

Open Tender for Empanelment of Authorised Pharmacy Firms

Reference: Tender Enquiry No.: AA:HR:MR1 (Pharmacy Firm)/2019

dated 26.04.2019

Subject: Open Tender for the Selection of Authorised Pharmacy Firms for supply of Medicines to BHEL Hospitals/ Dispensaries and beneficiaries at various BHEL locations with a provision of store/ warehouse in BHEL Dispensary/ Hospitals at identified locations.

1.0 Sealed tenders are invited for “**Selection for Empanelment of Authorised Pharmacy Firms for supply of Medicines to employees / beneficiaries of BHEL Retired Employees Contributory Health Scheme**”. Please read full tender document including its terms & conditions, annexures and formats thoroughly. Tendering schedule is as below:

| Schedule of Tender | Date & Time | Remarks |
|---|--|--|
| Submission of Tender (PART- I & II) | On or before 17.05.2019 at 14.30 Hrs. | Bid to be dropped in ‘ Tender Box ’ placed at reception of the Rear Block of Corporate Office, BHEL House, Siri Fort, New Delhi-110049 |
| Opening of Techno-commercial Bid (PART-I) | On 17.05.2019 at 15.00 Hrs. | Place of opening of Techno Commercial Bids BHEL House, Siri Fort, New Delhi Pin - 110049 |
| Opening of Price-Bid (PART-II) or Reverse Auction with Techno-commercially accepted bidders | Shall be informed later to all the Techno-commercial qualified bidders | Place of opening of Price Bids BHEL House, Siri Fort, New Delhi Pin - 110049 |

Bidders may download the tender documents from the web-site of BHEL at www.bhel.com or on the CPP portal at <https://eprocure.gov.in/cppp/> and use the documents for submission of tender.

All updates on the important dates, Amendments, Correspondences, Corrigenda, Clarifications, changes, Errata, Modifications, Revisions, etc. to Tender Specifications / conditions will be hosted on the web-site only and not in the newspapers. Bidders should regularly visit web-sites to keep themselves updated with all such information.

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Your best offer for the above requirement, in line with our terms and conditions should either be delivered in-person or sent by Courier / Registered Post / Speed Post to the official inviting tender at the address mentioned at point no. 2.6 below. It shall be the responsibility of the bidder to ensure that the offer is complete in all respects and delivered on or **before the due date i.e. by 14.30 Hrs. on 17.05.2019 on the address as given in point 2.6 below.**

BHEL will not take any responsibility for delay / loss of documents or correspondence sent by in-person / courier / post. **Bidders in their own interest are required to refer the check list for completeness of the tender documents before submission.**

2.0 SUBMISSION OF BIDS

2.1 Tenders should be filled in English only. All the pages of the tender document duly filled-in including all Annexures /supporting documents should be signed and stamped by the authorized signatory of the bidder as acceptance of all the terms and conditions of the tender. Bidders not complying with the above shall invite disqualification.

2.2 Bids should be submitted in ordered / indexed / numbered form. **Documents other than supporting documents**, if found any, shall not be considered for evaluation purpose.

2.3 Offers should be kept in **Two separate sealed envelopes**. The envelopes should contain information as per following:

| | |
|------------------------|--|
| First envelope | PART-I: Techno-commercial Bid (along with annexures, exhibits & Blank Price Bid Copy (un-priced) duly signed & stamped |
| Second envelope | PART-II Price-Bid (in BHEL format only) |

2.4 Both the respective envelopes should be marked as PART-I & PART-II indicating Tender Enquiry No., bid subject, bid submission & opening date, name of the bidder. In **Part-II (PRICE BID)**, **rates shall be quoted both in words and figures.**

2.5 Both the envelopes containing Techno Commercial Bid & Price Bid shall be kept in one sealed envelope and this envelope should be superscripted with **“Selection for Empanelment of Authorised Pharmacy Firm for supply of Medicines to employees / beneficiaries of BHEL Retired Employees Contributory Health Scheme”** along with name of the Bidder.

2.6 The Bids shall be dropped in **‘Tender Box’** placed at reception of the **Rear Block** of Corporate Office, BHEL House, Siri Fort, New Delhi-110049 latest by due date i.e. by **14.30 Hrs. on 17.05.2019.**

2.7 Price bid received in any form other than the prescribed at Annexure-4 are liable to be rejected.

2.8 **PRE-BID MEETING-** A pre-bid meeting shall be held on **10.05.2019 1430 Hrs** at BHEL House, Siri Fort, New Delhi 110049. All the bidders are requested to attend the pre-bid meeting so that issues, if any, related to the NIT are clarified during the meeting.

The official address for correspondence (**NOT FOR SUBMISSION OF OFFER / BID**):

Shri Manoj Singh

Manoj Singh, DGM (HR) Corporate Office BHEL N. DELHI - 49

Sr. DGM (HR)
II floor, Corporate Office,
BHEL House, Siri Fort,
New Delhi – 110 049
E. Mail : manojisingh@bhel.in
Phone No. : 011-66337171

2.9 Please ensure the timely submission of your offer. Tenders / offers received after the specified time of their 'Submission' are treated as Late tenders and shall not be considered under any circumstances.

3.0 OPENING OF BIDS

3.1 The Techno Commercial Bid (PART-I) shall be opened on the same day of bid submission i.e. on **17.05.2019** at **15.00 Hrs.** in the Corporate Office, BHEL House, Siri Fort, New Delhi 110049, in the presence of authorized representatives of the bidders, who may like to be present.

3.2 The Opened technical bids will be evaluated. Clarifications, if any, on technical and commercial points shall be sought from the bidders. In case, reply is not received from bidders **within five (05) days from the date of clarification sought**, offers will be processed with the available documents submitted along with the tenders. Offers not meeting the required specification, technical / commercial criteria will be rejected summarily.

3.3 **In case BHEL decides not to conduct Reverse Auction, the envelope sealed price bids of all techno-commercially qualified bidders, along with price impact, if any, shall be opened in the presence of authorized representatives of the bidders, who may like to be present.**

4.0 PART-II: PRICE BID

4.1 Part-II shall contain **Price** as per Price bid Format only and should not contain any technical details and / or Commercial Terms & Conditions. Any technical details and / or Commercial Terms & Conditions, if found in this part shall be ignored as the same are supposed to be contained in Part-I only as indicated above.

4.2 The bidder should submit their best price at this stage itself and they will not be allowed to revise the price. Any unsolicited revision / discount given by bidder subsequently will be ignored.

4.3 Tender should be **free from correction and erasures**. Corrections, if any, must be attested. **All amounts shall be indicated both in words as well as in figures**. The following may be noted:

- a) If there is a discrepancy between words and figures, the amount in words shall prevail.
- b) **If there is such discrepancy in the offer, the same shall be conveyed to the bidder who shall send his acceptance on the above lines. If, the bidder does not accept the correction of errors, bid is liable to be disqualified.**

c) Bidder offering highest discount on MRP (**inclusive of taxes**) shall be termed as L-1 bidder.

5.0 REVERSE AUCTION

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BHEL reserves the right to go for Reverse Auction (RA) (Guidelines as available on www.bhel.com) instead of opening the sealed envelope price bid, submitted by the bidder. This will be decided after techno-commercial evaluation. Bidders to give their acceptance with the offer for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids, in case BHEL decides to go for RA.

Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'Process compliance form' (to the designated service provider) as well as 'Online sealed bid' in the Reverse Auction. Non-submission of 'Process compliance form' or 'Online sealed bid' by the agreed bidder(s) will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines for suspension of business dealings with supplier /contractors (as available on www.bhel.com).

The bidders have to necessarily submit online sealed bid less than or equal to their envelope sealed price bid already submitted to BHEL along with the offer. **The envelope sealed price bid of successful L1 bidder in RA, if conducted, shall also be opened after RA and the order shall be placed on lower of the two bids (RA closing price and enveloped sealed price) thus obtained. The bidder having submitted this offer specifically agrees to this condition and undertakes to execute the contract on the awarded rates.**

If it is found that L1 bidder has quoted higher (**lower discount rate**) in online sealed bid in comparison to envelope sealed bid for any item(s), the bidder will be issued a warning letter to this effect. However, if the same bidder again defaults on this count in any subsequent tender in the Unit, it will be considered as fraud and will invite action by BHEL as per extant guidelines for Suspension of Business dealings with suppliers / contractors (as available on www.bhel.com)."

6.0 The offers of the bidders who are under suspension as also the offers 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 www.bhel.com.

1. Integrity commitment, performance of the contract and punitive action thereof:
2. Commitment by BHEL: BHEL commits to take all measures necessary to prevent corruption in connection with the tender process and execution of the contract. BHEL will during the tender process treat all Bidder(s) in a transparent and fair manner, and with equity.
3. Commitment by Bidder/ Supplier/ Contractor:
 - i. The bidder/ supplier/ contractor commit to take all measures to prevent corruption and will not directly or indirectly influence any decision or benefit which he is not legally entitled to nor will act or omit in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India.
 - ii. The bidder/ supplier/ contractor will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract and shall adhere to relevant guidelines issued from time to time by Govt. of India/ BHEL.

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

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

7.0 Following documents are enclosed with the tender enquiry:

7.1 Techno-Commercial Bid (Part I)

7.2 Annexures to Techno-Commercial Bid (Part I) – Refer Annexure A

7.3 Price Bid (Part II) – Format of Price Bid as at Annexure-4.

Submission of Price Bid (Second Envelope): Second Sealed Envelope should contain only the Price Bid in the prescribed format on letter head of the bidder, duly signed and stamped by the Authorised Signatory of the Bidder. NO OTHER DOCUMENT should be attached / enclosed with the price bid.

PRICE BID FORMAT*

| | | |
|-----------------------|---|----------|
| Name of Pharmacy Firm | Percentage discount over the Maximum Retail Price incl. of all taxes (MRP Printed on the package of Medicines) No separate taxes, No delivery cost & No other costs shall be payable | |
| | In figures | In words |
| | | |

Bidder offering highest discount on MRP shall be termed as L-1 bidder.

**** Price bid received in any form other than the prescribed at Annexure-4 are liable to be rejected.***

8.0 ABOUT BHARAT HEAVY ELECTRICALS LIMITED:

Bharat Heavy Electricals Limited (BHEL) is a Central Public Sector Enterprise, wherein Government of India is holding 63.06% of its equity. It is an integrated power plant equipment manufacturer and one of the largest engineering and manufacturing companies of its kind in India having a turnover of about USD 5 billion. The company is engaged in the design, engineering, manufacture, construction, testing, commissioning and servicing of a wide range of products and services for the core sectors of the economy, viz. Power, Transmission, Industry, Transportation, Renewable Energy, Oil & Gas and Defence with over 180 product offerings to meet the needs of these sectors.

Since its inception in 1964, BHEL has been the solid bedrock of evolution of India's Heavy Electrical Equipment industry. BHEL has a mammoth 20,000 MW per annum capability for manufacturing of power generation equipment. A widespread network of 17 manufacturing units, 2 repair units, 4 regional offices,

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8 service centres, 1 subsidiary, 4 overseas offices, 6 joint ventures, 15 regional marketing centres and current project execution at more than 150 project sites across India.

Company under its policy on medical attendance provide medicines for treatment of its employees and their dependent family members. The company also takes provide medical benefits to retired employees and their spouses under its BHEL Retired Employees Contributory Health Scheme.

The beneficiaries availing benefits under BHEL's schemes are settled across India.

9.0 PURPOSE OF TENDER:

BHEL invites tender in two part bid system from reputed Pharmacy Firms **for supply of medicines** to BHEL Hospitals / Dispensaries and also for supply of medicines to BHEL employees, dependents and beneficiaries of BHEL Retired Employees Contributory Health Scheme, hereinafter referred to as 'beneficiaries', **with a mandatory provision of store/ warehouse in BHEL Dispensary/ Hospitals at Bhopal, Haridwar, Trichy, Hyderabad, Jagdishpur, Jhansi, Ranipet, Visakhapatnam / BHEL dispensaries at Delhi, NOIDA, Kolkata, Bangalore, Secunderabad.** Detailed Scope of Work is given at Annexure 1

10.0 NO. OF PHARMACY FIRMS TO BE EMPANELLED:

On opening of Price Bids of Techno-Commercially qualified firms, a single Pharmacy Firm for all BHEL Hospitals/ Dispensaries at **Bhopal, Haridwar, Trichy, Hyderabad, Jagdishpur, Jhansi, Ranipet, Visakhapatnam / BHEL dispensaries at Delhi, NOIDA, Kolkata, Bangalore, Secunderabad**, shall be empanelled as **Authorised Pharmacy Firms** on pan India basis. Bidder offering highest discount on MRP shall be termed as L-1 bidder and accordingly empanelled as Authorised Pharmacy Firm.

11.0 EVALUATION OF TECHNICAL CUM COMMERCIAL BIDS

The Technical Cum Commercial Bid shall be evaluated as per Qualifying Criteria given at Annexure-3.

BHEL reserves the right to seek clarification or call for supporting documents from any of the bidders, for which the concerned bidder need to submit the documentary evidence(s) within 5 days as required by BHEL.

12.0 EVALUATION OF PRICE BID

Price Bid of only those Bidders who qualify in the technical cum commercial evaluation in line with the qualification prescribed at Annexure-2 shall be opened. The date, time and place for opening the Price Bids, as per Annexure-4*, will be communicated to the eligible bidders. The Bidders may send their representatives to attend the opening if they wish.

Bidder offering highest discount on MRP shall be termed as L-1 bidder.

*** Price bid received in any form other than the prescribed at Annexure-4 are liable to be rejected.**

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13.0 DETAILED REQUIREMENT OF PROJECT IMPLEMENTATION PLAN & RESPONSIBILITY MATRIX IS GIVEN AT ANNEXURE-3.

14.0 BILLING & PAYMENTS PROCEDURE IS GIVEN AT ANNEXURE-5.

15.0 MISCELLANEOUS

- i. No deviation from above terms and conditions will be accepted. Format at Annexure-7
- ii. The Bidder shall be **solely** responsible for all taxes, duties, octroi, license fees, etc., incurred for performance of the services. Any other tax, delivery cost & **any** other cost shall be borne by the bidders during execution of the contract.
- iii. Submission of Non- Disclosure as per format attached at Annexure-9.
- iv. BHEL reserves the right to annul the bidding process at any time prior to award of Contract including rejection of any or all bids after the same have been received, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders on the ground of BHEL's action.
- v. All expenses incurred towards boarding /lodging / travel etc. for attending any meeting or discussion convened by BHEL or in connection with the pre-contract and post-contract activities shall be borne by the bidder.
- vi. Bidder shall make its own arrangements for movement of human resources and equipment within and outside the sites/units/offices at various locations covered by the Contract during pre-contract and post-contract activities.
- vii. BHEL reserves the right to reject all / any bid received from the Pharmacy Firm without assigning any reason thereof.
- viii. The cost towards development of IT system and its integration with BHEL shall be borne by the bidder.
- ix. In case of inconsistency or contradiction, the order of precedence shall be purchase order, Letter of Intent, followed by special conditions, SCC/GCC for purchase, tender, offer.
- x. BHEL and the bidders shall be required to sign the integrity pact, as per Annexure-10, for the purpose of the tender / contract. The pact essentially envisages an agreement between the prospective bidders and BHEL, committing the person / officials of both parties, not to resort to any corrupt practices in any aspect / stage of the contract. Only those bidders who commit themselves to such a pact with BHEL would be considered competent to participate in the bidding process. In other words, submitting duly signed IP would be a preliminary qualification.

Present panel of IEM

| Sl no | IEM | Address | Phone & Email |
|-------|--------------------------------------|---|--|
| 1 | D R S Chaudhary, IAS (Retd.) | E-1/164, Arera Colony, Bhopal 462016 (M.P.) | 0755-4050495 dilip.chaudhary@icloud.com |
| 2 | Mrs Pravin Tripathi, IA & AS (Retd.) | D-243, Anupam Gardens, Lane IB, Neb Sarai, Sainik Farms, New Delhi - 110068 | 011-29533206/29531715 pravin.tripathi@gmail.com |

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- xi. The bidder shall abide by the applicable statutory / regulatory / legislative requirement / government orders governing the business of Medicines/Drugs/Cosmetics in India.
- xii. General Declaration for the contract is given at Annexure-8.
- xiii. 'Definitions' applicable for the contract are given at Annexure-6.
- xiv. Public Procurement (Preference to Make in India) "For this tender/ empanelment, Public Procurement (Preference to Make in India), Govt. of India Order 2017 dated 15.06.2017 & 28.05.2018 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. In the event of any Nodal Ministry prescribing higher or lower percentage of purchase preference and /or local content in respect of this tender/empanelment, same shall be applicable."

16.0 BID VALIDITY

The price quoted by the bidder shall remain valid for a period of 90 days after the date of opening of Techno Commercial Bid (Part I) and 45 days from the date of Reverse Auction / Price Bid opening, whichever is later. In exceptional circumstances, BHEL may solicit the Bidder's consent for extension of the bid validity period. When the Bidder extends the period of validity, the same shall be done without any modification to the bid proposal by the Bidder.

17.0 AWARD AND FORMATION OF CONTRACT

- i. The contract will be awarded to the **L-1 bidder** (highest discount), for a period of two (02) years from the Go-Live date.
- ii. All the documents issued by BHEL as well as accepted by it up to the stage of Letter of Intent will form part of the contract. Some of the examples are: Tender Document, Techno-Commercial /Price Bid, Certificate, No Deviation statement etc.
- iii. The successful bidder shall give acceptance to the Letter of Award to BHEL within two **(02) days** of issue of the same by BHEL, by way of return of signed copy of letter of award.
- iv. The Contract shall come into force from the Go-Live date.

18.0 The guidelines from MSME on procurement from MSEs shall be adhered (refer Annexure/ www.bhel.com)

19.0 CONFIDENTIALITY CLAUSE

- 4.1 Any and all information in written, electronic media or oral form and disclosed to the bidder shall at all times remain the legal & absolute property of BHEL and the bidder shall have no rights to use the information for any purpose other than that expressly authorized by BHEL.
- 4.2 For maintaining the confidentiality of all the information provided by BHEL to the successful bidder for completion of the assignment, Non-Disclosure Agreement (NDA) as prepared by BHEL, will be signed by the authorized representatives of both bidder and BHEL. The NDA will be signed by the successful bidder and submitted to BHEL within 7 days of Letter of Award of work. The delay in commencement and completion of work on account of delay in

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submission of NDA shall be to the account of the bidder. BHEL is not responsible for any delay due to delay/non submission of signed NDA by the bidder.

20.0 LAWS GOVERNING THE CONTRACT

The Contract including all matters connected with this Contract, its meaning and interpretation, and the relation between the Parties shall be governed by and construed in accordance with the Applicable Indian Law and shall be subject to the exclusive jurisdiction of Indian Courts at Delhi (India).

21.0 DEFAULT / BREACH OF CONTRACT, INSOLVENCY: (standard clause)

If the Bidder fails to provide the required services as per the Contract / fails to deliver the goods or materials or services or any instalment thereof within the period(s) fixed for such delivery or delivers goods or materials or services not of the contracted quality and failing to adhere to the contract specifications or at any time repudiates or otherwise abandons the contract before expiry of such period or refuses or is unable to supply / provide goods / services or materials covered by the Order/Contract either in whole or in part or otherwise fails to perform the Order/Contract or commits any breach of the Order/Contract not herein specifically provided for or in the event of the death or insanity or if the Bidder being an individual or if a firm on a partnership thereof, shall at any time, be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any assignment of the Order/Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm dissolved under the Partnership Act or if the Bidder (Service Provider) being a company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances shall have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager, the purchaser without prejudice to his right to recover any expenses, losses or damages to which the purchaser may be put to incur or sustain by reason of the Bidder's default or breach of Order/Contract shall be entitled to cancel the Order/Contract either in whole or portion thereof without compensation to the Bidder (Service Provider).

22.0 CANCELLATION OF TENDER / RIGHT OF ACCEPTANCE:

BHEL reserves the right to reject all the bids or cancel / withdraw the invitation for bids without assigning any reason whatsoever and in such cases no bidder / intending bidder shall have any claim arising out of such action. The acceptance of bid will rest with BHEL and does not bind BHEL to accept the lowest or any bid.

23.0 TERMINATION OF CONTRACT:

After award of Contract, by giving notice of 15 days in writing to the bidder, BHEL shall have the right to cancel the award wholly or in part **thereof** on account of:

- i. Delays in execution of job by the bidder despite reminders/follow-up or any other unforeseen conditions including force majeure conditions.
- ii. Corrupt or fraudulent practices of the bidder in competing or in executing the Contract.
- iii. Non satisfactory performance of the bidder shall result in termination of the contract at the risk and cost of the bidder.

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- iv. Decision of BHEL, at its sole discretion, to terminate the Contract shall be final and abiding.

In case of termination, the bidder shall have no claim for compensation against BHEL on account of such cancellation, including work done, if any.

24.0 FORCE MAJEURE

For the purpose of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a bidder and which makes a bidder's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances, such occurrence including, but not limited to, acts of God, war, nature, public disorders, strikes, riots, etc. acts of government authorities, etc, not within the control of the party.

The failure of a bidder to fulfil any of its obligations under the contract shall not be considered to be a breach of or Default under this Contract in so far as such inability arises from an event of Force Majeure, provided that the bidder affected by such an event:

- i. has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract and
- ii. has informed the other bidder as soon as possible about the occurrence of such an event.

25.0 FRAUD PREVENTION POLICY:

The bidders along-with its associate / collaborators / sub-contractors / sub-vendors / consultants / service providers shall strictly adhere to BHEL fraud prevention policy displayed on BHEL website; www.bhel.com and shall immediately bring to the notice of BHEL management about any fraud or suspected fraud as soon as it comes to their notice.

26.0 ISSUE OF NOTICE

- i. **Service of notice on Bidder:** - Any notice to be given to the Bidder under the terms of the contract shall be served by sending the same by Registered Post / Speed Post to or leaving the same at the Bidder's last known address of the principal place of business (or in the event of the consultant being a company, to or at its Registered Office). In case of change of address, the notice shall be served at changed address as notified in writing by the Bidder to BHEL. Such posting or leaving of the notice shall be deemed to be good service of such notice and the time mentioned to the condition for doing any act after notice shall be reckoned from the date so mentioned in such notice.
- ii. **Service of notice on BHEL:** - Any notice to be given to BHEL in-charge under the terms of the Contract shall be served by sending the same by post to or leaving the same at BHEL address or changed address as notified in writing by BHEL to the Bidder.

27.0 ARBITRATION & CONCILIATION

- i. **Conciliation**

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If at any time (whether before, during or after the arbitral or judicial proceedings), any dispute (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 Contract/Order, 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 the Buyer from the BHEL Panel of Conciliators.

Notes:

- a) No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.
- b) Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.

The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration & Conciliation Act, 1996 or any statutory modification thereof and as provided in the BHEL Conciliation Scheme as applicable from time to time.

ii. Arbitration

With a Sole Arbitrator:

- 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 Clause 23.1 herein above 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 BHEL Unit/Division/Business Group issuing the Contract within 45 days of receipt of the complete Notice in terms of this Clause.
- b) The language of arbitration shall be English. The Arbitrator/Arbitral Tribunal shall pass a reasoned award
- c) The cost of arbitration shall initially be borne equally by the Parties subject to the final apportionment of the cost of the arbitration in the award of the Arbitrator(s).

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- d) Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory 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.
- e) Notwithstanding the existence or any dispute or differences and/or reference for the arbitration, the Contractor shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner except where the Contract has been terminated by either Party in terms of this Contract.

iii. **IN CASE OF CONTRACT WITH PUBLIC SECTOR ENTERPRISE (PSE) OR A GOVERNMENT DEPARTMENT, THE FOLLOWING SHALL BE APPLICABLE:**

- a) In the event of any dispute or difference relating to the interpretation and application of the provisions of the commercial Contract between Central Public Sector Enterprises (CPSEs)/Port Trusts inter-se and also between CPSEs and Government Departments/Organisations (excluding disputes concerning railways, Income Tax, CBIC), such dispute or difference shall be taken up by either party for resolution through Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD) as mentioned in Department of Public Enterprises (DPE) Office Memorandum No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018 as amended from time to time.”
- b) A copy of the extant Department of Public Enterprises (DPE) Office Memorandum No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22-05-2018 as available on Govt. of India website and the same as amended from time to time shall apply in all such cases.

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CHECK LIST

| S.No. | Description /Item | Enclosed Yes/No |
|-------|--|--------------------|
| 1. | Part "I" (Techno-Commercial Bid) sealed in a separate envelope along with all the documents. | Yes/No |
| i. | List / details of no. of retail outlets, locations and addresses, pharmacy registration. | Yes/No |
| ii. | Statement along with a copy of agreement / order containing Details of years of experience with PSU / Govt. / Private Hospitals for supply of medicines through outlets in these hospitals. | Yes/No |
| iii. | Statement along with a copy of agreement / order containing experience of running of outlets in PSU/ Govt./ Private hospitals. | Yes/No |
| iv. | Statement along with a copy of agreement / order containing supply integration for medicines supply to PSU/Govt./Private hospitals. | Yes/No |
| v. | List of cities/locations in support of No. of Serviceable locations (Pin Codes). | Yes/No |
| vi. | Statement of Details and screenshots of demonstrable centralised IT system for trackable order placement and order fulfilment (linking of central office/head office with its branches) | Yes/No |
| vii. | Statement of Details of Customer service & Operations set up and average numbers of orders being handled per day. | Yes/No |
| viii. | Statement containing Detailed location wise, project implementation plan with project milestones, target dates for BHEL as per scope of work along with responsibility matrix clearly demarcating the role of BHEL & Retail Pharmacy Chain. As per prescribed format in Annexure 3, clause 1(ii). | Yes/No |
| 2. | Signed copy of all the tender terms and conditions. | Yes/No |
| 3. | Signed and stamped Un- price bid formats along with technical bid (Part-I). | Yes/No |
| 4. | No Deviation Certificate (Annexure-7). | Yes/No |
| 5. | General Declaration certificate (Annexure-8). | Yes/No |
| 6. | Declaration on Non-Disclosure (Annexure -9) | Yes/No |
| 7. | Signed Integrity Pact as per (Annexure -10) | Yes/No |
| 8. | Is the bidder a MSE? If Yes, enclose. Udyog Aadhaar Memorandum & Acknowledgement/ Valid NSIC Certificate/ Entrepreneurs Memorandum part II (EM II) certificate (deemed validity of 5 years)/ {in case of EM II certificate older than 5 Years, EM II certificate along with attested copy of CA certificate-as given in Annexure-??? Of SRF* applicable for the relevant financial year (latest audited)} | Yes/No |
| 9. | Part "II" (Price Bid) sealed in a separate envelope without any comments/conditions / deviations. | Yes/No |

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LIST OF ANNEXURES

| SI No. | Subject | Annexure No. |
|--------|--|--------------|
| | Annexure required for Techno-Commercial Bid: Part I | |
| i | Detailed Scope of work | Annexure- 1 |
| ii | Technical cum Commercial Qualification Criteria | Annexure- 2 |
| iii | Requirement Of Project Implementation Plan & Responsibility Matrix | Annexure-3 |
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| viii | Declaration On Non-Disclosure | Annexure-9 |
| ix | Guidelines on Suspension of Business Dealing Guidelines | Annexure-10 |

| SI No. | Subject | Annexure No. |
|--------|---|--------------|
| | Annexure required for Techno-Commercial Bid: Part II | |
| i. | Price Bid Format | Annexure- |

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DETAILED SCOPE OF WORK

1. BROAD SCOPE OF WORK

The Pharmacy Firm will supply the Medicines at the agreed uniform rate of discount on MRP (inclusive of all taxes) in the stipulated time against the online requisition from BHEL.

The Pharmacy Firms must have a centrally hosted online software and mobile app for purchase of medicines integrating all outlet of chains in BHEL Hospitals / Dispensaries having interface with BHEL authorised approving authorities and BHEL beneficiaries. The Pharmacy Firm shall own e-Pharmacy software platform as per the specification provided by BHEL in the pre Go-live period.

The empanelled Pharmacy Firm shall be provided storage and dispensing space within BHEL hospitals/ dispensaries on As Is Where Is Basis on license fee of ₹.....per year for the contract period, on signing of the license agreement with BHEL. Other conditions of allotment of such space shall be dealt with as per BHEL Shop Allotment Policy.

BHEL shall provide process flow chart and seamless flow of BHEL beneficiary data.

The indicative list of Medicines normally required at BHEL Locations is given at Annexure.

A. SPECIAL TERMS & CONDITIONS OF TENDER:

1. **Placement of orders for supply & Mechanism of Receipts / Collection of Medicines by Beneficiaries:**

The Pharmacy Firm shall receive the order through online mode from beneficiaries or BHEL authorised doctors. In case of orders placed by beneficiaries, the medicines shall be collected by the beneficiaries themselves. In case of orders placed by BHEL doctors, the medicines shall be collected by BHEL authorised representatives.

2. **NON SUBSTITUTION:** Specific brand of medicines shall not be substituted by another brand.

3. **PACKED SUPPLIES:** Supplies are required to be made in original packing of manufacturer. The packing should be nearest to the total quantity demanded of any particular medicine on any particular day.

4. **INDIVIDUAL PACKETS:** The Pharmacy Firm shall supply bar-coded medicines indented for one patient in one packet.

5. **SUPPLY OF MEDICINES:**

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Sufficient stock of Medicines at all times will have to be maintained by the Pharmacy Firm to avoid inconvenience to BHEL beneficiaries.

The Pharmacy Firm will indicate batch number, name of manufacturer, date of expiry of Medicines indented in the relevant columns of the billing sheet at the time of supplying the medicines to the concerned BHEL beneficiary BHEL Hospitals / Dispensaries.

In case it is found that supplied medicine has expired or is spurious, Pharmacy Firm will be liable to be banned for a period of 3 years on Pan India basis besides other legal action that may be initiated against them as per law. The procedure to ban the pharmacy firm as prescribed in the Guidelines for Suspension of Business Dealings with Supplier / Contractors (refer annexure/www.bhel.com) shall be followed.

In case the ordered medicines are not available with the bidder, then BHEL / beneficiary will be entitled to cancel the order.

Specific brand of medicines shall not be substituted by another brand. If any such case is noticed during subsequent scrutiny after or before the payment, the supplier will be penalized for Rs.1000 in addition to the cost of the specific brand of medicine indented for each such default.

The designated Pharmacy Firm shall deliver the indented medicines in separate packets for every individual beneficiary.

B. SYSTEM DESIGN REQUIREMENT

Prerequisites for the System

1. The following database of Serving & Retired employee shall be provided by BHEL from its database.

| Serving Employee as in SAP HR | Retired Employee as in RECHS System |
|--|--|
| Name, Mobile no., Email, address of Employee | Name, Mobile no., Email, address of Retired Employee |
| Staff No. of Employee | Staff No. of Employee |
| Name of Spouse | Name of Spouse |
| Name of Parents | |
| Name of Children | |

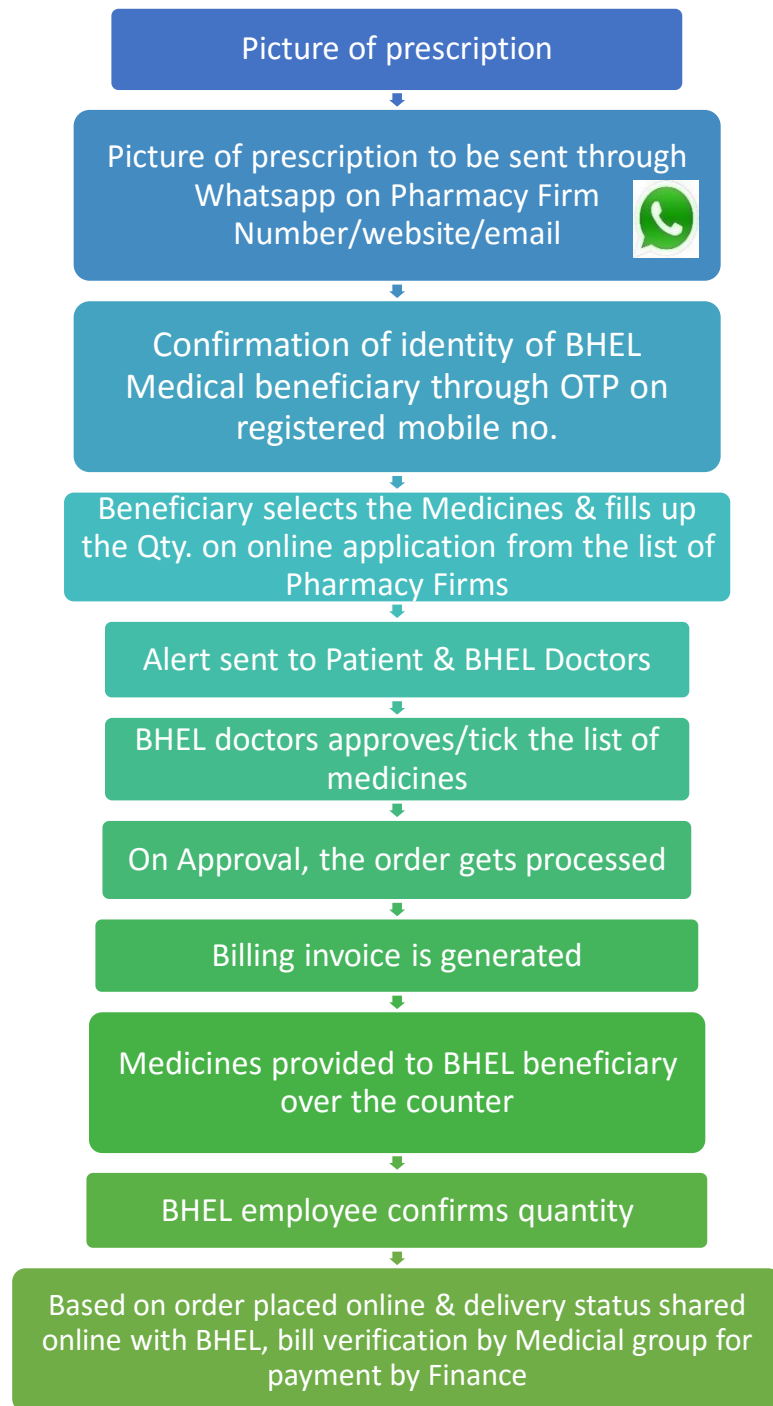
The system will be integrated with BHEL database, any change & Updation in BHEL database will reflect in the Pharmacy system also.

Invoices /Bills will be raised to **BHEL Unit Medical department**; which will verify the bills from the system data base & forward it to Finance for payment.

Bill status will be online available to Pharmacy Firm.

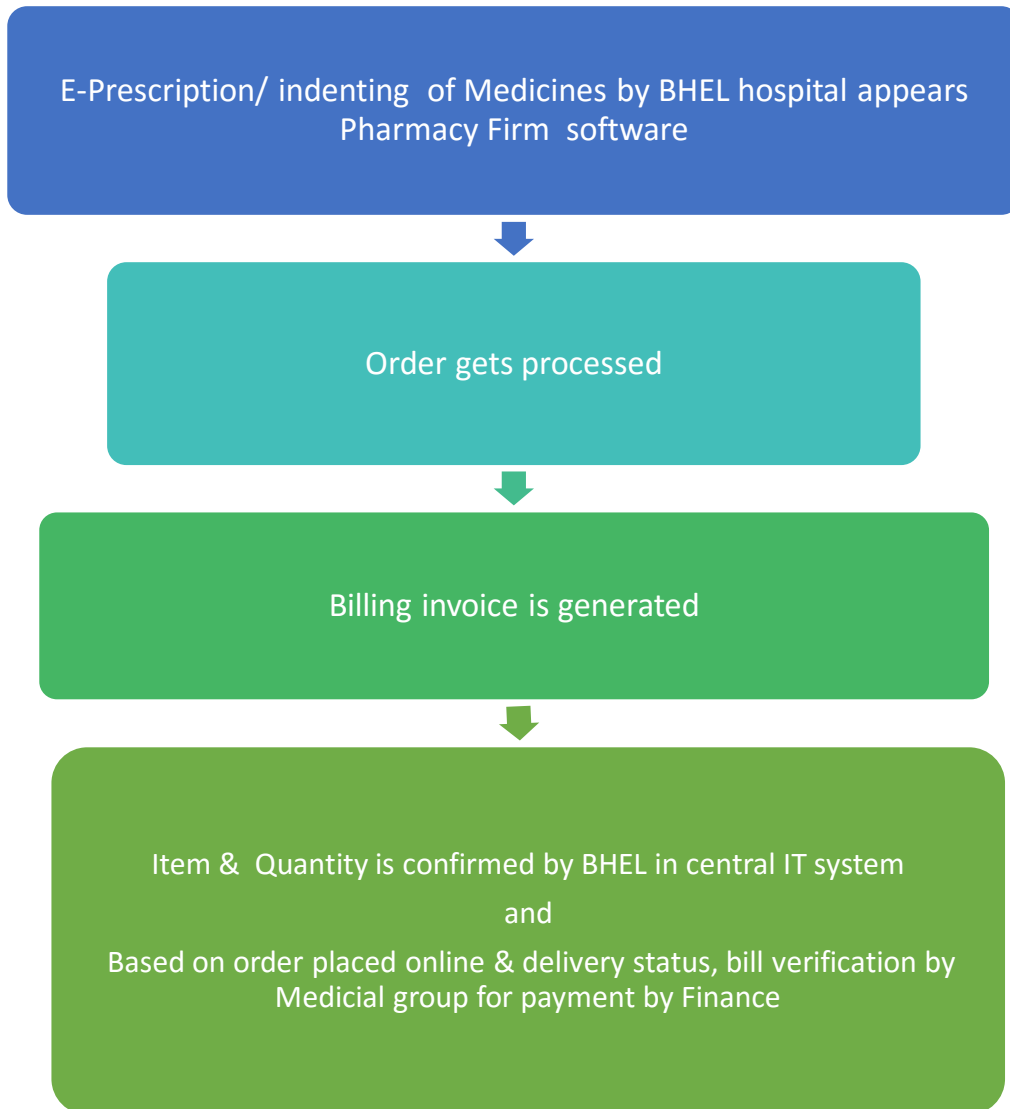
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2. BENEFICIARY INITIATED PROCESS FLOW:



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3. BHEL AUTHORISED PERSONNEL INITIATED PROCESS FLOW:



4. **Design and Development**

Bidder shall design and execute the activities necessary for successful implementation of the solution in compliance with the provisions of the Contract.

5. **Online Help Facility**

The system should have built in online help menu for every process in the proposed Solution tailored to BHEL requirement.

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6. Acceptance Tests

- i. Sufficient tests shall be carried out to check the fulfilment of functional requirements as per scope.
- ii. The Acceptance Tests (and repeats of such tests) shall be the prime responsibility of the Bidder. The tests are to be conducted with the cooperation of BHEL before Commissioning of the Solution.
- iii. The Bidder shall promptly rectify any defect and/or deficiencies for successful execution of the Acceptance Test.

Upon success of Acceptance Tests, the Bidder shall notify BHEL.

7. Pre Go-Live

Pre Go-Live work will comprise of Development / Customisation of the Bidders IT system to fulfil BHEL specific system design requirement as specified in scope of work (Annexure-1) i.e., Customization & implementation, training, user acceptance testing for test Supply of medicines as part of acceptance criteria.

The pre Go-Live should be completed in **30 days** from the date of issue of order. In case of delay in completion of activities is attributable to the bidder, BHEL reserves the right to **impose a penalty of Rs.2000/- (two thousand only) for each day of delay**, without any recourse to compensation/damages.

8. Go-Live

After successful acceptance test in Pre Go-Live stage, BHEL shall notify a common Go-Live date for all successful bidder

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TECHNICAL CUM COMMERCIAL QUALIFICATION CRITERIA

1. Details of no. of outlets, locations and addresses and pharmacy registration: **(Qualifying Criteria: 50 Outlets** on the date of submission of bid)
2. Details of years of experience with PSU / Govt. / Private Hospitals for supply of medicines through outlets in these hospitals or experience of running of outlets in PSU/ Govt./ Private hospitals or supply integration for medicines supply to PSU/Govt./Private hospitals **(Qualifying Criteria: One year** on the date of submission of bid)

(To be substantiated by copy of work order agreement and Certificate from the customer i.e., PSU / Govt. / Private Hospitals)

3. Details and screenshots of demonstrable IT system (linking of central office/head office with its branches) for trackable order placement and order fulfilment. **(Qualifying Condition: Supply of System Description & Screenshots)**

(To be verified by BHEL Official's site visit)

4. Details of Customer service & Operations set up and average numbers of orders of last three months on the date of submission of bid being handled per day. **(Qualifying Conditions - Customer Service No.: 01 Nos.; Operational Set up: 10 No. of Associate; Avg. no. of orders handled per day: 500 Nos. per day).**

(To be verified by BHEL Official's site visit)

5. **No. of Serviceable locations (Pin Codes) – (Qualifying Condition: 50 No. of locations** on the date of submission of bid)

(Details of Name of cities/locations currently served by them.)

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REQUIREMENT OF PROJECT IMPLEMENTATION PLAN & RESPONSIBILITY MATRIX:**1. Project Plan**

- i. In close cooperation with BHEL and based on the Preliminary Project Plan included in the Bidder's bid, the Bidder shall develop a detailed project plan hereinafter referred to as the Agreed and Finalized Project Plan encompassing the activities specified in the Contract.
- ii. The Bidder shall formally present to BHEL the Project Plan in accordance with the Technical Requirements.

Detailed location wise, project implementation plan with project milestones, target dates for BHEL as per scope of work along with responsibility matrix clearly demarcating the role of BHEL & Pharmacy Firm.

| Location | Mobilisation Readiness | | Period of Implementation | | Pre-requisites from BHEL | Total Deliverables by Bidder |
|----------|------------------------|----------|--------------------------|----------|--------------------------|------------------------------|
| | Start Date | End Date | Start Date | End Date | | |
| | | | | | | |

The Bidder has to specify the strategy and methodology with time frame and the synchronization of various phases of project to ensure completion of the project in specified time. The plan shall also bring out the critical areas needing continuous attention of BHEL. The Agreed & Finalized Project Plan should have the same Go-Live date.

- iii. The Bidder shall undertake to supply, install, implement, ensure the pre Go-Live and Go-Live stabilization of the System in accordance with the Agreed and Finalized Project Plan and the Contract.

Changes to the Project Plan, if required, shall be made with the mutual consent of BHEL and the Bidder.

2. Project Coordination:

BHEL shall appoint a Project Manager and notify the Bidder in writing along with the issuance of selection of empanelled Pharmacy Firm. The Project Manager shall have the authority to represent BHEL on all day-to-day matters relating to the implementation or arising from the Contract. All notices, instructions, orders, certificates, approvals, and all other communications under the Contract shall be given by the Project Manager, except as otherwise provided for in this Contract. All notices, instructions, information, and other communications given by the Bidder to BHEL under the Contract shall be given to the Project Manager, except as otherwise provided for in this Contract.

3. Acceptance Tests

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- i. Sufficient tests shall be carried out to check the fulfilment of functional requirements as per scope.
- ii. The Acceptance Tests (and repeats of such tests) shall be the prime responsibility of the Bidder. The tests are to be conducted with the cooperation of BHEL before Commissioning of the Solution.
- iii. The Bidder shall promptly rectify any defect and/or deficiencies for successful execution of the Acceptance Test.

Upon success of Acceptance Tests, the Bidder shall notify BHEL.

4. Pre Go-Live

Pre Go-live work will comprise of Development / Customisation of the Bidders IT system to fulfil BHEL specific system design requirement as specified in scope of work (Annexure-1) i.e., Customization & implementation, training, user acceptance testing for test Supply of medicines as part of acceptance criteria.

The pre Go-Live should be completed in **30 days** from the date of issue of order. In case of delay in completion of activities is attributable to the bidder, BHEL reserves the right to **impose a penalty of Rs.2000/- (two thousand only) for each day of delay**, without any recourse to compensation / damages.

5. Go-Live

After successful acceptance test in Pre Go-Live stage, BHEL shall notify a common Go-Live date for all successful bidder.

6. Service Level Agreement

During the validity period of the contract the Authorised Pharmacy Firm shall be required to adhere to **7 days of SLA** (Service Level Agreement) with the BHEL for carrying out any customisation required or resolution of issues related to IT Platform, delivery of medicines, updating the software, periodical backup of data, Reports and information required by BHEL etc.

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PRICE BID FORMAT*

| | | |
|-----------------------|---|----------|
| Name of Pharmacy Firm | Percentage discount over the Maximum Retail Price incl. of all taxes (MRP Printed on the package of Medicines) No separate taxes, No delivery cost & No other costs shall be payable | |
| | In figures | In words |
| | | |

**** Price bid received in any form other than the prescribed are liable to be rejected.***

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BILLING & PAYMENT PROCEDURE:**1. PRESENTATION OF BILLS:**

The Pharmacy Firm shall present **the bill to BHEL** respective unit for the supplies made during each fortnight (1 to 15 & 16 to 30/31) within ten days of closing of each respective fortnight. The bill should clearly indicate the details of the supplies made each day such as name of the item, name of manufacturer, batch No., date of manufacture & expiry date, name of beneficiary, beneficiary ID No. with date, rate, discount as per contract etc. and any other information required by the BHEL.

The bill shall be verifiable from integrated system data of placement of orders by BHEL beneficiaries and orders placed by BHEL Doctors. Bills not verifiable from the integrated system data will not be processed.

BHEL reserves the right to cross verify the MRP from the manufacturers.

2. PAYMENT

Payment terms: Bill complete in all respect along with all the requisite documents will be paid within 45 days of receipt in BHEL. The payment will be made through ECS for which bidder should give requisite ECS Mandate Form with details of bank address, Account No. etc. & a copy of the cancelled Cheque.

3. TAXES AND DUTIES

Payment shall be made to the bidder only after submission of GST complaint Tax invoice and other relevant documents. Bidder has to ensure the compliance under the GST Act & rules. If any loss occurs to BHEL due to Non-compliance on a/c of the bidder shall be to the bidder's A/C. The bidder has to submit their GST registration certificate to BHEL within 30 days from the acceptance of order. GSTIN of BHEL will be provided to the bidder within 15 days from the placement of order.

Any statutory payment, including changes in taxes & duties, as and when made applicable by the Government shall become applicable against documentary evidence. Payment to the bidder will be subjected to TDS as per rules in force from time to time.

The Tax Deduction at Source (TDS) shall be done as per the provisions of Income Tax Act & GST, as amended from time to time. A certificate to this effect shall be provided to the bidder by BHEL.

4. PERIOD UPTO WHICH SUPPLY ORDERS WILL BE PLACED

Supply orders will be placed against the contract up to the last date of the contract. Orders received even on the closing date should be honoured in accordance with the terms of contract even though the last date of the contract may have expired on the date of supply of medicines.

5. DEDUCTIONS FOR DEFAULT

Specific brand of medicines shall not be substituted by another brand. If any such case is noticed during subsequent scrutiny after or before the payment, then supplier will be penalized Rs.1000/- along with the cost of the specific brand of medicines for each such default. The indented Medicines shall be made available across the counter in full.

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Definitions

Unless the context requires otherwise, the following terms wherever used in this document shall have the following meanings:

- (a) "Applicable Law" shall mean the Indian Law both substantive and procedural.
- (b) "Bidder" means the person(s), firm, company or organization who is under the process of being contracted by Owner for supply of medicines.
- (c) "Services" means the work to be performed by the successful bidders, in pursuant of the Contract, as described in the detailed Scope of work.

Subject: Open Tender for “**Selection for Empanelment of Authorised Pharmacy Firms for supply of Medicines to employees / beneficiaries of BHEL Retired Employees Contributory Health Scheme**”.

Reference: Tender Enquiry No.: AA:HR:MR1 (Pharmacy Firm)/2019

NO DEVIATION CERTIFICATE

Notwithstanding anything mentioned in our bid, we hereby accept all the terms and conditions of this tender without any reservations whatsoever. We hereby undertake and confirm that we have understood all the specifications, stipulations, terms and conditions as mentioned in this tender enquiry. Deviations, if any mentioned elsewhere in our bid (whether techno-commercial bid or price bid) will be treated as null and void by BHEL.

Signatures of Authorized Signatory of Bidder

Name:

Designation:

Date:

Place:

Seal of Organization:

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Subject: Open Tender for “**Selection for Empanelment of Authorised Pharmacy Firms for supply of Medicines to employees / beneficiaries of BHEL Retired Employees Contributory Health Scheme**”.

Reference: Tender Enquiry No.: AA:HR:MR1 (Pharmacy Firm)/2019

GENERAL DECLARATION CERTIFICATE

I, _____ hereby certify that all the information and data furnished with regard to this tender No. AA:HR:..... are true and complete to the best of my knowledge. I have gone through the specification, conditions and stipulations in detail and agree to comply with the requirements and intent of specification.

I, also undertake to maintain confidentiality of documents & information which shall be used during the execution of the Contract and the documents & information shall not be revealed to or shared with third party which shall not be in the business interest of BHEL.

I, also give acceptance for participation in Reverse Auction, in case BHEL decides to go for the same.

I, further certify that NO CASE is pending against my company under the Drugs and Cosmetics Act and Rules as on the date of submission of the tender.

I, further certify that I have been duly authorised by my company i.e. under mentioned bidder for signing and submission of bids and all other documents.

(Signature & seal of authorised signatory)
(This is to be given on the letter head of the bidder)

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Annexure-9
(Part-I: Techno-Commercial Bid)

Subject: Open Tender for “**Selection for Empanelment of Authorised Pharmacy Firms for supply of Medicines to employees / beneficiaries of BHEL Retired Employees Contributory Health Scheme**”.

Reference: Tender Enquiry No.: AA:HR:MR1 (Pharmacy Firm)/2019

DECLARATION ON NON DISCLOSURE

M/s. willing to provide service to BHEL for **Selection for Empanelment of Authorised Pharmacy Firms for supply of Medicines to employees / beneficiaries of BHEL Retired Employees Contributory Health Scheme**, hereby undertake to comply with the following in line with information security policy of BHEL:

- 1.0 To maintain confidentiality of documents & information used during the execution of the contract.
- 2.0 The documents & information shall not be revealed to or shared with third bidder in a manner which is detrimental to the business interest of BHEL.

Signatures of Authorized Signatory of Bidder

Name:

Designation:

Date:

Place:

Seal of Organisation:

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INTEGRITY PACT**Between**

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

and

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

Preamble

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

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

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

Section 1- Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

- 1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
- 1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the process all known prejudiced persons.

1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory

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penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

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

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

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

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

Section 4 - Compensation for Damages

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4.1 If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent Earnest Money Deposit/ Bid Security.

4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/ Performance Bank Guarantee, whichever is higher.

Section 5 - Previous Transgression

5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 - Equal treatment of all Bidders/ Contractors / Sub-contractors

6.1 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors. In case of sub-contracting, the Principal contractor shall be responsible for the adoption of IP by his sub-contractors and shall continue to remain responsible for any default by his sub-contractors.

6.2 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

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

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

Section 8 -Independent External Monitor(s)

8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.

8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality in line with Non- disclosure agreement.

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- 8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- 8.5 The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- 8.6 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 8.7 The IEMs would examine all complaints received by them and give their recommendations/ views to CMD, BHEL, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal/ administrative action. IEMs will tender their advice on the complaints within 10 days as far as possible.
- 8.8 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.
- 8.9 IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging mala fide on the part of any officer of the organization should be looked into by the CVO of the concerned organisation.
- 8.10 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant Indian Penal Code/ Prevention of Corruption Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.11 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.
- 8.12 The word 'Monitor' would include both singular and plural.

Section 9 - Pact Duration

- 9.1 This Pact shall be operative from the date IP is signed by both the parties till the final completion of contract for successful bidder and for all other bidders 6 months after the contract has been awarded. Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- 9.2 If any claim is made/ lodged during currency of IP, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/ determined by the CMD, BHEL.

Section 10 - Other Provisions

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10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.

10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

10.5 Only those bidders / contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

For & On behalf of the Principal

(Office Seal)

For & On behalf of the Bidder/ Contractor

(Office Seal)

Place-----

Date-----

Witness:_____

(Name & Address) _____

Witness:_____

(Name & Address) _____

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