

**CONTRACTUAL AND LEGAL OBLIGATIONS OF THE CONTRACTOR****A) GENERAL CONDITIONS:**

1. BHEL shall have the privity of the contract with the contractor only and will give instructions to the contractor or his authorized. 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.
2. The contractor shall maintain regular contract with the designated employee(s) of BHEL and will interact on matters relating to the work awarded under this contract.
3. 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.
4. The liability for any compensation on account of injury sustained by an employee of the contractor will be exclusively that of the contractor.
5. Contractor shall observe Provision of the Factory 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 on other declared holidays without written permission.
6. Contractor shall obtain Police Verification of all his workers.
7. Contractor shall ensure following while executing contract.
  - i) Employment card as per rule no 76 of contract labour (Regulation & Abolition) M.P. rules, 1973.
  - ii) Appointment letter to his employees.
  - iii) Annual leave with wages including EL, CL, National & Festival Holiday.
  - iv) Leave record register.
  - v) Shall engage only adult workers who have attained the age of 18.
  - vi) Work to be done on second/third shift, overtime, Sunday or on other declared holidays with written permission.
  - vii) Obtain insurance cover for his employees/equipment, tools etc & third party insurance coverage at his own cost.
  - viii) Remit Provident fund contributions in prescribed 3A & 6A forms.
  - ix) ESI contributions in Form 6.
  - x) Submit challans of PF & ESI contributions every month.
  - xi) Provide Personal protective equipments for employees.
  - xii) Distribute wage slip each month to employees.
  - xiii) Ensure payment as per minimum wages act, 1948 in presence of HR and concerned dept representative.
  - xiv) Preferably Uniform to labours different from BHEL employees.
  - xv) Submit employee and employer contribution as per Shram Kalyan Nidhi Adhiniyam 1982.
  - xvi) As per rules contractor shall provide BONUS for each worker deputed by him in this contract. For contract terminating before 30th Nov., contractor should pay the bonus before the final bill is cleared.

Contractor shall submit following Certificate for each contract separately.

"It is certified that PF challans of the amount ----- pertains to my workers whose names are appearing in the wage sheet of the month ----- and these workers are engaged in----- (type of work) against work Order no. -----  
 - In ----- (name of department).  
 Contractor Signature of

8. Leave – In case of workers who have worked for 240 or more days in the preceding year, annual leave with wages @ one day for every 20 days worked and 07days casual leave is to be provided. For all work contract labourers eight days paid holidays are to be provided in a year.
9. Maximum overtime permissible is 50 hours in a quarter. In case of overtime, contractor should ensure that payment is made at double the rate of normal wage. In case of working on Sunday, contractor should ensure that a weekly holiday is given to the worker.
10. Contribution to welfare fund – contractor should ensure that half-yearly contribution to MP Labour Welfare fund is deposited [ @ Rs.30/- (by contractor) per person and @ Rs.10/- (by worker) per person]. Many welfare facilities like student scholarship, distribution of note-books at subsidized rates, monetary help for daughter's marriage widow pension, vocational training, etc. flow from this fund.
11. Inspections – During inspection (by PF/ESI or Labour authorities), contractors should make themselves available for inspection of their records and cooperate with authorities and BHEL. Contractor should provide correct and complete information of their workers to all the authorities. They should keep all the registers and formats updated.
12. First and Final Bill to be cleared only after submission of Form VI A & VI B : Contracting executive shall within 5 days, from commencement and also on completion of Work Order, issue Form VI B which is a mandatory requirement. The format of Form VI B is available on CLC web page. HR/CLC shall follow up with the department to ensure this; Contractor shall within 5 days of commencement /completion of Work Order submit Form VI A to RLC office. He may be instructed accordingly by the contracting executive. Contractor shall submit a copy of Form VI A bearing the receipt seal of RLC office to HR. CLC shall display at its site the status of submission of form VI A & VI B. Finance shall process the first/final bill on clearance from HR regarding submission of Form VI A and VI B by contractor.

**B) TOWARDS SELECTION, CONTROL & SUPERVISION OF EMPLOYEES:**

1. Contractor shall decide the number of employees to be deployed for execution of the work awarded to him 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 prescribed specification quality plan. There shall be no interference or intervention whatsoever by BHEL.
2. Contractor shall supervise the work allotted to him and to be carried out by his employees. Contractor has to report daily to the engineer / supervisor incharge for allotment of work.
3. Contractor to maintain appropriate records of his employees deployed to carry out the job(s).
4. Contractor should issue appropriate appointment letter to his employees.
5. Contractor to provide employment card/Identity card with photograph duly verified and attested by the contractor to his employees. Contractor to indicate his name, place of work and duration of validity of card.
6. Contractor will ensure that the job is executed through his employees on his rolls and under no circumstances the contractor will deploy any casual employees to carry out the job nor shall sub-contract the job.
7. Contractor will keep watch on his employees and he is liable for any pilferage/loss to BHEL due to act 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 contractor shall lie exclusively with him.
8. Contractor to provide uniforms/safety appliances & safety shoes to his employees. The contractor shall be responsible for enforcing all safety regulations applicable to BHEL.
9. The contractor has to provide a distinct uniform different from BHEL employees. The uniform shall be kept in tidy & wearable condition. Wherever necessary, the same shall be integral of the uniform.
10. The contractor to ensure that all precautions are taken for safety of his employees & equipment.
11. In the event of termination of contract any reasons whatsoever, the contractor shall withdraw all his employees from the establishment of BHEL. As and when contract is terminated the
12. Contractor may discharge his employees after making payment towards retrenchment compensation.

**C) SAFETY AND DISCIPLINARY ACTION:**

1. Contractor shall ensure that his employee do not indulge in any unsafe or hazardous practices. They use safety equipment such as safety belts, safety shoes, goggles, helmet and masks where use such equipment is required in day-to-day operations.
2. Contractor to ensure that employee deployed in the premises is physically and mentally fit and do not have criminal record.
3. Contractor will be responsible for good conduct of his employees. In case of misconduct, contractor shall take prompt disciplinary action as per "Model Standing Orders" on the advice of contracting officer.

**D) TOWARDS STATUTORY LIABILITIES:**

1. Contractor shall comply with statutory requirements, rules, regulations, and notifications in relation to employment of his employees issued from time to time by the concerned authorities.
2. Contractor shall ensure payment of statutory prescribed minimum wages as applicable from time to time in the presence authorized representative of BHEL and maintain proper records of their timely disbursement. These records need to be preserved for a period of at least any 3 years and should be made available even after the contract is over for any verification by the statutory/BHEL authorities.
3. Contractor to provide PF pass book to his employees and ensure payment of PF, EDLI, pension dues under EPF & MP Act, 1952 to the RPFC.
4. Contractor shall ensure payment of ESI contributions under ESSI Act, 1948 and provide ESI membership no. of each employee.
5. Contractor shall produce proof of deductions as remittances of PF, EDLI, Pension, ESI contribution, administrative charges etc. wherever applicable and shall maintain proper records.
6. Contractor shall furnish proper returns to the concerned statutory authorities.
7. Contractor shall observe provisions of the Factories Act in respect of working hours, holidays, rest intervals, leave and overtime to his employee. No work shall be done second/third shift, overtime, Sundays or on other declared holidays without written permission.
8. In case contractor employs women as he will discharge his obligation under law in respect of such women workers such as prohibition of engaging them during night-hours, prohibition of employing them for more than 9 hours per day, provision of creche facility, grant of maternity leave as per rules etc.
9. Contractor shall indemnify BHEL against all claims and losses under various statutes or any civil or criminal law in connection with employees deployed by him.
10. The liability for compensation on account of injury sustained by an employee of the contractor will be exclusively that of the contractor.
11. Contractor to obtain insurance cover for his employees/equipments, tools & tackle etc. and take third party risk insurance coverage at his own cost, BHEL shall not be responsible for any loss, damage, pilferage of his property under employees.
12. Contractor should have independent code numbers under EPF & MP Act, 1952 and ESI Act, 1948 service tax and shall cover his employees under the said codes.
13. Contractor to obtain license CL (R&A) Act, 1970.
14. Contractor shall fully comply with provision of various applicable labour provisions of the following enactments and other enactments as applicable for such contracts.
  - Contract Labour (R&A) Act 1970 and rules 1971.
  - Payment of wages Act.
  - Minimum Wages act 1948, M.P. Rules 1958.
  - Employees State Insurance Act 1948, Rules and regulations 1950.
  - Employees Provident Fund Act 1952 and Pension Scheme 1995.
  - Workmen's Compensation Act 1923.
  - M.P. Industrial Relations Act 1960 and Factory Act 1948.

- Maternity Benefit Act 1961.
- Equal Emolument Act 1976.
- M.P. Shram Kalyan Nidhi Adhiniyam 1982.
- Payment of Bonus Act 1963.
- Inter State Migrant Act.

15. Contractor shall commence the work only after obtaining:
  - i) Labour Licence, (ii) Provident fund code no. (iii) ESI code no.
  - iv) Registration no. (v) Notice of commencement in Form 6-A & Maintain Resister of workers in Form 13.

#### **E) PAYMENT OF WAGES:**

1. Contractor shall be responsible for making payment of wages through online banking/Bank/Cheque before expiry of 7 days from the last day of wage period. No other mode of payment shall be acceptable.
2. In case contractor fails to make payment of wages to his employees or remittance of contribution to the concerned authorities, the security deposit /other dues under the contract can be utilized by BHEL to discharge the liability of the contractor.
3. Contractor shall be solely responsible for non payment/delayed payment of wages, contribution under EPF & MP Act, ESI Act etc.
4. In case the contractor fails to make wages to his employees or remittance of contribution to the concerned authorities, the security deposit/other dues under the contract can be utilized by BHEL to discharge the liability of the contractor.
5. Payment of bonus under the payment of bonus Act, payment of gratuity under the payment of Gratuity Act, and retrenchment compensation under Act will be sole responsibility of the contractor.
6. Over and above the daily wages rate, payment shall be made for leave with wages.

#### **F) TOWARDS SUPPLY OF TOOLS AND TACKLES:**

1. Contractor shall provide to his employees all tools, tackles and equipments and maintain the same to carry out job contract at his cost and if necessary contractor shall take insurance of his resources-man, material, equipments and tools & tackles.
2. Contractor shall provide safety appliances & maintain the same at his own cost which may be required under the statute or otherwise.
3. Contractor shall provide tools and tackles at his cost to his employees for carrying the job.

#### **G) TOWARDS FINANCE**

1. Contractor to arrange his own finance for carrying out the job including supply of tools, tackles and equipments to his employees, materials, payment of wages to his employees etc. Rate quoted shall be net and inclusive of all taxes and levies which might be applicable to this type of job.

#### **H) RIGHTS AND OBLIGATION OF BHEL:**

1. In case the contractor does not carry out the contractor/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 obligation and rectify the deficiency/anomaly within three days (specify time) failing which BHEL reserves the right to impose penalty terminate the contract without assignment any reason whatsoever. In such an event, no damages will be payable for short closure of the contract.
2. Without prejudice aforesaid clause, BHEL reserves its right terminate the contract without assigning any reason by giving 30 days notice in writing to contractor.
3. The decision of BHEL regarding interpretation of terms and conditions set forth in the agreement shall be final and binding on the contractor.
4. Duration of contract i.e, date of start and date of completion is specifically provided in the contract. Both the parties can reserve the right to extend the contract on mutually agreed terms and conditions.
5. In case of any dispute concerning the terms and condition of the contract or its implementation, attempts need to be made by the parties to settle the matter amicably. In case the dispute is not resolved the dispute needs to be referred for conciliation by an officer of BHEL. In case it remains unresolved, the dispute be referred for arbitration by an officer of BHEL. In case arbitration by an officer of BHEL is not acceptable, the same could be entrusted to any mutually agreeable Government functionary or an independent person.
6. The contract needs to be executed on proper stamps paper to be purchased by the contractor (stamps fees be ascertained as per the applicable rates in the concerned State). It should be signed with seal of the Firm/Company and witnessed.

#### **I) Force Majeure Clause:**

Neither the BHEL nor the contractor shall be held responsible for total or partial non execution of any of the contractual obligations of this tender, caused by or arising from an event force majeure which will include war, military operations of any nature, blockages, revolutions, riots, public war, acts of god, epidemics and act of Govt. over which the contractor or BHEL has no control.

## **J) ARBITRATION & CONCILIATION**

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference ; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or; in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other party refer such dispute or difference to the sole arbitration appointed by Head of the BHEL Unit/Region/Division issuing the Contract.

The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties.

Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be BHOPAL.

The cost of arbitration shall be borne as per the award of the Arbitrator.

Subject to the arbitration in the terms of Clause (I) above, the Courts at Bhopal shall have exclusive jurisdiction over any matter arising out of or in connection with this Contract.

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 contract.

**(Signature & Seal of bidder)**