

**Subject:-** Maintenance of Window AC, Split AC, Tower AC etc, for 24 months (both Remote and manual operation). This entrusted work is being given for ACs which are not covered under any other AMC/Warranty.

**1 Definitions:-**

- A) "Company" shall Mean Bharat Heavy Electrical Limited Bhopal, a company incorporated under the companies Act' 1956, and having its registered office at BHEL House, Siri Fort, New Delhi – 110045 here in after referred to as BHEL and includes a duly authorized representative of the company or any other person empowered in this behalf by the company to discharge all or any of its functions.
- B) "Accepting Authority" shall mean the Head of the WE&CS – Mechanical Section or any other person authorized by him.
- C) " The contractor " shall mean the notice inviting the tender and acceptance there of and the formal agreement if any, executed between the Bharat Heavy Electricals Ltd. Bhopal and the contractor together with the documents referred to there in including these conditions, and any Special conditions, specifications, designs, drawings etc. These documents taken shall be deemed to form one contract and shall be complementary to one another.
- D) The "Contractor" shall mean the individual or firm or company whether incorporated or not, under taking the work and shall include legal representatives of such individual or persons composing such firm or incorporated company or successors of such person, as the case may be and permitted of such individual or firm or company.
- E) The "Contract sum" shall mean the lump sum for which the tender is accepted in the case of lump sum contract and in the case of item rate the total cost of the works arrived after extension of quantities shown in schedule of quantities by the item rates quoted by the tenderer for various item.
- F) A " Day shall mean a day of 24 hours from midnight to mid night " Irrespective of the number of hours worked in that day.
- G) A week shall mean seven days without regard to the number of hours worked in any day in the week.
- H) The "work" shall mean the work to be executed in accordance With the contract or part(s) there of as the case may be and Shall include all extra, additional, altered or substituted Work or temporary and urgent work as required for performance of the contract.
- I) "Engineer-in-Charge " shall mean the Engineering officer appointed by the Accepting Authority, who shall direct, supervise and be in-charge of the work for purpose of this contract.

**SCOPE OF PERFORMANCE**

**2 Contract Documents:**

The contractor shall be furnished free of charge, two Certified true copies of the contract documents. He shall keep one copy of this document on the site in good order, and the same shall as all, reasonable times, be available or inspection and use by the Engineer-in-charge, his representatives or by other Inspecting Officers.

- 2.1 None of document shall be used by the contractor for any Purpose other than that of this contract.
- 2.2 The contractor shall take necessary steps to ensure that all persons employed on any work in connection with this contract have noticed that Indian Official Secrets Act, 1923, applies to them and shall continue so to apply even after the execution of such work under the contract.

**3 Work to be carried out:**

**The work to be carried out under the contract shall except as otherwise provided in these conditions, include all Labour**

**4 Inspection of work before submission of tender:**

The contractor shall examine the quantum of work and shall satisfy himself before submitting his tender. He shall himself asses the requirement of materials, contingencies and other circumstance which may affect or influence his tender, no extra charges on any misunderstanding or otherwise shall be allowed.

**5 Sufficiency of the tenderers :**

The contractor shall be deemed to have satisfied himself before tendering as to correctness and sufficiency of his tender, the work and prices. This shall except as otherwise provided all obligation under the contracts all matters and things necessary for the proper completion and maintenance of the works.

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#### **6 Discrepancies and adjustment of errors:**

The several documents forming the contract are to be taken as mutually explanatory of one another. If there are varying or conflicting provisions made in any document forming part of the contract, the accepting authority shall be the deciding authority with regard to the intention of the document. Any error in description, quantity or rate or any omission these form shall not initiate the contract or release the contractor from execution of whole or any part of work comprised. These and according to drawings and specification or from any of his obligation under the contract.

#### **7 Earnest Money Deposit & Security Deposit :**

##### **7.1 Earnest Money (Rs. 43527)**

Modes of deposit :- The EMD may be accepted in the following forms:

- (i) Only Electronic mode, Fund Transfer credited in BHEL account (before tender opening)
- (ii) In case total EMD amount is more than `Rs 20 Lakh, the amount in excess of Rs 20 lakh may be accepted in the form of Bank Guarantee from scheduled bank. The Bank Guarantee in such cases shall be valid for atleast six months.

##### **7.2 Security Deposit:**

Security Deposit means the security provided by the Contractor towards fulfilment of any obligations in terms of the provisions of the contract.

The total amount of Security Deposit will be 5% of the contract value. EMD of the successful Tenderer shall be converted and adjusted towards the required amount of Security Deposit.

The balance amount to make up the required Security Deposit of 5% of the contract value may be accepted in the following forms:

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

(Note: 1.BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.

2. In case of (a) small value contracts not exceeding Rs. 20 Lakhs or (b) SAS jobs, work can be started before the required security Deposit is collected. However, payment can be released only after collection/recovery of initial 50 % security Deposit.)

#### **8 Time and Extension for delay:**

The time allowed for execution, which shall be mutually agreed between the BHEL and the contractor, and mentioned in the work order, along with these conditions shall be of the essence of the contract. The execution of the work shall commence immediately after the date on which the Engineer-in-charge issues written order to commence the work or from the date of handing over the plant which ever is later unless specified otherwise elsewhere. If the contractor commits default in commencing the execution of the work as aforesaid, Company/ Corporation shall without prejudice to any other right or remedy be at liberty to cancel the order and forfeit the earnest money/ security Deposit.

8.1. As soon as possible after the contract is awarded, the Engineer in charge and the contractor shall agree upon a time and progress chart. The chart shall be prepared in direct relation to the time stated in the contract documents for completion of the work. It shall indicate the forecast of the dates of commencement and completion of various activities to be done for completion of the work as per contract. This may be amended as necessary by agreement between the Engineer-in-charge and the contractor with in the limitations of time imposed in the contractor document & further to ensure good progress during the execution of the work.

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8.2 If the work delayed by:

- a) Force majeure, or
- b) Serious loss or damage by fire, or
- c) Delay on the part of other contractor or company/ corporation in executing work not forming part of contractor.
- d) Non-availability/ release of the machines which is in the responsibility of company/ corporation or,
- e) Any other case, which is in the absolute discretion of the accepting authority & is beyond contractor's control.

Then upon the happening of any such delay the contractor shall immediately give notice there of in writing to the Engineer-in-charge but shall never lose constantly his best endeavors to prevent or make good the delay and shall do all that may be reasonably required to the satisfaction of the Engineer-in-charge to proceed with the work.

8.3 Request for extension of time to be eligible for consideration shall be made by the contractor in writing within seven days of the happening of the event causing delay. The contractor may also, if practicable, indicate in such a request the period for which the extension is required.

8.4 The accepting authority may give a fair and reasonable extension of time for completion work, Such extension shall be communicated to the contractor by the Engineer-in-Charge in writing within the month of the date of the receipt of such request.

## **9 Inspection and Approval:**

9.1 All work embracing more than one process shall be subject to Examination and approval at each stage thereof and the contractor shall give due notice to the Engineer-in-charge or his authorized representative when each stage is ready.

9.2 No work shall be covered up or put out of view without the approval of Engineer-in-charge or his representative and the contractor shall afford full opportunity for examination of any work, which is about to be covered up or put out of view. In the event of the failure of the contractor to do as aforesaid, if required by Engineer-in-charge he shall uncover such work at contractor's own expenses.

9.3 Company officer concerned with the contract shall have powers at any time to inspect and examine any part of the work and the contractor shall give such facilities as may be required for such inspection and examination.

## **10 Penalty as per Scope of work annexure -I clause no- 5**

## **11 Contractor's Labour/Worker while working inside :**

11.1 Contractor shall furnish to the Engineer-in-charge a complete list of the persons engaged on the work giving the following details.

- a) Name
- (b) Age
- (c) Trade

Change over subsequently if any shall be furnished by the contractor to the Engineer-in-charge.

11.2 The contractor shall comply with the contractor's obligations & statutory compliances for work contract as per Annexure - IV and it shall be the part of agreement of this contract.

## **12 Nuisance:**

The contractor shall not any time do, cause or permit any nuisance on the work site or do anything shall cause unnecessary disturbance or Inconvenience to other workers.

## **13 General Terms :**

13.1 BHEL shall have the privity of the contract with the contractor only and will give instructions to the contractor or his authorized representative. BHEL will have nothing to do or be concerned with the employment of employees working for the contractor. The relationship between BHEL and the contractor will be that of independent entities and nothing herein contained will amount to joint venture, partnership or an employer-employee relationship.

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13.2 The contractor shall maintain regular contact with the designated employee (s) of BHEL and will interact on matters relating to the work awarded under this contract.

**14 Terms of Payment :**

Payment terms as per scope of work clause No-8.

**15 Defects liability period – Guarantee :**

The contractor shall guarantee the executed work for satisfactory performance for 3 months from the date of handing over with major impairment, mal-operation and accidents. And after this SD will be released.

**16 Rights & Obligation of BHEL :**

- a) In case the contractor does not carry out the Contractual/ Statutory obligations or the services rendered by him are found to be unsatisfactory, BHEL shall bring the same to his notice and he will be obliged to discharge the obligations and rectify the deficiency / anomaly within three days time failing which, BHEL reserves the right to terminate the contract without assigning any reason whatsoever. In such an event, no damages will be payable for short closure of the contract.
- b) If the Contractor Commits default in complying with any of the terms conditions of the contract and does not remedy it or take effective steps to remedy in with in 3 days after a notice in writing is given by Engineer-in-charge failing which BHEL reserves the right to terminate the contract.
- c) The cancellation of the contract may be either for whole or part of the contract at BHEL's option. In the event of termination of contract in whole or part BHEL may procure upon such terms and in such manner as deemed appropriate, supplies or services similar to those so terminated and the contractor shall be liable to BHEL for any excess costs for such similar supplies or services provided that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.
- d) The decision of BHEL regarding interpretation of any terms and conditions set forth in the Agreement shall be final and binding on the contractor.  
The award of the arbitrator shall be final and binding on both the Parties. The venue of the Arbitration shall be Bhopal (M.P.) in India.
- e) The Award to be given by the Arbitration shall be a speaking award. All questions, disputes, differences arising under, out of or in connection with this contract shall be to the exclusive jurisdiction Bhopal (M.P.) Courts.

**17 Arbitration and Law.**

Except where otherwise provided for the contract, all questions and disputes relating to the meaning of the specifications designs, drawings, and instruction here in before mentioned and as to the quality of workmanship of materials used on the work or as to any other, question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, design, drawing, specifications, estimates, instructions, orders, or these conditions or otherwise concerning the works, or the execution or failure to execute same whether arising during the progress of the work or after the completion or abandonment there of shall be referred to the sole arbitration of the General Manager of WEX, BHEL, Bhopal and if the General Manager, is unable or unwilling to act to the sole arbitration, of some other person appointed by the General Manager willing to act as such arbitrator. There will be no objection if the arbitrator is appointed is an employee of BHEL and that had to deal with the matters to which the contract relates and that in the course of his duties, as such he had expressed views on all or any of the matters in dispute or difference.

The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason, such General manager as aforesaid at the time of such transfer, vacation of office or inability to act, shall appoint another persons to act as arbitrator in accordance with the terms of contract. Such person shall be entitled to proceed with the reference from the stage at which his predecessor left it. It is also a terms of this contract that no person other than a person appointed by such General Manager, as aforesaid should act as arbitrator and if for any reason, that is not possible, the matter is not to be refereed to arbitration at all. .

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Subject as aforesaid the provision of the arbitration Act, 1940, or any statutory modification/reconditioning or reactant thereof and the rules made there under and for the time being in forces shall apply to the arbitration proceeding under this clause.

Subject as aforesaid the provision of the arbitration Act, 1940, or any statutory modification/reconditioning or reactant thereof and the rules made there under and for the time being in forces shall apply to the arbitration proceeding under this clause. It is a term of the contract that the party involving arbitration shall specify the dispute or disputes to be referred to arbitration under this clause together with the amount or amount claimed in respect of each dispute. The arbitrator (s) may from time to time will consent of the parties enlarge the time for making and publishing the award.

The work under the contract shall if reasonably possible continue during the arbitration proceedings and no payment due or payable, to the contractor shall be withheld on account of such proceedings. The arbitrator shall be deemed to have entered in the reference on the date of the first hearing. The arbitrator shall give a separate award in respect of such dispute or difference referred to him. The venue of arbitration shall be such place as may be fixed by the arbitrator in his sole discretion. The award of the arbitration shall be final, conclusive and binding all parties to this contract.

**18** Income Tax deduction at source will be as applicable from time to time.

**19** Central Government Service Tax or as applicable. Which will be deposited by the you must be clearly indicated in the "Schedule for Rates".

**20** **Jurisdiction:**

The jurisdiction in all cases shall be at Bhopal.

- 1) Contractor should engage only those workers who are qualified / experienced for the work to be done and for which contract has been awarded.
- 2) Work should be all the time during the execution period to be supervised either by the contractor himself or by qualified authorized supervisor of the contractor.
- 3) It is the responsibility of the contractor to ensure safe working of his workers while carrying out the work and should follow all Statutory Safety Precautions and rules. Contractor should provide and ensure use of Safety Belts, Face Shield, Nose & Mouth Masks, Goggles, Glasses, Ear Plug, Welding Shields, Hand Gloves, Safety Shoes etc by his workers for safe working.
- 4) Contractor should engage Skilled Riggers and Slingers for handling and Shifting of Plants & Equipment and other heavy jobs. Proper size of Slings and 'D' Shackles should be used in consultation with BHEL Supervisor/ Engineer. In no case under capacity or rejected or damaged Slings/ 'D' Shackles should be used.
- 5) Special precautions should be taken while working at height or handling of heavy jobs. Contractor should ensure that none of his worker works at a height without using Safety Belts. Contractor himself should supervise the work while working at height or handling of Heavy Plants & Equipment; and should intimate in writing to concerned BHEL Supervisor/ Engineer before commencement of work.
- 6) Contractor should ensure that none of the employees work without putting on Safety Shoes. No worker should be allowed to come inside the factory putting on **Slippers or Chapples**.
- 7) Contractor should inform in writing concerned BHEL Supervisor/ Engineer and BHEL Fire Officer before commencement of any type of Welding work at a height or at Hazardous area where danger of catching Fire exists.
- 8) Contractor himself or any of his worker should in no case operate BHEL's EOT/ Mobile Cranes, Jumbo / Fork Lift Trucks/ Tractors and any of the Machine Tools & Equipments which are not concern to scope of work..
- 9) In case of any Accident causing injury of casualty to any of Contractor's worker or Contractor himself while carrying out the work, the complete responsibility lies with the Contractor. Contractor should ensure to provide immediate Medical help to his injured worker/ workers and should provide Compensation as per M. P. Govt.

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Workmen's Compensation Act' 1923, in case of injury or casualty causing out of accident while on work to his workers.

## **21 CONTRACTUAL:**

- a) Contractor shall decide the number of employees to be deployed for execution of particular day to day work and he or his authorized representative will be solely entitled to dictate such workers about the manner of carrying out the work as per the requirement.
- b) Contractor shall supervise the work allotted to him and to be carried out by his employees.
- c) Contractor to ensure that the employees deployed in the premises of BHEL are physically and mentally fit and do not have any criminal record. Such employees should possess requisite skill, proficiency, qualification, experience etc.
- d) Contractor to maintain appropriate records of his employees deployed to carry out the job(s).
- e) Contractor may issue appropriate appointment letters to his employees.
- f) Contractor to provide employment card/ identity card with photograph duly verified and attested by the Contractor to his employees. Contractor to indicate the name of the proprietary/ partnership Firm/ Company, place of work, contract number and duration of validity of card.
- g) Contractor will be responsible for the good conduct of his employees. In case of any misconduct/ misbehavior by any employee, the contractor will replace such employee(s) immediately.
- h) Contractor will ensure that the job is executed through his employees on his rolls and under no circumstances the contractor will deploy any casual employee to carry out the job nor shall sub-contract the job without prior written permission.
- i) Contractor will keep watch on his employees and he will be liable for any pilferage / loss to BHEL due to acts of omission and commission by his employees. Similarly, liability for any compensation to outsiders on account of any act of omission and commission by the employees deployed by the contractor shall lie exclusively with him.
- j) Contractor to provide safety appliances and safety shoes to his employees. The contractor shall be responsible for enforcing all safety regulations as per Safety Annexure .
- k) The contractor has to provide a distinct uniform different from BHEL employees. The Uniform should have logo of the Contractors firm/ company. The Uniform shall be kept in neat, tidy and wearable condition. Wherever necessary, the Cap shall be integral part of the Uniform.
- l) Contractor to ensure that all precautions are taken for safety of his employees and equipments.
- m) In the event of termination of contract for any reason whatsoever, the contractor shall withdraw all his employees from the establishment of BHEL. In case contractor decides to terminate services of his employees, he should settle all terminal dues including retrenchment compensation.
- n) Contractor shall provide to his employees all tools, tackles, and equipments and maintain the same to carry out the job under the contract at his cost and if necessary contractor may take insurance policy of his men, material, equipments, tools and tackles.
- o) Contractor shall provide safety appliances and maintain the same at his own cost, which may be required under the statute of otherwise.
- p) Contractor shall provide material at his cost as mentioned in the contract to his employees for carrying out the job.

## **22 Towards Statutory Liability:**

- a) All statutory requirements under Minimum Wages Act, 1948, Payment of Wages of Act, 1936, Workmen Compensation Act 1923, E P F & M P Act 1952. Payment of Gratuity Act 1972, E S I Act 1948, The Contract Labour (R&A) Act 1970, Payment of Bonus Act, 1965, Income Tax Act, Service Tax and all other applicable Acts shall be complied with by the contractor.
- b) Contractor shall comply with all statutory requirements, rules, regulations and notifications in relation to employment of his employees issued from time to time by the concerned authorities.

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- c) Contractor shall ensure payment of statutory prescribed minimum wages as applicable from time to time & including additional wages inside the factory in the presence of authorized representative of BHEL and maintain proper records of their timely disbursement. These records need to be preserved for a period of at least 3 years and should be made available even after the contract is over for any verification by the statutory authorities/ BHEL authorities.
- d) Contractor to provide PF pass book to his employees and ensure payment of PF, EDLI, Pension dues under the EPF & M.P. Act, 1952 to the RPFC.
- e) Contractor shall ensure payment of ESI contribution under ESI Act, 1948 and provide ESI membership No. / Card of each employee.
- f) Contractor shall produce proof of deductions as well as remittance of PF, EDLI, Pension ESI contribution, Administrative Charges etc. wherever applicable and shall maintain proper records. Contractor to issue wage slips to his employees one day before the last day of the month.
- g) Contractor shall furnish proper returns to the concerned statutory authorities and provide a copy of the same to BHEL.
- h) Contractor shall be solely responsible for non-payment/ delayed payment of Wages / DA, contributions under EPF & M.P. Act, ESI Act etc.
- i) In case the contractor fails to make payment of wages to his employees or remittance of contribution to the concerned authorities, the security deposit/ other dues/ running bills under the contract can be utilized by BHEL to discharge the liability of the contractor.
- j) Contractor shall indemnify BHEL against all claims and losses under various Labor Laws, statutes or any civil or criminal law in connection with employees deployed by him.
- k) The liability for any compensation on account of injury sustained by an employee of the contractor will be exclusively that of the contractor.
- l) Contractor to obtain insurance cover for his employees/ equipment/ tools and tackles etc. and take third party risk insurance coverage at his own cost.
- m) BHEL shall not be responsible for any loss, damage, and pilferage of his property and/ or his employees. Contractor should have independent code numbers/ exemptions under EPF & M.P. Act, 1952 and ESI Act, 1948 and shall cover his employees under the said codes.
- n) Payment of Bonus under the Payment of Bonus Act, Payment of Gratuity Act and retrenchment compensation under Act will be the sole responsibility of the contractor.
- o) Over and above the daily wage rate, payment shall be made for leave with wages.
- p) Contractor shall observe Provisions of Factories Act in respect of working hours, holidays, rest intervals, leave and overtime to his employee. No work shall be done on second/ third shift, overtime, Sundays or on other declared holidays without written permission.
- q) In case of the contractor employs Women as employee he will discharge his obligation under law in respect of such women workers such prohibition of engaging them during night – hours, prohibition of employing them for more than 9 hours per day, provision of crèche facility, grant of maternity leave as per rules etc.
- r) Contractor shall be responsible for making payment of wages before expiry of 7 days from the last day of wage period and to ensure disbursement of wages in the presence of the authorities' representative of contract operating division who shall record under his signature at the end of entries in the Register of wages.
- s) Contractor to obtain license under CL (R&A) Act, 1970.

The above said statutory compliances have to be strictly ensured and any complaint received in this regard would be severely dealt with including termination of contract as well as delisting of the contractor for future.

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