this NIT.</p> <p>In the event of any Nodal Ministry prescribing higher or lower percentage of purchase preference and/ or local content in respect of this procurement, same shall be applicable.</p>
35.	<p>In compliance with order issued by "Department of Expenditure's (DoE) Public Procurement Division ref. F.No.6/18/2019-PPD dated 23.07.2020 & 24.7.2020 , following restriction is hereby ordered under rule 144(xi) of the General Financial Rules (GFRs)2017 :</p>

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	<p>I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.</p> <p>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.</p> <p>III. "Bidder from a country which shares a land border with India" for the purpose of this order means: -</p> <ul style="list-style-type: none"> 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 <p>IV. The beneficial owner for the purpose of (iii) above will be as under:</p> <p>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.</p> <p>Explanation-</p> <ul style="list-style-type: none"> 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 the majority of the directors or to control the management of policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements; <p>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;</p> <p>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;</p>

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	<p>4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who hold the position of senior managing official;</p> <p>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.</p> <p>V. An agent is a person employed to do any act for another, or to represent another in dealings with third person.</p> <p>VI. (Applicable to works contracts including turnkey contract) The successful bidder shall not be allowed to sub-contract works to any Supplier from a country which shares a land border with India unless such Supplier is registered with the Competent Authority.</p> <p>-----</p> <p><u>Model certificate for Tender:</u></p> <p>"I/we have read the clauses pertaining to Department of Expenditure's (DoE) Public Procurement Division Order (Public procurement no 1, 2 & 3 vide ref. F.No.6/18/2019-PPD dated 23.07.2020 & 24.7.2020) regarding restrictions on procurement from a bidder of a country which shares a land border with India. I/We hereby certify that I/ we, the bidder is/are not from such a country, OR if, from such country, has/have been registered with the competent authority. I/We hereby certify that I/we fulfil all the requirements in this regard and is/are eligible to be considered for this tender. (Where applicable, evidence of valid registration by the competent authority shall be attached)</p> <p><u>Model certificate for Tenders for works involving possibility of sub-contracting:</u></p> <p>"I/we have read the clauses pertaining to Department of Expenditure's (DoE) Public Procurement Division Order (Public procurement no 1, 2 & 3 vide ref. F.No.6/18/2019-PPD dated 23.07.2020 & 24.7.2020) regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to Suppliers from such a county. I/We hereby certify that this bidder is not from such a country, OR if, from such country, has been registered with the competent authority. I/We hereby certify that this bidder fulfils all the requirements in this regard and is eligible to be considered for this tender. (Where applicable, evidence of valid registration by the competent authority shall be attached)</p> <p><u>Model certificate for GeM:</u></p> <p>"I/we have read the clauses pertaining to Department of Expenditure's (DoE) Public Procurement Division Order (Public procurement no 1, 2 & 3 vide ref. F.No.6/18/2019-PPD dated 23.07.2020 & 24.7.2020) regarding restrictions on procurement from a bidder of a country which shares a land border with India. I/We hereby certify that I/ we, the vendor/bidder is/are not from such a country, OR if, from such country, has/have been registered with the competent authority. I/We hereby certify that I/we fulfil all the requirements in this regard and is/are eligible to be considered for this procurement on GeM. (Where</p>

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	applicable, evidence of valid registration by the competent authority shall be attached)
36.	<p><u>PRICE DISCREPANCY:</u></p> <p>a) <u>Conventional (Manual) Price Bid opening:</u> In the case of price bid opening without resorting to Reverse Auction, if there are differences between the rates given by the tenderer in words and figures or in amount worked out by him, the following procedure for evaluation and award shall be followed:</p> <ul style="list-style-type: none"> i) When there is a difference between the rates in figures and in words, the rates which corresponds to the amounts worked out by the bidder, shall be taken as correct ii) When the amount of an item is not worked out by the bidder or it does not correspond with the rate written either in figure or in words, then the rate quoted by the bidder in words shall be taken as correct iii) When the rate quoted by the bidder in figures and words tallies but the amount is not worked out correctly, the rate quoted by the bidder shall be taken as correct and not the amount. iv) In case of lump-sum price, if there is any difference between the amount in figures and in words, the amount quoted by the bidder in words shall be taken as correct. v) In case of omission in quoting any rate for one or more items, the evaluation shall be done considering the highest quoted rate obtained against the respective items by other tenderers for the subject tender. If the tenderer becomes L-1, the notional rates for the omission items shall be the lowest rates quoted for the respective items by the other tenderers against the respective omission items for the subject job and the 'Total quoted price (loaded for omissions)' shall be arrived at. However, the overall price remaining the same as quoted originally, the rates for all the items in the 'Total quoted price (loaded for omissions)' shall be reduced item wise in proportion to the ratio of 'Original' total price and the 'Total quoted price (loaded for omissions)''. vi) The 'Final Total Amount' shall be arrived at after considering the amounts worked out in line with 'i' to 'iv' above. <p>b) <u>Reverse Auction:</u> In case of Reverse Auction, the successful bidder shall undertake to execute the work as per overall price offered by him during the Reverse Auction process. In case of omission of rates, the procedure shall be as per 'Guidelines for Reverse Auction' enclosed.</p>
37.	The bidder to declare that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications , certifications, subsidiary contract, submission or non submission of bids of any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

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	In case, the bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extrant policies/guidelines.
38.	<p>A. <u>TAXES, DUTIES, LEVIES (Rev 14 dated 09/10/2020)</u></p> <p><u>For Purchase/works other than enabling work</u></p> <ol style="list-style-type: none"> 1) All taxes excluding GST, GST Cess & BOCW Cess but including, Royalties, fees, license, deposits, commission, any State or Central Levy and other charges whatsoever, if any, shall be borne by you and shall not be payable extra. 2) Any increase of the taxes excluding GST, GST Cess & BOCW Cess, at any stage during execution including extension of the contract shall have to be borne by the contractor. Quoted/ accepted rates/ price shall be inclusive of all such requirements. Please note that since GST on output will be paid by BHEL separately as enumerated below, your quoted rates/ price should be after considering the Input Credit under GST law at your end. 3) <u>GST</u> : The successful bidder shall furnish proof of GST registration .GST along with Cess (as applicable) legally leviable & payable by the successful bidder as per GST Law, shall be paid by BHEL. Hence Bidder shall not include GST along with Cess (as applicable) in their quoted price. 4) GST charged in the Tax Invoice/Debit note by the contractor shall be released separately to the contractor only after contractor files the outward supply details in GSTR-1 on GSTN portal and input tax credit of such invoice is matched with corresponding details of outward supply of the contractor and has paid the GST at the time of filing the monthly return 5) E-invoicing under GST has been implemented with effect from 1st October 2020 for all the taxable persons having turnover more than the threshold limit in any preceding financial year from 2017-18 onwards. Therefore, for all the taxable persons falling under the purview of E-invoice, it is mandatory to mention a valid unique Invoice Reference No. (IRN) and QR code as generated from E-Invoicing portal of the Government for the purpose of issuing a valid Tax Invoice. Only an E-invoice issued in the manner prescribed under rule 48(4) of CGST Rules shall be treated as valid invoice for reimbursement of GST amount. If the successful Bidder is not falling under the preview of E-Invoicing then he has to submit a declaration in that respect along with relevant financial statements. 6) Bidder shall note that the GST Tax Invoice complying with GST Invoice Rules (Section 31 of GST Act & Rules referred there under) wherein the 'Bill To' details will as below :- BHEL GSTN – As per annexure -1 NAME -- Bharat Heavy Electricals Limited ADDRESS – Site address

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	<p>7) Bidder to immediately intimate on the day of removal of Goods(in case of any supply of goods) to BHEL along with all relevant details and a scanned copy of Tax Invoice to below email ids to enable BHEL to meet its GST related compliances :-</p> <p>Email id ---- to be intimated later on.</p> <p>In case of delay in submission of the abovementioned documents on the date of dispatch, BHEL may incur penalty /interest for not adhering to Invoicing Rules under GST Law. The same will be liable to be recovered from the successful bidder, if such delay is not attributable to BHEL.</p> <p>8) In case of raising any Supplementary Tax Invoice (Debit / Credit Note) Bidder shall issue the same containing all the details as referred to in Section 34 read with Rule 53.</p> <p>9) Bidder shall note that in case GST credit is delayed/ denied to BHEL due to delayed / non receipt of goods and /or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reasons not attributable to BHEL, GST amount shall be recoverable from the vendor along with interest levied / leviable on BHEL, as the case may be.</p> <p>10) Bidder shall upload the Invoices raised on BHEL in GSTR-1 within the prescribed time as given in the GST Act. Bidder shall note that in case of delay in declaring such invoice in your return and GST credit availed by BHEL is denied or reversed subsequently as per GST Law , GST amount paid by BHEL towards such ITC reversal as per GST law shall be recoverable from the bidder along with interest levied / leviable on BHEL.</p> <p>11) Way Bill: Successful Bidder to arrange for way bill / e-waybill for any transfer of goods for the execution of the contract.</p> <p>The Bidder has to make their own arrangement at their cost for completing the formalities, if required, with Issuing Authorities, for bringing materials, plants & machinery at site for execution of the works under this contract, Road Permit/ Way Bill, if required, shall be arranged by the contractor and BHEL will not supply any Road Permit/ Way Bill for this purpose.</p> <p>12) <u>New taxes and duties</u>: Any New taxes & duties, if imposed subsequent to due date of offer submission as per NIT & TCN, by statutory authority during contract period including extension, if the same is not attributable to you, shall be reimbursed by BHEL on production of relevant supporting document to the satisfaction of BHEL. However, you shall obtain prior approval from BHEL before depositing new taxes and duties.</p> <p>Benefits and/or abolition of all existing taxes must be passed on to BHEL against new Taxes, if any, proposed to be introduced at a later date.</p> <p>In case any new tax/levy/duty etc. becomes applicable after the date of bidder's offer but before opening of the price bid, the bidder must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of the price bids. Claim for any such</p>

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	<p>impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.</p> <p>13) For transportation work, bidder shall declare in his quotation whether he is registered under GST, if yes, whether he intends to claim GST on forward charge basis. In absence of this declaration, BHEL will proceed further with the assumption that bidder intends not to claim GST on forward charge basis. However, in case of GST registered transporter, the amount to the extent of goods and service tax will be retained till BHEL avails the credit of GST. Further, transporter shall issue tax invoice which inter alia includes gross weight of the consignment, name of the consigner and the consignee, registration number of vehicle in which the goods are transported, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as mentioned under rule 46.</p> <p>14) TDS under Income Tax shall be deducted at prevailing rates on gross invoice value from the running bills unless exemption certificate from the appropriate authority/ authorities is furnished.</p> <p>15) TDS under GST shall be deducted at prevailing rates on applicable value from the running bills.</p> <p>16) TDS u/s 194Q has been inserted with effect from 01st July 2021. Buyer having total sales, gross receipts or turnover from the business carried by him exceeded the threshold limit during the financial year immediately preceding the financial year in which the purchase of goods is carried out and who is responsible for paying any sum to resident seller for purchase of any goods of the value (or aggregate of such value) exceeding threshold limit in previous year, shall deduct tax under section 194Q, as per applicable rate.</p> <p>Wherever tax is required to be deducted under section 194Q, seller is not required to collect TCS under Section 206C-1 (H)</p> <p style="text-align: center;"><u>Annexure-1</u></p> <p style="text-align: center;"><u>State wise GSTIN of BHEL</u></p> <table><tr><th>Sl. No</th><th>Projects under state</th><th>GSTIN</th></tr><tr><td>1</td><td>Andhra Pradesh</td><td>37AAACB4146P7Z8</td></tr><tr><td>2</td><td>Bihar</td><td>10AAACB4146P1ZU</td></tr><tr><td>3</td><td>Chhattisgarh</td><td>22AAACB4146P1ZP</td></tr><tr><td>4</td><td>Gujarat</td><td>24AAACB4146P1ZL</td></tr><tr><td>5</td><td>Jharkhand</td><td>20AAACB4146P5ZP</td></tr><tr><td>6</td><td>Madhya Pradesh</td><td>23AAACB4146P1ZN</td></tr><tr><td>7</td><td>Maharashtra</td><td>27AAACB4146P1ZF</td></tr><tr><td>8</td><td>Orissa</td><td>21AAACB4146P1ZR</td></tr><tr><td>9</td><td>Telangana</td><td>36AAACB4146P1ZG</td></tr></table>	Sl. No	Projects under state	GSTIN	1	Andhra Pradesh	37AAACB4146P7Z8	2	Bihar	10AAACB4146P1ZU	3	Chhattisgarh	22AAACB4146P1ZP	4	Gujarat	24AAACB4146P1ZL	5	Jharkhand	20AAACB4146P5ZP	6	Madhya Pradesh	23AAACB4146P1ZN	7	Maharashtra	27AAACB4146P1ZF	8	Orissa	21AAACB4146P1ZR	9	Telangana	36AAACB4146P1ZG
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39.	<p><u>Cancellation of Order:</u></p> <p>In the event of non-performance of the contract by the Supplier, BHEL reserves the right to cancel the order with issue of a written notice. BHEL would provide a curing period of 30 days, for the Supplier to rectify the situation. If the Supplier fails to rectify the reason/s that led to the issue of cancellation notice by BHEL, then the cancellation order would be issued automatically by BHEL, without further recourse to the Seller. BHEL will not pay any cancellation charges or any other charges / damages to the Supplier, arising out such cancellation. In the event of the non-performance of the supply contract, by the Supplier, the rights of BHEL include, in addition to cancelling the order, to take alternate purchase action at the cost and risk of the supplier. The additional expenditure to be incurred by BHEL in such alternate purchase would be to the account of the supplier (Risk Purchase). This remedy would be in addition to the invoking of the PBG/CEBG on grounds of failure of the Supplier in executing the Contract and any other legal remedies. BHEL reserves the right to initiate the alternate purchase action at the cost and risk of the erring supplier by issue of a simple notice of intention for the alternate purchase action duly sent by any electronic means and / or by a letter. The cancellation of the order would not be a pre-condition for initiation of the alternate purchase action.</p>
40.	<p><u>General Terms and Conditions</u></p> <ol style="list-style-type: none"> 1. <u>Shortages/Damages:</u> If there are any Shortages/Damages observed in the Equipment/Item during the receipt of material at Destination/Site, Supplier shall supply those shortages as per the contract delivery terms, unless and otherwise specified elsewhere. BHEL decision will be final as regards to Shortages/Damages. 2. <u>Rejection:</u> The seller shall intimate the purchaser in writing within 15 days (after being intimated about rejection of goods) regarding disposal action of the rejected material. If no advice is received within this time the purchaser shall be at liberty to return the material at the cost and risk of the seller after receiving the cost if any paid by the Purchaser including inward freight and other incidental charges. The Purchaser will not be responsible for the rejected material thereafter and no claim will rest on him. 3. <u>Insurance:</u> Wherever specifically agreed to and directed, the supplier will insure the goods for all transit risks upto delivery of the goods at the final destination. In all other cases supplier must furnish particulars of dispatch for each consignment immediately after the dispatch of goods. Failure to do this will make the supplier responsible for making good any loss, which otherwise might have been recovered from underwriters. 4. <u>Metric System:</u> Supplier is requested to indicate metric system measurements in all documents. 5. <u>Indemnity:</u> The Seller shall indemnify the Purchaser against any claim due to any breach of patent, negligence, defective material or injury to seller or his agent. 6. The language in the tender documents downloaded by the Bidders shall at no point of time be changed, altered or modified in any manner by the Tenderer. If such changes are made by any tenderer, it shall be considered as tampering with BHEL's terms and the offer shall be summarily

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	rejected, whenever it is noticed by BHEL. Such Bidders would be disqualified from the Bidding Process and their offers would be forfeited / Bank Guarantees invoked. They would also not be allowed to take part in future tenders of BHEL.

Volume-IC: Forms and Procedures

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OFFER FORWARDING LETTER / TENDER SUBMISSION LETTER

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

Offer Reference No:.....

Date:.....

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub : Submission of Offer against Tender Specification No:

I/We hereby offer to carry out the work detailed in the Tender Specification issued by Bharat Heavy Electricals Limited, Power Sector-....., in accordance with the terms and conditions thereof.

I/We have carefully perused the following listed documents connected with the above work and agree to abide by the same.

1. Amendments/Clarifications/Corrigenda/Errata/etc issued in respect of the Tender documents by BHEL
2. Notice Inviting Tender (NIT)
3. Price Bid
4. Technical Conditions of Contract
5. Special Conditions of Contract
6. General Conditions of Contract
7. Forms and Procedures

Should our Offer be accepted by BHEL for Award, I/we further agree to furnish 'Security Deposit' for the work as provided for in the Tender Conditions within the stipulated time as may be indicated by BHEL.

I/We further agree to execute all the works referred to in the said Tender documents upon the terms and conditions contained or referred to therein and as detailed in the appendices annexed thereto.

I/We have deposited/depositing herewith the requisite Earnest Money Deposit (EMD) as per details furnished in the Check List.

Authorised Representative of Bidder

Signature :

Name :

Address :

Place:

Date:

DECLARATION BY AUTHORISED SIGNATORY OF BIDDER

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub : **Declaration by Authorised Signatory**

Ref : 1) NIT/Tender Specification No:,

2) All other pertinent issues till date

I/We, hereby certify that all the information and data furnished by me with regard to the above Tender Specification are true and complete to the best of my knowledge. I have gone through the specifications, conditions, stipulations and all other pertinent issues till date, and agree to comply with the requirements and Intent of the specification.

I further certify that I am authorised to represent on behalf of my Company/Firm for the above mentioned tender and a valid Power of Attorney to this effect is also enclosed.

Yours faithfully,

(Signature, Date & Seal of Authorized Signatory of the Bidder)

Date:

Enclosed: Power of Attorney

NO DEVIATION CERTIFICATE

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub : **No Deviation Certificate**

Ref : 1) NIT/Tender Specification No:,

2) All other pertinent issues till date

We hereby confirm that we have not changed/ modified/materially altered any of the tender documents as downloaded from the website/ issued by BHEL and in case of such observance at any stage, it shall be treated as null and void.

We also hereby confirm that we have neither set any Terms and Conditions and nor have we taken any deviation from the Tender conditions together with other references applicable for the above referred NIT/Tender Specification.

We further confirm our unqualified acceptance to all Terms and Conditions, unqualified compliance to Tender Conditions, Integrity Pact (if applicable) and acceptance to Reverse Auctioning process.

We confirm to have submitted offer in accordance with tender instructions and as per aforesaid references.

Thanking you,

Yours faithfully,

(Signature, Date & Seal of Authorized Signatory of the Bidder)

Date:

Place:

DECLARATION CONFIRMING KNOWLEDGE ABOUT SITE CONDITIONS

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub : **Declaration confirming knowledge about Site conditions**

Ref : 1) NIT/Tender Specification No:,

2) All other pertinent issues till date

I/We, _____ hereby declare and confirm that we have visited the Project Site as referred in BHEL Tender Specifications and acquired full knowledge and information about the Site conditions including Wage structure, Industrial Climate, the Law & Order and other conditions prevalent at and around the Site. We further confirm that the above information is true and correct and we shall not raise any claim of any nature due to lack of knowledge of Site conditions.

I/We, hereby offer to carry out work as detailed in above mentioned Tender Specification, in accordance with Terms & Conditions thereof.

Yours faithfully,

(Signature, Date & Seal of Authorized Signatory of the Bidder)

Date:

Place:

DECLARATION FOR RELATION IN BHEL

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub : **Declaration for relation in BHEL**

Ref : 1) NIT/Tender Specification No:,

I/We hereby submit the following information pertaining to relation/relatives of Proprietor/Partner(s)/Director(s) employed in BHEL

Tick (✓) any one as applicable:

1. The Proprietor, Partner(s), Director(s) of our Company/Firm DO NOT have any relation or relatives employed in BHEL

OR

2. The Proprietor, Partner(s), or Director(s) of our Company/Firm HAVE relation/relatives employed in BHEL and their particulars are as below:

(i)

(ii)

(Signature, Date & Seal of Authorized Signatory of the Bidder)

Note:

1. Attach separate sheet, if necessary.
2. If BHEL Management comes to know at a later date that the information furnished by the Bidder is false, BHEL reserves the right to take suitable against the Bidder/Contractor.

NON DISCLOSURE CERTIFICATE

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

NON DISCLOSURE CERTIFICATE

I/We understand that BHEL PSWR is committed to Information Security Management System as per their Information Security Policy.

Hence, I/We M/s..... who are submitting offer for providing services to BHEL PSWR against Tender Specification No.: _____, hereby undertake to comply with the following in line with Information Security Policy of BHEL PSWR.

- To maintain confidentiality of documents & information which shall be used during the execution of the Contract.
- The documents & information shall not be revealed to or shared with third party which shall not be in the business interest of BHEL PSWR.

Yours faithfully,

(Signature, Date & Seal of Authorized Signatory of the Bidder)

Date:

BANK ACCOUNT DETAILS FOR E-PAYMENT

(To be given on Letter head of the Company /Firm of Bidder, and **ENDORSED (SIGNED & STAMPED) BY THE BANK** to enable BHEL release payments through Electronic Fund Transfer (EFT/RTGS)

1. Beneficiary Name :
2. Beneficiary Account No. :
3. Bank Name & Branch :
4. City/Place :
5. 9 digit M ICR Code of Bank Branch :
6. IFSC Code of Bank Branch :
7. Beneficiary E-mail ID
(for payment confirmation) :

Note: In case Bank endorsed certificate regarding above has already been submitted earlier, Kindly submit photocopy of the same

FORMAT FOR SEEKING CLARIFICATION

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

To,

(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub : **Request for Clarification**

Ref : 1) NIT/Tender Specification No:,

2) All other pertinent issues till date

S. No	Reference clause of Tender Document	Existing provision	Bidder's query	BHEL's clarification
1.				
2.				
3.				
4.				
5.				
6.				

Yours faithfully,

(Signature, Date & Seal of Authorized Signatory of the Bidder)

Date:

BHARAT HEAVY ELECTRICALS LIMITED*(A Government of India Undertaking)*

Power Sector Western Region

CONTRACT AGREEMENT

AGREEMENT NO. _____

SCOPE OF SUPPLY	
NAME OF THE SUPPLIER WITH FULL ADDRESS	
PURCHASE ORDER NO.	
PURCHASE ORDER VALUE	
DELIVERY SCHEDULE (DATE OF COMPLETION)	

SIGNATURE OF SUPPLIER_____
SIGNATURE OF BHEL OFFICER

CONTRACT AGREEMENT

THIS AGREEMENT MADE THIS _____ DAY OF _____ between BHARAT HEAVY ELECTRICALS LIMITED (A Government of India Enterprise) a Company incorporated under the Companies Act, 1956, having its Registered Office at BHEL House, Siri Fort New Delhi- 110049 (herein after called BHEL) of the ONE PART.

AND

M/S _____
_____ (hereinafter called the 'Contractor') of the SECOND PART.

WHEREAS M/s _____state that they have acquired and possess extensive experience in the field of _____

And Whereas in response to an Invitation to Tender No. _____ issued by BHEL for execution of _____ the contractor submitted their offer No. _____ dated _____

And whereas BHEL has accepted the offer of the Contractor on terms and conditions specified in the Letter of Intent No. _____ dated _____ read with the references cited therein.

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

1. That the contractor shall execute the work of _____and more particularly described in Tender Specification No _____including Drawings and Specifications (hereinafter called the said works) in accordance with and subject to terms and conditions contained in these presents, instructions to Tenderers, General Conditions of Contract, Special Conditions, Annexures, Letter of Intent dated _____ and such other instructions, Drawings, Specifications given to him from time to time by BHEL.
2. The Contractor is required to furnish to BHEL Security deposit in the form of cash/ approved securities/ Bank Guarantee valid upto _____ for a sum of Rs. _____ towards satisfactory performance and completion of the Contract.
3. The Contractor has furnished a Bank Guarantee bearing no. _____ dated _____for a sum of Rs. _____ executed by _____ in favour of BHEL towards Security Deposit valid upto _____

OR

The Contractor has furnished to BHEL an initial Security Deposit of Rs. _____in the form of cash / approved Securities/ B.G No. _____ dated _____ for Rs. _____executed by _____ in favour of BHEL valid upto _____ and has agreed for recovery of the balance security deposit by BHEL @ 10% of the value of work done from each running bill till the entire Security Deposit is recovered.

OR

The contractor has furnished to BHEL an initial Security Deposit of Rs. _____(Rs. _____ vide Bank draft No. _____ dated _____and by adjusting EMD of Rs. _____submitted vide Bank draft No. _____ dt. _____

) and has agreed for recovery of balance Security Deposit by BHEL @ 10% of the value of work done from each running bill till the entire security deposit is recovered.

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

OR

In case the contractor furnishes the bank guarantee at a later date the contractor hereby agrees to extend the validity of bank guarantee for such further period or periods as may be required by BHEL and if the contractor fails to obtain such extension(s) from the bank, the contractor shall pay forthwith or accept recovery of the amount of bank guarantee given in lieu of security deposit from the bills in one installment and the contractor further agrees that failure to extend the validity of bank guarantee or failure to pay the aforesaid amount in the manner specified above shall constitute breach of contract. In addition to above, BHEL shall be entitled to take such action as deemed fit and proper for recovering the said sum.

5. That in consideration of the payments to be made to the Contractor by BHEL in accordance with this Agreement the Contractor hereby covenants and undertakes with BHEL that they shall execute, construct, complete the works in conformity, in all respects, with the terms and conditions specified in this Agreement and the documents governing the same.
6. That the Contractor shall be deemed to have carefully examined this Agreement and the documents governing the same and also to have satisfied himself as to the nature and character of the Works to be executed by him.
7. That the Contractor shall carry out and complete the execution of the said works to the entire satisfaction of the Engineer or such other officer authorised by BHEL, within the agreed time schedule, the time of completion being the essence of the Contract.
8. That BHEL shall, after proper scrutiny of the bills submitted by the Contractor, pay to him during the progress of the said works such sum as determined by BHEL in accordance with this Agreement.
9. That this Agreement shall be deemed to have come into force from ----- the date on which the letter of intent has been issued to the Contractor.
10. That whenever under this contract or otherwise, any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted in the manner as set out in the General Conditions of Contract or other conditions governing this Agreement.
11. That all charges on account of Octroi, Terminal and other taxes including sales tax or other duties on material obtained for execution of the said works shall be borne and paid by the Contractor.

12. That BHEL shall be entitled to deduct from the Contractor's running bills or otherwise Income Tax under Section 194 (C) of the Income Tax Act, 1961.
13. That BHEL shall be further entitled to recover from the running bills of the Contractor or otherwise such sum as may be determined by BHEL from time to time in respect of consumables supplied by BHEL, hire charges for tools and plants issued (Where applicable) and any other dues owed by the Contractor.
14. That it is hereby agreed by and between the parties that non-exercise, forbearance or omission of any of the powers conferred on BHEL and /or any of its authorities will not in any manner constitute waiver of the conditions hereto contained in these presents and the liability of the Contractor with respect to compensation payable to BHEL or Contractor's obligations shall remain unaffected.
15. It is clearly understood by and between the parties that in the event of any conflict between the Letter of Intent and other documents governing this Agreement, the provisions in the Letter of Intent shall prevail.
16. The following documents

1. Invitation to Tender No-----
and the documents specified therein.
2. Contractor's Offer No-----
dated-----.
3. _____
4. _____
5. _____
6. Letter of Intent No_____ dated_____.
7. _____

shall also form part of and govern this Agreement.

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

WITNESS

(Supplier)

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

1.

2.

WITNESS

(For and on behalf of BHEL)

1.

2.

BANK GUARENTEE FOR SUPPLY FREE ISSUE MATERIAL

Bank Guarantee No:

Date:

To

NAME & ADDRESSES OF THE BENEFICIARY:

Dear Sirs,

In consideration of Bharat Heavy Electricals Limited¹ (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns) incorporated under the Companies Act, 1956 and having its registered office at _____¹ through its Unit at _____ (Name of the Unit) having awarded to _____² (Name of the Vendor / Contractor / Supplier), with its registered office at _____² (hereinafter called "the Vendor/Contractor/Supplier" which expression shall include its successors and permitted assigns) a contract Ref No. _____ dated _____³ valued at Rs. _____ (Rupees _____)/FC _____ (in words _____) for _____⁴ (hereinafter called the 'Contract')

AND WHEREAS the Employer having agreed as per the terms and conditions of the Contract to supply free issue material costing Rs. _____ for the manufacture/fabrication of the equipment at the 'Contractor/Supplier/Fabricator's' site on furnishing of a Bank Guarantee for Rs./FC _____ (Rupees/FC _____)⁵ in the manner hereinafter specified for the due safeguard of the free issue material,

we, _____ (hereinafter referred to as the Bank), having registered/Head office at _____ and inter alia a branch at _____ being the Guarantor under this Guarantee, hereby irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer any sum or sums upto a maximum amount but not exceeding Rs./FC _____ (Rupees/FC _____) without any demur, merely on a demand from the Employer and without any reservation, protest and recourse and without the Employer needing to prove or demonstrate reasons for its such demand.

Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____.

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

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

We the _____ Bank further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract and till the reconciliation of the free issue material has been carried out and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged.

We _____ Bank further agree that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said 'Contractor/Supplier/Fabricator' from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Contractor/Supplier/Fabricator and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said 'Contractor/Supplier/Fabricator' or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said 'Contractor/Supplier/Fabricator' or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

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

This Guarantee shall remain in force upto and including _____⁶ and shall be extended from time to time for such period as may be desired by Employer.

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Contractor/ Supplier/ Fabricator but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms thereof.

Unless a demand or claim under this guarantee is made on us in writing on or before the _____⁷ we shall be discharged from all liabilities under this guarantee thereafter.

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

Any claim or dispute arising under the terms of this Guarantee shall be subject to the exclusive jurisdiction of the court at NAGPUR only.

Notwithstanding anything to the contrary contained hereinabove:

a) The liability of the Bank under this Guarantee shall not exceed _____⁵

b) This Guarantee shall be valid up to _____⁶

c) Unless the Bank is served a written claim or demand on or before _____⁷ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.

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

For and on behalf of
(Name of the Bank)

Dated _____

Place of Issue _____

¹ NAME AND ADDRESS OF THE EMPLOYER. i.e. Bharat Heavy Electricals Limited

² NAME AND ADDRESS OF THE CONTRACTOR / SUPPLIER/ FABRICATOR.

³ DETAILS ABOUT THE NOTICE OF AWARD/CONTRACT REFERENCE

⁴ PROJECT/SUPPLY DETAILS AND CONTRACT VALUE

⁵ BG AMOUNT IN FIGURES AND WORDS

⁶ VALIDITY DATE

⁷ DATE OF EXPIRY OF CLAIM PERIOD

BANK GUARENTEE FOR PERFORMANCE SECURITY

Bank Guarantee No:

Date:

To

NAME & ADDRESSES OF THE BENEFICIARY:

Dear Sirs,

In consideration of Bharat Heavy Electricals Limited (hereinafter referred to as the 'Employer' which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns) incorporated under the Companies Act, 1956 and having its registered office at _____¹ through its Unit at _____ (Name of the Unit) having awarded to (Name of the Vendor / Contractor / Supplier) with its registered office at _____² hereinafter referred to as the 'Vendor / Contractor / Supplier', which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns), a contract Ref No. _____ dated _____³ valued at Rs. _____⁴ (Rupees _____)/FC _____ (in words _____) for _____⁵ (hereinafter called the 'Contract') and the Vendor / Contractor / Supplier having agreed to provide a Contract Performance Bank Guarantee, equivalent to _____% (_____Percent) of the said value of the Contract to the Employer for the faithful performance of the Contract,

we, _____ (hereinafter referred to as the Bank), having registered/Head office at _____ and inter alia a branch at _____ being the Guarantor under this Guarantee, hereby, irrevocably and unconditionally undertake to forthwith and immediately pay to the Employer any sum or sums upto a maximum amount of Rs. _____⁶ (Rupees _____) without any demur, immediately on first demand from the Employer and without any reservation, protest, and recourse and without the Employer needing to prove or demonstrate reasons for its such demand.

Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____.

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

The payment so made by us under this Guarantee shall be a valid discharge of our liability for payment thereunder and the Vendor / Contractor / Supplier shall have no claim against us for making such payment.

We the _____ bank further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract/satisfactory completion of the performance guarantee period as per the terms of the Contract and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged.

We _____ BANK further agree with the Employer that the Employer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said Vendor / Contractor / Supplier from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Vendor / Contractor / Supplier and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Vendor / Contractor / Supplier or for any forbearance, act or omission on the part of the Employer or any indulgence by the Employer to the said Vendor / Contractor / Supplier or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

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

This Guarantee shall remain in force upto and including _____⁷ and shall be extended from time to time for such period as may be desired by Employer.

This Guarantee shall not be determined or affected by liquidation or winding up, dissolution or change of constitution or insolvency of the Vendor / Contractor / Supplier but shall in all respects and for all purposes be binding and operative until payment of all money payable to the Employer in terms thereof.

Unless a demand or claim under this guarantee is made on us in writing on or before the _____⁸ we shall be discharged from all liabilities under this guarantee thereafter.

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

Any claim or dispute arising under the terms of this Guarantee shall be subject to the exclusive jurisdiction of the court at NAGPUR only.

Notwithstanding anything to the contrary contained hereinabove:

- a) The liability of the Bank under this Guarantee shall not exceed _____⁶
- b) This Guarantee shall be valid up to _____⁷
- c) Unless the Bank is served a written claim or demand on or before _____⁸ all rights under this guarantee shall be forfeited and the Bank shall be relieved and discharged from all liabilities under this

guarantee irrespective of whether or not the original bank guarantee is returned to the Bank.

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

For and on behalf of
(Name of the Bank)

Dated _____

Place of Issue _____

¹ NAME AND ADDRESS OF EMPLOYER i.e. Bharat Heavy Electricals Limited

² NAME AND ADDRESS OF THE VENDOR /CONTRACTOR / SUPPLIER.

³ DETAILS ABOUT THE NOTICE OF AWARD/CONTRACT REFERENCE

⁴ CONTRACT VALUE

⁵ PROJECT/SUPPLY DETAILS

⁶ BG AMOUNT IN FIGURES AND WORDS

⁷ VALIDITY DATE

⁸ DATE OF EXPIRY OF CLAIM PERIOD

FORM for EXTENSION OF VALIDITY OF BANK GUARANTEE

1. To be typed on non-judicial Stamp Papers of value as applicable in the State of India from where the BG has been issued or the State of India where the BG shall be operated
2. The non-judicial stamp papers shall be purchased in the name of the Party on whose behalf the BG is being issued or the BG issuing Bank

BANK GUARANTEE No:

Date:.....

To

(Write Designation and Address of Officer of BHEL inviting the Tender)

Dear Sir

Sub : Validity of Bank Guarantee No:..... Dated for Rs
 in favour of yourself, expiry date, on account of M/s
 in respect of Contract Number....., (herein after called the
 Original bank Guarantee)

At the request of M/s....., we Bank, having its branch Office at
 and having Head office at, do hereby extend our liability under
 the above mentioned Bank Guarantee number..... dated for a further period of
Months/years from to expire on

Except as provided above, all other terms and conditions of the Original Bank Guarantee No
 Dated..... shall remain unaltered and binding on us.

Kindly treat this extension as an integral part of the original Bank Guarantee to which it would be attached.

Yours faithfully

Signature.....

Name & Designation.....

Power of Attorney/Signing Power No

Seal of Bank

KNOW ALL MEN BY THESE PRESENTS, that I/We do hereby make, nominate, constitute and appoint Mr , whose signature given below herewith to be true and lawful Attorney of M/s..... hereinafter called 'Company', for submitting Tender/entering into Contract and inter alia, sign, execute all papers and to do necessary lawful acts on behalf of Company with M/s Bharat Heavy Electricals Ltd, Power Sector _____ Region, _____, in connection with
..... vide Tender Specification No : _____, dated _____.

And the Company do hereby agree to ratify and confirm all acts, deeds, things or proceedings as may be lawfully done by the said attorney and by or on behalf of the company and in the name of the company, by virtue of the powers conferred herein and the same shall be binding on the company and shall have full force and effect.

IN WITNESS WHEREOF the common seal of the company has been hereunto affixed in the manner hereinafter appearing on the document.

Dated at _____, this _____ day of _____

Director/CMD/Partner/Proprietor

Signature of Mr.....(Attorney)

Attested by: Director/CMD/Partner/Proprietor

Witness

Notary Public

STATEMENT OF CLAIMS/COUNTER CLAIMS TO BE SUBMITTED TO THE IEC BY BOTH THE PARTIES

1. Chronology of the Disputes
2. Brief of the Contract/MoU/Agreement/LOI/LOA
3. Brief history of the Disputes:
4. Issues:
5. Details of Claim(s)/Counter Claim(s):

Sl. No.	Description of claim(s)/Counter Claim	Amount (in INR)Or currency applicable in the contract	Relevant contract clause

6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

Note– The Statement of Claims/Counter Claims may ideally be restricted to maximum limit of 20 pages. Relevant documents may be compiled and submitted along with the statement of Claims/Counter Claims. The statement of Claims/Counter Claims is to be submitted to all IEC members and to the other party by post as well as by email.

FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY BHEL FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,

M/s. (Stakeholder's name)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY BHEL**

Ref: Contract No../MoU/Agreement/LOI/LOA& date _____.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which arise out of the above-referred Contract/MoU/Agreement/LOI/LOA are reproduced hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring disputes to conciliation.

In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby seek your consent to refer the matter to Conciliation by Independent Experts Committee to be appointed by BHEL. You are invited to provide your consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which you might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA.

Please note that upon receipt of your consent in writing within 30 days of the date of receipt of this letter by you, BHEL shall appoint suitable person(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you
Yours faithfully

Representative of BHEL

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY A STAKEHOLDER FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,

BHEL (Head of the Unit/Division/Region/Business Group)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY A STAKEHOLDER**

Ref: Contract No../MoU/Agreement/LOI/LOA& date _____.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which have arisen out of the above- referred Contract/MoU/Agreement/LOI/LOA are enumerated hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring inter-se disputes of the Parties to conciliation.

We wish to refer the above-said disputes to Conciliation as per the said Clause of the captioned Contract/MoU/Agreement/LOI/ LOA. In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby invite BHEL to provide its consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which it might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA and to appoint suitable person(s) as Conciliator(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you

Yours faithfully

Representative of the Stakeholder**Note:** The Format may be suitably modified, as required, based on facts and circumstances of the case.

FORMAT FOR INTIMATION TO THE STAKEHOLDER ABOUT APPOINTMENT OF CONCILIATOR/IEC

To,

M/s. (Stakeholder's name)

Subject: **INTIMATION BY BHEL TO THE STAKEHOLDER AND CONCILIATOR(S) ABOUT APPOINTMENT OF CONCILIATOR/IEC**

Ref: Contract No../MoU/Agreement/LOI/LOA& date _____.

Sir,

This is with reference to letter dated ----- regarding reference of the disputes arising in connection with the subject Contract No/MoU/Agreement/LOI/LOA to conciliation and appointment of Conciliator(s).

In pursuance of the said letter, the said disputes are assigned to conciliation and the following persons are nominated as Conciliator(s) for conciliating and assisting the Parties to amicably resolve the disputes in terms of the Arbitration & Conciliation Act, 1996 and the Procedure --- to the subject Contract/MoU/Agreement/LOI/LOA, if possible.

Name and contact details of Conciliator(s)

- a)
- b)
- c)

You are requested to submit the Statement of Claims or Counter-Claims (strike off whichever is inapplicable) before the Conciliator(s) in Format 30 (enclosed herewith) as per the time limit as prescribed by the Conciliator(s).

Yours faithfully,

Representative of BHEL

CC: To Conciliator(s)... for Kind Information please.

Encl: As above

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS

1. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in **Format 31** hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in **Format-32** hereto.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-33**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-30**.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30 days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.
7. The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
8. Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.

9. In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by either/both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.
10. Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.
11. When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.
12. In case no settlement can be reached between the parties, the IEC shall by a written declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.
13. Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months.
14. In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.
15. The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.
16. Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.
17. In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.

18. A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party(ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.
19. The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.
20. Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.
21. Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.
22. The proceedings of Conciliation under this Scheme may be terminated as follows:
 - a. On the date of signing of the Settlement agreement by the Parties; or,
 - b. By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,
 - c. By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - d. By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - e. On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.
23. The Conciliator(s) shall be entitled to following fees and facilities:

SI No	Particulars	Amount
1	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No. 27 herein below.
2	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5crores. Rs 50,000/- (Sole Conciliator)

SI No	Particulars	Amount
		<p>In cases involving claim and/or counter-claim of exceeding Rs 5 crores but less than Rs 10 crores. Rs 75,000 (per Conciliator)</p> <p>In cases involving claim and/or counter-claim of more than Rs 10 crores. Rs 1,00,000/- (per Conciliator)</p> <p>Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the, Signing of the Settlement Agreement after approval of the Competent Authority or Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.</p>
3	Secretarial expenses	<p>Rs 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC.</p> <p>Where Conciliation is by multi member Conciliators – Rs 30,000/- (one time)- to be paid to the IEC</p>
4	Travel and transportation and stay at outstation Retired Senior Officials of other Public Sector Undertakings (pay scale wise equivalent to or more than E-8 level of BHEL)	As per entitlement of the equivalent officer (pay scale wise) in BHEL.
	Others	<p>As per the extant entitlement of whole time Functional Directors in BHEL.</p> <p>Ordinarily, the IEC Member(s) would be entitled to travel by air Economy Class.</p>
5	Venue for meeting	Unless otherwise agreed in the agreement, contract or the Memorandum of Understanding, as the case may be, the venue/seat of proceedings shall be the location of the concerned Unit / Division / Region / Business Group of BHEL. Without prejudice to the seat/venue of the Conciliation being at the location of concerned BHEL Unit / Division / Region / Business Group, the IEC after consulting the Parties may decide to hold the proceedings at any other place/venue to facilitate the proceedings. Unless, Parties agree to conduct Conciliation at BHEL premises, the venue is to be arranged by either Party alternately.

SI No	Particulars	Amount

24. The parties will bear their own costs including cost of presenting their cases/evidence/witness(es)/expert(s) on their behalf. The parties agree to rely upon documentary evidence in support of their claims and not to bring any oral evidence in IEC proceedings.
25. If any witness(es) or expert(s) is/are, with the consent of the parties, called upon to appear at the instance of the IEC in connection with the matter, then, the costs towards such witness(es)/expert(s) shall be determined by the IEC with the consent of the Parties and the cost so determined shall be borne equally by the Parties.
26. The other expenditures/costs in connection with the Conciliation proceedings as well as the IEC's fees and expenses shall be shared by the Parties equally.
27. Out of the lump sum fees of Rs 75,000/- for Sitting Fees, 50% shall be payable after the first meeting of the IEC and the remaining 50% of the Sitting Fees shall be payable only after termination of the conciliation proceedings in terms of para 22 hereinabove.
28. The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 4 of the Table at para 23 above, and in case such arrangements are not made by the BHEL Unit, the same shall be reimbursed to the IEC on actuals limited to their entitlement as per Serial No. 4 of the Table at Para 23 above against supporting documents. The IEC Member(s) shall submit necessary invoice for claiming the fees/reimbursements.
29. The Parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of its implementation and enforcement or as required by or under a law or as per directions of a Court/Governmental authority/ regulatory body, as the case may be.
30. The Parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the Disputes that is the subject of the Conciliation proceedings:
 - a. Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
 - b. admissions made by the other party in the course of the Conciliator proceedings;
 - c. proposals made by the Conciliator;
 - d. The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.
31. The Parties shall not present the Conciliator(s) as witness in any Alternative Dispute Resolution or Judicial proceedings in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.

- 32.** None of the Conciliators shall act as an arbitrator or as a representative or counsel of a Party in any arbitral or judicial proceeding in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
- 33.** The Parties shall not initiate, during the Conciliation proceedings, any arbitral or judicial proceedings in respect of a Disputes that is the subject matter of the Conciliation proceedings except that a Party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights including for preventing expiry of period of limitation. Unless terminated as per the provisions of this Scheme, the Conciliation proceedings shall continue notwithstanding the commencement of the arbitral or judicial proceedings and the arbitral or judicial proceedings shall be primarily for the purpose of preserving rights including preventing expiry of period of limitation.
- 34.** The official language of Conciliation proceedings under this Scheme shall be English unless the Parties agree to some other language.