

**BHARAT HEAVY ELECTRICALS LIMITED**

(A Government of India Undertaking)

பாரதமிகுமின் நிறுவனம்

BOILER AUXILIARIES PLANT,
Indira Gandhi Industrial Complex,
RANIPET- 632 406 (Tamil Nadu)

Ph: 04172-284158, 284030, 241170

Email: anvmani@bhelrpt.co.in

mkmoorthy@bhelrpt.co.in

Tender NO: 655002E

Dt.22/11/2016

Annexure-A**CHECK-LIST FOR COVER -I (MSME/EMD)**

S.No	Description - Details to be Filled by the Vendor						
1	Name of the Vendor with Office Address						
2	Address for Communication						
3	Contacts with Designation <table border="1"> <tr> <td>1.Name:</td> <td>Mobile Number:</td> </tr> <tr> <td>2.Name:</td> <td>Mobile Number:</td> </tr> <tr> <td colspan="2">E-Mail ID :</td> </tr> </table>	1.Name:	Mobile Number:	2.Name:	Mobile Number:	E-Mail ID :	
1.Name:	Mobile Number:						
2.Name:	Mobile Number:						
E-Mail ID :							
	Tender Quoted for (Mark v) : <table border="1"> <tr> <td>MAIN-BLAST</td> <td></td> </tr> </table>	MAIN-BLAST					
MAIN-BLAST							
4	Declare the Value of Immovable property of the Proprietor/Partners/Board of Directors in Lakh						
5	Distance of the vendor works from BHEL Ranipet in Kilometers						
6	Vendor Registration Status with BHEL Ranipet (Mark v) <table border="1"> <tr> <td>New Firm</td> <td>Already Registered</td> </tr> </table>	New Firm	Already Registered				
New Firm	Already Registered						
7	Indicate Vendor Code -If your Firm is already registered in Outsourcing Department, BHEL, Ranipet or Indicate Reference Code as NEW -If your Firm is New and not registered in Outsourcing Department, BHEL, Ranipet						
8	Whether your firm falls under NSIC / MSME						
9	If yes, enclose the relevant documents as proof						
10	PAN Number						
11	EMD Details (To be submitted by Non MSME Vendor) : Demand Draft Number....., Date , Value Rs.2.00 Lakh Bank Name....., Branch.....						

Signature of Authorized person with seal



BHARAT HEAVY ELECTRICALS LIMITED
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Tender NO: **655002E**

Dt.22.11.2016

Annexure-B

CHECK-LIST FOR COVER -II (Techno Commercial Bid)

S.No	Description - Details to be Filled by the Vendor
1	Name of the Vendor with Office Address
2	Vendor Code / Vendor Reference Code
3	Offer Reference
4	Firms Capacity to be spared to BHEL Jobs for Fabrication - In terms of Metric Ton per Month
5	Signed in Standard Commercial Terms & Conditions format given as Annexure-E
6	Signed in Technical Bid (Annexure-C) for Each Group quoted in this tender (without Price)
8	Blasting Facilities Available with Firm as per format given in Annexure-FB .
10	Affidavit in Stamp Paper value Rs.100 as per Annexure-I
11	Own land - Document copy / Lease Land - Self attested Copy of Lease Agreement for 3 Year period.
12a	Documents to be enclosed for Partnership Firm – Self Attested Copies
	i) Latest Form- A, issued after 01.04.2016.
	ii) Partnership Deed Copy (AT WILL).
12b	Documents to be enclosed for Limited Firm (Private Firm) – Self Attested Copies
	i) Latest resolution by Board of Directors.
	ii) Memorandum of Article of Association.
	iii) Company's Affidavit for existence
	iv) Latest Annual Report.
	v) Directors Share details
13	Power of Attorney if required as per Annexure-J
14	Vendor Registration Form given as Annexure-K along with all necessary documents (For New Firm)
15	Details of any other Miscellaneous supporting document attached

We have gone through all the terms and conditions of the tender and fully understood all the technical and commercial requirements and quoted for the tender without taking any deviation.

Signature of Vendor (Authorized person) with seal



Bharat Heavy Electrical Limited
Outsourcing Department
Ranipet - 632406

ANNEXURE - E
STANDARD COMMERCIAL TERMS & CONDITIONS

[FORMAT TO BE SUBMITTED BY THE SUPPLIER ALONG WITH TECHNICAL BID IN COVER II]

Tender No.655002E

Dt.22.11.2016

Vendor Name with Code:

S No.	BHEL Standard Commercial Conditions
1	TERMS OF DELIVERY: EX-WORKS BASIS Tender calls for the offers on EX-Works basis. Hence Transport Charges payable extra for the Materials / Components collected from BHEL and return of finished items vice-versa as per the Extra Rate Schedules available in the Annual Rate Contract.
02	Delivery Period: Three Month from PO date/last material clearance date including further materials, whichever is later. However actual delivery shall be fixed by BHEL for each PO on project requirement and product lead time.
03	Liquidated Damages: BHEL will levy penalty as Liquidated Damages (LD), for delay in delivery. The damages shall be at the rate of ½% per week or part thereof subject to a maximum of 10%. Delivery for purpose of L.D, will be reckoned as the date of clearance of the items for dispatch by BHEL. Supplier should quote a definite delivery period and any delay in delivery will attract penalty.
04	Terms of payment: Payment will be made within 45 days for MSME vendors and within 90 days for Non MSME vendors after receipt of valid invoices supported by full set of necessary documents at Finance in accordance with CL. 18.0 of Section II.
05	Bank Guarantee: Bank Guarantee for the value of Rs.20.00 lakh specified in the tender is to be submitted immediately after finalisation of the contract in the format provided by BHEL .
06	Risk Purchase: Alternatively, the BHEL at his option will be entitled the contract and to manufacture elsewhere at the risk and cost of the seller either the whole of the goods or any part which the supplier has failed to deliver or dispatch within the time stipulated as aforesaid or if the same were not available, the best and the nearest available substitute therefor. The supplier shall be liable for any loss which the BHEL may sustain by reason of such risk purchases in addition to penalty at the rate mentioned in LD clause.
07	Price Validity: One Year from the date of finalisation of Annual Rate Contract, however the validity date of the offer is 180 days from the date of tender opening for ordering.
08	Excise duty: As applicable vide clause 28.0 of Section II (Techno Commercial Terms & Conditions of the Annual Rate Contract 2016-17 for OS-MAIN)
09	Sales tax: VAT / Service Tax as applicable vide Clause 27.0 of Section II (Techno Commercial Terms & Conditions of the Annual Rate Contract 2016-17 for OS-MAIN)

We agree for all the above commercial conditions without any deviation and also certify that there is no deviation in any of the Terms and conditions of this tender.

Vendor Signature with Firm's Seal

	 BHARAT HEAVY ELECTRICALS LIMITED (A Government of India Undertaking) பாரதமிருகின் நிறுவனம் BOILER AUXILIARIES PLANT, Indira Gandhi Industrial Complex, RANIPET- 632 406 (Tamil Nadu)	Ph.04172-284030,284158 &241170 Email:mkmoorthy@bhelrpt.co.in
Annexure-FB- Eligibility Criteria and General Information for BLAST (Blast Cleaning) Group		
	Manufacturing Facilities Available with Firm and other General Information (Details to be filled by the Vendor)	Vendor Reference code
General Information about Firm		
1	Name of Firm	
2	Firm code (if available please mention the code, else mention N/A)	
3	Address	
4	Authorised E-mail ID : Phone Number: Mobile Number:	
5	Proprietor/Partnership/Limited company	
6	Name of Proprietor/Partners/Director with Age and Contact Number	
7	Bank Account Number and Name of the Bank	
8	Educational & Technical qualifications of Proprietor/partners	
9	Compliance of Statutory requirements such as Insurance,ESI and PF facility for employees, Safety requirements, Non usage of Child Labour, License from Government Agency (Inspector of Factories) etc..	Self declaration /confirmation YES/NO
10	Excise Duty /VAT Registration No (TIN)/CST No.:	
11	Office Room with facilities like Computer, Printer, Internet access etc..	

	Annexure-FB- Eligibility Criteria and General Information for BLAST (Blast Cleaning) Group	
	General Mandatory Facilities Required	
12	Crane to handle 10 MT Job either self owned or on hire basis. Vendor has to give self declaration / confirmation	Vendor to confirm 10 tons capacity OWN / HIRED / LEASE
13	Monthly Production Capacity (Minimum 120MT required)	
14	Location of the Firm from BHEL, Ranipet shall be within 350km	
15	EB Power connection for 50 KW (Min). Please Attach Xerox copy of EB Service for 50 KW in the name of the company.	
16	Land area of the factory - Not less than 2.0 Acre in single location - own or Lease If OWN - Document copy of title deed in owners name with encumbrance certificate to be furnished. If LEASE - Registered lease document for a Period of minimum 3 years from the date of Tender opening.	Vendor confirmation OWN / LEASE
	Mandatory Facilities Required for the Group - BLAST	
17	Type of blasting unit available -Centrifugal/ Compressed air (300 CFM, Air outlet pressure - 7 Kg / Sq.cm- 2units required	
18	Facilities checking the quality of the compressed air - Oil seperator/Water seperator Blotter test	
19	Facility for measurement of temperature & relative humidity - Digital measurement of temp. & RH	
20	Surface profile meter, Elcometer/DFT checking gauge	
21	Powered agitators for proper mixing of paints - Battery powered / Pneumatic agitators for small paint bottles and jars	
22	Wet film guage,surface temp. indicator Physcrometer, wet bulb thermometer - Min 1 no with thermometer is required	
23	Statutory requirements - Certificate from Governing agencies required	Self declaration /confirmation YES/NO

	Annexure-FB- Eligibility Criteria and General Information for BLAST (Blast Cleaning) Group	
24	Safety statutory requirements and Safety equipments such as Safety mask for Spray painting and other PPE-1set	
	I/We certify that the details furnished above is true and correct	
Signature of the Vendor with Firm Seal		
	Meeting / Not Meeting the Eligibility Criteria for the Group BLAST	
Signature of the Assessors		

Annexure G
Certification for MSME

Certificate by Chartered Accountant on letter head

This is to Certify that M/S
(hereinafter referred to as 'company') having its registered office at
is registered under MSMED Act 2006, (Entrepreneur
Memorandum No (Part-II) dtd:.....,
Category: (Micro/Small)). (Copy enclosed).

Further verified from the Books of Accounts that the investment of the company as per the latest audited financial year as per MSMED Act 2006 is as follows:

1. **For Manufacturing Enterprises:** Investment in plant and machinery (i.e. original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification No.S.O.1722(E) dated October 5, 2006 :
Rs.....Lacs
2. **For Service Enterprises:** Investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006:
Rs.....Lacs

(Strike off whichever is not applicable)

The above investment of Rs.....Lacs is within permissible limit of Rs.....Lacs forMicro / Small (Strike off which is not applicable) Category under MSMED Act 2006.

Or

The company has been graduated from its original category (Micro/ Small) (Strike off which is not applicable) and the date of graduation of such enterprise from its original category is (dd/mm/yyyy) which is within the period of 3 years from the date of graduation of such enterprise from its original category as notified vide S.O. No. 3322(E) dated 01.11.2013 published in the gazette notification dated 04.11.2013 by Ministry of MSME.

Date:

(Signature)

Name -

Membership number -

Seal of Chartered Accountant

ANNEXURE – I

AFFIDAVIT

I/We M/sdo hereby undertake the following

01. We have not been put on hold ,suspended, delisted, banned or black listed by any of the BHEL units
02. We have not been booked by CBI and/or indicted by a court of law in any criminal case relating to any manufacturing related activity during last 5 years .
03. Tick which ever is applicable

- i) ☐ One or more partners/directors/proprietor of us DO HAVE a relation or relations employed in the capacity of an officer of BHEL. The details are given below

Name:-

Staff.No:-

Designation:-

Department:-

(or)

- ii) ☐ One or more partners/directors/proprietor of us DO NOT HAVE a relation or relations employed in the capacity of an officer of BHEL. Concealing the above information , & if found by BHEL, BHEL may cancel the contract & forfeit EMD/Bank Guarantee forthwith .

04. All scope , Terms , conditions ,annexures ,technical/operational requirements of BHEL read understood, accepted with out any deviation and then submitted offer unconditionally .
05. In case it comes to notice of BHEL during the finalization of Tender/after placement of contract and while executing the contract that vendor has given incomplete ,false, incorrect, suppressed information & data, forged documents fake documents/ certificates ,fake certificated or any information prejudicial to BHEL's interest, BHEL will suspend the business with the vendor at any stage and the EMD/Bank Guarantee will be forfeited .
06. I/We undertake that the required Bank Guarantee will be submitted within 15 Days of finalization of the contract, else non submission of BG can be treated as *"not honoring his own offer or any of the condition "* stated/agreed in the tender and declared fit for taking penal action by BHEL as per *"suspension of Business dealings vide Clause R of section IV "* against me/us.

Signature of authorized person with Seal

[to be printed on stamp paper of Rs. 20]

KNOW ALL MEN BY THESE PRESENTS that, I, _____ (name of the person authorizing the other person) have been authorised by _____ (refer to the persons/Board of Directors as the case may be vide _____ dated _____ (refer to the authorizing documents), inter alia, to submit bid, quote price, submit documents, negotiate and execute contracts and do all acts and in deed in relation to the said acts in the name of and for and on behalf of M/s _____ (hereinafter “Principal”).

I consider it necessary and expedient to appoint _____

(Name, Designation/Related as, Residential Address), to be my Attorney for me and in my name to do the following acts on behalf of the Principal, namely:

1. To receive Notice Inviting Tender/ Enquiry or any other document from or in relation to Bharat Heavy Electricals Limited, Ranipet (“BHEL”).
2. To submit bids, clarifications, quotations, prices, drawings, documents, or any other information in relation to the above;
3. To negotiate and execute contracts with BHEL.
4. To respond to queries or request for clarifications from BHEL and furnish documents in support of such response.
5. To do all acts, deeds and things which are necessary for the above acts or incidental thereto.

-/ Page 2 /-

I hereby agree and undertake to ratify all acts, deeds, assurances done, given, executed or made by my said Attorney in connection with the above as if the same were done or made by me. _____ (the principal)

IN WITNESS whereof I sign and execute this Power of Attorney on this _____ day of _____ 2014 at _____.

(Signature and Seal of the Principal)
With Land-line, Mobile, email, Address

=====

The Stamp size photo and specimen signature of the Attorney

Affix Photo here

Specimen signature of the Attorney

=====

SIGNED and delivered by the above named _____
(Principal) in the presence of _____ (Name of Witness),

(address of witness).

(Signature and Seal of the Witness)

Signature & Seal of the Notary

[Note:

1. In case of a company, the Managing Director of the Company shall sign on behalf of the Principal. The company's common seal shall also be affixed in the power of attorney
2. In case of Hindu Undivided Family, karta shall sign on behalf of the HUF.
3. In case of a partnership, all the partners of the Firm shall sign and affix seal on behalf of the Principal.
4. In case of a proprietorship, the proprietor shall be the Principal.]

BHARAT HEAVY ELECTRICALS LIMITED
SUPPLIER EVALUATION SHEET
(INDIAN SUPPLIER - Subcontractor - Machinist / Fabricator
with free issue of material)

Doc. No. AA:SPP:SR:01 Rev:02

Date: 26.09.2016

Name of the Supplier/ Application Ref. Number: _____

Annexure-E

1. ORGANISATIONAL SOUNDNESS

SNO	Clause in SRF	Parameter	Criteria	Max. Mark	Marks Awarded
1	3.3	Year of commencement of business	≥5 years 3 1-5 years 2 ≤1 year 0	3	
2.	4.1 to 4.5	Whether all relevant information submitted (Evaluation is to be based on available documents)	1 to 5	5	
3.	5.3	ISO 9001 Certified	Yes 2 No 0	2	
4.	5.7	Pending Legal/ Arbitrations issues on contractual aspects with customer	Yes -5 No 0	0	
5.	6.1 & 6.2	Relevant manufacturing facilities including outsourcing	Adequate 4 Substantial 2 Inadequate 0	4	
6.	6.3	Ratio Of Outsourced Cost to Total Production Value	<10% 2 10 to 30 % 1 > 30% 0	2	
7	6.4	Power backup	Yes 2 No 0	2	
8.	7.1	Relevant inspection & Testing Facilities	Adequate 4 Substantial 2 Inadequate 0	4	
		TOTAL		23	

2. FINANCIAL INFORMATION

SNO	Clause in SRF	Parameter	Criteria	Max. Mark	Marks Awarded
1	8.1	Growth of Net worth over previous year for last three years (On yearly basis for last four years)	For every year of positive growth 2 marks/year Net Worth same as preceding year 1 mark/ year For every year of negative growth 0 mark/year	9	
2.	8.6	Growth in Sales over previous year for last three years (On yearly basis for last four years)	For every year of positive growth (>5%) 3 marks/year For every year of positive growth (≤5%) 2 mark/year For every year of negative growth 0 mark/year	9	

BHARAT HEAVY ELECTRICALS LIMITED
SUPPLIER EVALUATION SHEET
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Date: 26.09.2016

Name of the Supplier/ Application Ref. Number: _____

Annexure-E

SNO	Clause in SRF	Parameter	Criteria	Max. Mark	Marks Awarded
3.	8.7	Profit before Tax over previous year for last three years (On yearly basis for last four years)	For every year of positive growth (>5%) 3 marks/year For every year of positive growth (≤5%) 2 mark/year For every year of negative growth 0 mark/year For every year of loss -1 mark/year	9	
4.	8.8	Contingent liability more than 50% of net worth	Yes -3 No 0	0	
5.	8.9	Whether the supplier has been referred to BIFR/ NCLT/ any other similar Govt. agency	Yes -5 No 0	0	
		TOTAL		27	

Note: If the supplier is new in business and does not have past data, then the evaluation will be done on the basis of information provided by the supplier and will be decided by MISCC/ SRC.

3. QUALITY SYSTEM

SNO	Clause in SRF	Parameter	Criteria	Max. Marks	Marks Awarded
1.	9.2.1	Process control	Work instruction available Yes 2 No 0	2	
			Record of process Control Adequate 2 Inadequate 1 Not available 0	2	
2.	9.3	Manufacturing / Testing Procedure Qualification	Manufacturing Process workflow available Yes 2 No 0	4	
			Testing Procedure Qualification available Yes 2 No 0		
3.	9.4	Personnel qualification	Record of PQR Adequate 2 Inadequate 1 Not available 0	2	
4.	9.5	Calibration system	System available Yes 2 No 0	2	
			Record available Yes 2 No 0	2	
5.	9.6	System of Identification & Traceability of materials, tools, jigs, fixtures & processed components, etc.	Procedure available Yes 3 No 0	3	
6.	9.8	System of NCR disposition & corrective preventive action	System available Yes 1 No 0	1	
			NCR registered & resolved 2 NCR registered & partially resolved 1 NCR not registered or not resolved 0	2	

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Date: 26.09.2016

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Annexure-E

SNO	Clause in SRF	Parameter	Criteria	Max. Marks	Marks Awarded
7.	9.9	Customer complaints handling system	System availability Yes 1	1	
			System availability No 0		
			Complaints registered & resolved 2	2	
			Complaints registered & partially resolved 1		
8.	9.10	Safety measures	Complaints not registered or not resolved 0		
			System available Yes 1	1	
			System available No 0		
			Record available Yes 1	1	
		TOTAL	Record available No 0	25	

4. TECHNICAL COMPETENCE

	Max. Marks(1)	Marks obtained(2)
A. Common Technical Competence	10/25	

And/ or

B. Product Specific Technical Competence, if applicable

Column no. 1 to 4 to be filled by MISCC before sending to supplier. Column no. 5 to be filled by BHEL certified Assessor after evaluation of supplier response.

<u>SNO</u> <u>(1)</u>	<u>Parameter</u> <u>(2)</u>	<u>Scoring criteria</u> <u>(3)</u>	<u>Maximum Marks</u> <u>(4)</u>	<u>Marks obtained</u> <u>(5)</u>
Sub-Total			15	

TOTAL: 25 ()

To be filled in by the concerned dept. before MISCC gives final recommendations.

SNO	Material Description	Material Code.	Nos. of Existing Suppliers in PMD			Nos. of Suppliers under suspension (if any).
			Permanent	Trial	Dev.	

BHEL Trained & Certified Assessor

BHARAT HEAVY ELECTRICALS LIMITED
SUPPLIER EVALUATION SHEET
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Date: 26.09.2016

Name of the Supplier/ Application Ref. Number: _____

Annexure-E

SUMMARY:

SNO	Criteria	Max Marks	Qualifying marks	Marks obtained	Recommendation for registration
1.	Organizational Soundness	50	30		- Recommended : Permanent code /Development code/ Trial code - Not recommended
2.	Financial Information				
3.	Quality System	25	15		
4.	Technical Competence	25	15		
	TOTAL	100	60		

• **Registration Criteria:**

SNO	Score	Recommendation
1.	More than 90	Registration under permanent status. Normally no visit is called for.
2.	$>75 \leq 90$	Registration under permanent status. Supplier visit is preferable.
3.	$\geq 60 \leq 75$	Registration under development/ trial status. Supplier may carry out suggested improvements as advised by MISCC. Supplier visit is mandatory.
4.	Less than 60	Not to be registered

Note: Non-Manufacturers (Dealer/ Trader/ Distributor/ Stockist/ Channel Partner/ Indian sales office or subsidiary of registered Foreign Principal/ Indian Agent etc.) are to be awarded marks on pro-rata basis (**Sum of marks obtained out of a maximum marks of 25 i.e. Organisational Soundness: 13 marks & Financial Information: 12 marks will be converted on pro-rata basis, so as to compare from a max. marks of 100**) and registered accordingly. Respective manufacturing works also to be recorded in PMD.

Signatures: TCAs & Supplier Evaluation Team (in case of visit)

1) _____ 2) _____ 3) _____
 4) _____ 5) _____ 6) _____

Registration is approved by MISCC for the following:/rejected

Material Category:

Item Code:

PMD:

Remarks: (if any):

(To be executed on Non-judicial Stamp Paper for an appropriate value.
To be stamped as an agreement)

(For Suppliers on Unit's/Division's PMD)

Framework Confidentiality Agreement cum Undertaking

This Agreement made on this the _____ day of (month) _____ 20__ (“Effective Date”) by and between

M/s BHARAT HEAVY ELECTRICALS LIMITED, having registered office at “BHEL House”, Siri Fort, New Delhi – 110049 (India), acting through its _____ Unit (hereinafter may be referred to as “BHEL” or “the Company”).

And

M/s _____ (address) _____
represented by authorized representative Sri _____ (herein after referred to as the “Supplier”).

The Supplier and the Company may, unless the context otherwise requires, hereinafter be collectively referred to as “Parties” or singly as the “Party”.

RECITALS

Whereas, BHEL is engaged in the design, engineering, manufacturing, construction, testing, commissioning and servicing of a wide range of products, systems and services for the core sectors of the economy, viz. Power, Transmission, Industry, Transportation, Renewable energy, Oil & Gas and Defence and providing associated services to varied customers in relation to which BHEL/its affiliates own valuable information of a secret and confidential nature.

Whereas the Company may, in connection with Contract(s) (as defined hereunder) placed or to be placed upon the Supplier, or otherwise, from time to time, make available, Technical Information as is defined hereunder.

And Whereas BHEL is willing to provide such Technical Information to the Supplier from time to time and the Supplier understands and acknowledges that such Technical Information is valuable for the Company and as such is willing to protect confidentiality of such information, subject to the terms and conditions set out hereunder.

Now therefore, in view of the foregoing premises and in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as under:

1. Definitions:

Unless the context so requires, in this Agreement, the following terms will bear the meaning ascribed to the said term in this clause.

- A. **“Contract”** means the Contract entered into with a Supplier and includes a Purchase Order, or a Work Order for procurement of any goods or for provision of any services.
- B. **“Effective Date”** means the date of this Agreement as mentioned in the preamble of this Agreement.

- C. **“Supplier”** includes a Contractor or a Vendor of the Company whether for supplying of goods or for providing any services under a Contract or both.
 - D. **“Technical Information”** includes Drawings, and/or Product Standards and/or Specifications and/or Corporate / Plant Specifications and/or Technological Process Sheets and/or Technical Data Sheets and/or Jigs & Fixtures and/or Pattern & Dies and/or Special Gauges and/or Tools etc. belonging to or wherein the Company has acquired from a third party a right of user and includes any improvement thereto from time to time whether carried out by the Company or by the Supplier.
 - E. **“Intended Purpose”** means the purpose for which the Technical Information is provided to the Supplier under or in connection with a Contract.
 - F. **“Improvement”** includes any modification made to, or adaptation of, the Technical Information which enhances or is calculated to enhance the performance (whether in terms of effectiveness or in terms of efficiency or both) of the product and/or the service to be provided by the Supplier under a Contract.
2. This Agreement shall come into force/deemed to have come into force, as the case may be, on the Effective Date; or, on the first date when the Technical Information or any part thereof is provided by BHEL to the Supplier; whichever is earlier.
3. **Agreement deemed to be incorporated in each Contract:** Unless and to the extent otherwise stipulated in the Contract, the conditions of this Agreement are deemed to be incorporated in all Contracts which may be entered into between the Company and the Supplier. Further, unless otherwise stipulated, the obligations under this Agreement are and will be independent of the obligations under the Contracts and such obligations of the Supplier hereunder will remain of full effect and validity notwithstanding that the period of validity of the Contracts has expired by efflux of time stipulated therein; or, the contract has been discharged by performance or breach; or, the termination of the Contracts for any reason whatsoever.
4. **Ownership:**
- 4.1 The Company may, from time to time, make available to the Supplier, Technical Information on a non-exclusive basis by way of loan.
- 4.2 The Supplier acknowledges and agrees that all Technical Information and copies thereof that are or may be provided by the Company to the Supplier, are and shall remain the property of BHEL or that of the concerned entity from whom BHEL has obtained the Technical Information and such Technical Information are and shall constitute trade secrets of the BHEL. Nothing in this Agreement or in any disclosures made hereunder by or on behalf of the Company shall be construed as granting upon the Supplier any patent, copyright or design or any other intellectual property rights of whatsoever description that subsists or may hereinafter exist in the Technical Information. Furthermore, nothing in this Agreement or in any disclosures made hereunder by or on behalf of the Company shall be construed as granting upon the Supplier any license or rights of use of such patent,

Annexure-G

copyright or design or any other intellectual property rights of whatsoever description which may now or hereafter exist in the Technical Information except for use of the Technical Information strictly in accordance with this Agreement and the Contract and/or as directed in writing by the Company, solely for the Intended Purpose under the Contract.

- 4.3 Neither Party is obligated by or under this Agreement to purchase from or provide to the other Party any service or product and that any such purchase/sale of any product and/or service by one Party to the other Party will be governed by the Contract if any, that may be entered into by and between the Company and the Supplier.
- 4.4 The Supplier is/has been made well aware and acknowledges that the Technical Information being/which may be shared with it by the Company has been either generated by the Company by incurring huge investment and cost or obtained from foreign collaborators under Technical Collaboration Agreement (TCA) with stringent confidentiality conditions.
- 4.5 The Supplier agrees and undertakes to adhere to confidentiality requirements as applicable to BHEL under a TCA and also ensure that the confidentiality requirements are adhered to by all its concerned employees or sub-contractors/suppliers (where permitted to be engaged by BHEL). Any damages, losses, expenses of any description whatsoever, arising out of or in connection with a breach of the confidentiality requirements under a TCA owing to any act or omission on the part of the Supplier or its employees or sub-contractors/suppliers that is claimed by a foreign collaborator from the Company shall be wholly borne by the Supplier and it shall keep BHEL fully indemnified in this behalf. The demand by the Company shall be conclusive upon the Supplier who shall thereupon forthwith pay to the Company without demur, dispute or delay the amount as demanded without demanding any further proof thereof.
- 4.6 The Supplier agrees and undertakes that unless so decided and advised by the Company in writing all rights/title to any Improvement to the Technical Information shall vest in the Company. The Supplier undertakes and agrees to inform forthwith to the Company of any such Improvement made to the Technical Information and transfer all drawings/documents or other materials connected with such Improvement to the Company and also agrees to fully cooperate with the Company for protecting the Company's interests in such Improvement in the Technical Information including but not limited to obtaining necessary protection for the intellectual property rights in such improvement, if so desired by the Company. If a question arises whether a modification amounts to Improvement to the Technical Information, the same shall be decided by the Company and such decision shall be final and binding upon the Supplier.

5. Use and Non-Disclosure:

- 5.1 Unless otherwise stipulated by the Company, all Technical Information made available to the Supplier, by the Company shall be treated as Confidential irrespective of whether the same is marked or otherwise denoted to be Confidential or not.

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- 5.2 The Supplier undertakes and agrees that the Technical Information in its possession shall be held in strict confidence and will be used strictly in accordance with this Agreement and solely for the Intended Purpose under the Contract. Use of the Technical Information for any other purpose other than Intended Purpose is prohibited.
- 5.3 In particular, the Supplier shall not use Technical Information or any Improvement in its possession for the manufacture or procurement of the Product(s) or components or parts thereof or use the Technical Information or any portion thereof or any modification or adaptation thereof in any form to provide any product and/or service to any third party, without the prior written consent of the Company.
- 5.4 The Supplier shall not disclose any of such Technical Information to any third party without the prior written consent of the Company. The Supplier agrees that without prior written consent of the Company, the Supplier shall not disclose to a third party about the existence of this Agreement, or of the fact that it is/was in possession of or has experience in the use of any Technical Information nor shall the Supplier share in any manner whatsoever, with a third party, the name or details of any Contract(s) awarded by the Company to it or performed by the Supplier or the scope of work thereof or share any document or correspondence by and between the Company and the Supplier in or in connection with this Agreement or such Contract(s). Notwithstanding what is stated elsewhere, the overall responsibility of any breach of the confidentiality provisions under this Agreement shall rest with the Supplier.
- 5.5 The Supplier undertakes and agrees not to make copies or extracts of and not to disclose to others any or all of the Technical Information in its possession, except as follows:
- (a) The Supplier may disclose the Technical Information to such of its officers and employees strictly to the extent as is necessary for such officer or employee for the Intended Purpose, provided that the Confidential Information (or copies thereof) disclosed shall be marked clearly as the confidential and proprietary information of Company and that such officers and employees shall similarly be bound by undertakings of confidence, restricted use and non-disclosure in respect of the Technical Information. The Supplier shall be responsible for any breach of such confidentiality provisions by such officers and employees.
 - (b) With the prior written consent of Company, the Supplier may disclose for the Intended Purpose such Technical Information as is provided for in such consent to such of its professional advisers: consultants, insurers and subcontractors who shall be similarly bound by undertakings of confidence, restricted use and non-disclosure in respect of such Technical Information.
 - (c) The Supplier shall not be prevented to make any disclosure required by (i) order of a court of competent jurisdiction or (ii) any competent regulatory authority or agency where such disclosure is required by law, provided that where the Supplier intends to

make such disclosure, it shall first consult Company and take all reasonable steps requested by it to minimize the extent of the Technical Information disclosed and to make such disclosure in confidence and also shall cooperate with the Company in seeking any protective order or any other remedy from proper authority in this matter.

6. Exceptions:

The obligations of the Supplier pursuant to the provisions of this agreement shall not apply to any Confidential Information that:

- a) was/is known to, or in the possession of the Supplier prior to disclosure thereof by the Company;
- b) is or becomes publicly known, otherwise than as a result of a breach of this agreement by the Supplier.
- c) is developed independently of the Disclosing Party by the Supplier in circumstances that do not amount to a breach of the provisions of this Agreement or the Contract;
- d) is received from a third party in circumstances that do not result in a breach of the provisions of this Agreement.

7. The obligation of maintaining confidentiality of the Technical Information on each occasion, shall subsist for the entire duration during which the Technical Information / equipment is in possession of the Supplier and shall thereafter subsist for a further period of ----- years from the date when the complete Technical Information has been returned to the Company and if Technical Information has been returned in portions on different dates then, the period of ---- years will be reckoned from the date when the last portion of the Technical Information has been returned. Notwithstanding the expiry of the confidentiality obligation, the obligation of the Supplier under clause 5.4 shall continue to subsist for a further period of ----- years.

8. Warranties & Undertakings:

a) The Supplier undertakes to ensure the due observance of the undertakings of confidence, restricted use and non-disclosure by its persons to whom it discloses or releases copies or extracts of the Technical Information.

b) The Supplier shall keep the Technical Information or improvement made therein properly segregated and not mix up the same with any other material/documents belonging to him/it or to any other third party.

c) The Supplier further undertakes that he/it shall not hypothecate or give on lease or otherwise alienate or do away with any of the Technical Information and/or equipment of the Company, made available to him/it, and undertakes that he/it shall hold the same as a trustee, in capacity of custodian thereof and use/utilise the same solely for the purpose of executing the Contract awarded by the Company.

d) The Supplier further undertakes that he/it shall return all the equipment and/or Technical Information as far as practicable in the same condition in which the same was made available to him/it by the Company together with any Improvement thereon and the documents connected with such Improvement, to the Company forthwith upon completion of the scope of work or

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Contract for which such Technical Information was provided by the Company to it or as directed by the Company together with a confirmation by way of an affidavit or in such manner as directed by the Company that it has not retained any equipment and/or Technical Information/Improvement thereof. In case any such equipment and/or Technical Information or Improvement thereof shall remain in his possession or is not capable of being returned, the retention and use of such Technical Information or Improvement thereto shall continue to be governed by this Agreement.

e) The Supplier undertakes to indemnify the Company for all the direct, indirect and/or consequential losses, damages, expenses whatsoever including any consequential loss of business, profits suffered by the Company owing to breach by the Supplier of its obligations under this Agreement and/or the confidentiality requirements, if any, contained in the Contract and that the Supplier hereby agrees that the decision of the Company in all such or any such matter/s shall be final and binding on the Supplier. On mere written demand of the Company, the Supplier shall forthwith and without demur or delay pay to the Company any such sum as determined by the Company as the amount of loss or damage or expense which has been suffered by the Company. The Supplier agrees that the Company shall be entitled to withhold and appropriate any amount payable to the Supplier under any Contract then existing between the Company and the Supplier, in case the Supplier fails to make payment, in terms of the written demand, within 7 days thereof. Without prejudice to the foregoing actions, in respect to any breach of this Agreement, the Company shall be entitled to take any other action against the Supplier as per applicable laws, the Contract, Company's applicable policies, guidelines rules, procedures, etc.

9. Without prejudice to any other mode of recovery as may be available to the Company for recovery of the amount determined as due as per Clause 9(f) hereinabove, the Company shall have a right to withhold, recover and appropriate the amount due towards such losses, damages, expenses, from any amount due to the Supplier in respect of any other Contract (s) placed on him/it by any department/office/Unit/Division of the said Company.

10. Arbitration & Conciliation:

a) In case amicable settlement is not reached between the Parties, in respect of any dispute or difference or claim or controversy arising out of the formation, breach, termination, validity or execution of the Contract(or Agreement) or the respective rights and liabilities of the parties or in relation to interpretation of any provision of the Contract or in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference or controversy or claim, (except as to any matters, the decision of which is specifically provided for therein) to the sole arbitration by the arbitrator appointed by Head/In-Charge of the Unit/Division/Region.

b) The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the parties to the dispute.

c) Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India), or other statutory modifications or re enactments thereof and the rules made thereunder and for the time

being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be at ----- **(Insert the name of the city/town of the concerned Unit/Division).**

d) In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:

In the event of any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of public enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively.

f) Notwithstanding the existence or 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.

11. Governing Law & Jurisdiction:

This Agreement shall be governed by and be construed as per applicable Indian Laws in force at the relevant time.

Subject to clauses 10(a) and 10(d) hereinabove, all matters in connection with the subject agreement shall be subject to exclusive jurisdiction of Courts situated at -----**(insert the name of the place where the Unit/Division is located)**

SIGNATURE

WITNESSES

1

Name
Address:

2.

Name:
Address:

Annexure-H*(Applicable only for MSE Suppliers)***Certificate by Chartered Accountant on letter head**

This is to Certify that M/S,
 (hereinafter referred to as 'company') having its registered office at
 is registered under MSMED Act 2006, (Entrepreneur
 Memorandum No (Part-II)
 dtd:....., Category: (Micro/Small)). (Copy enclosed).

Further verified from the Books of Accounts that the investment of the company as per the latest audited financial year as per MSMED Act 2006 is as follows:

1. **For Manufacturing Enterprises:** Investment in plant and machinery (i.e. original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification No.S.O.1722(E) dated October 5, 2006 :
 Rs.....Lacs
2. **For Service Enterprises:** Investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006:
 Rs.....Lacs

(Strike off whichever is not applicable)

The above investment of Rs.....Lacs is within permissible limit of Rs.....Lacs forMicro / Small **(Strike off which is not applicable)** Category under MSMED Act 2006.

Or

The company has been graduated from its original category (Micro/ Small) **(Strike off which is not applicable)** and the date of graduation of such enterprise from its original category is (dd/mm/yyyy) which is within the period of 3 years from the date of graduation of such enterprise from its original category as notified vide S.O. No. 3322(E) dated 01.11.2013 published in the gazette notification dated 04.11.2013 by Ministry of MSME.

Date:

Name :

(Signature)

Membership number:

Seal of Chartered Accountant:

ANNEXURE – L

AUTHORIZATION LETTER FOR PARTICIPATING TENDER OPENING
(ON BIDDER'S LETTER HEAD)

Ref: Tender-OS-BAP-BHEL

Dt:.....

We, M/s.....
(name of the Tenderer)

hereby authorize Mr / Ms.....
(Name of the representative)

to participate in the Tender opening at BHEL-Ranipet for **Tender No: 655002E**
dt.22.11.2016

The representative's specimen signature is appended below & attested.

(Signature of the representative)

-/Signature of the representative is attested/-

(Signature of Authorized Person with Firm Seal)