**ANNEXURE-A – ENQ. NO. 2612000028**

**Enquiry Terms & Conditions for Supply of Cobalt base powder for PTAW**

**Note: This Annexure has to be mandatorily filled & signed by the manufacturer (or) mill and submitted along with Technical bid.**

***Any deviation to the below mentioned terms shall be stated specifically in the comments column for each term and also in case of acceptance to our terms, it will be construed that the whole term is understood and agreed in totality without any deviation. (If otherwise mentioned).***

| Sl No | BHEL Requirements | Supplier Comments |
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| 01. | **Material specification:**<br>Supply shall be made strictly as per Specifications mentioned in the enquiry and and WCPI | |
| 02. | **Specification, Size & Quantity:**<br>a) Specification, size and quantity shall be as given in enquiry.<br>b) Material to be supplied fully meeting the specification as indicated in WCPI.<br>c) If there is any deviation, the same should be mentioned clearly in the **e- procurement** offer itself. | |
| 03. | **Pre-Qualification requirements (PQR)**<br>1. Bidder shall be a manufacturer of Welding Consumables / an authorized dealer of Welding Consumables. If the offer is quoted by agents, letter of authorization duly signed by the manufacturer is required to consider the offer.<br>2. Brand name shall provide along with offer.<br>3. Mill address shall provide along with offer.<br>4. Mill capacity shall provide along with offer and Bidder shall have capacity to meet tender requirement.<br>5. BHEL/End customer reserve the right to inspect the item at vendor's works with prior intimation.<br>6. Suppliers shall submit manufacturing process flow chart (Raw material to finished product) & manufacturing quality plan to meet "tender requirements" along with offer.<br>7. Suppliers shall submit a valid ISO 9001 certificate or Quality management system certificate or Written down procedure<br>8. Bidder shall have successfully supplied minimum 2500 Kg Stellite-6 PTA Powder as per ASME Section IIC to any govt. Organizations/ PSUs/ Public ltd. Company/Reputed Industries. Regarding this Document like Purchase order to be provided along with offer. Note: Successfully supplied means – supplied and accepted. | |
| 04. | **Online Supplier Registration:**<br>All vendors who are not registered vendor of BHEL, Trichy for the tendered specification may also submit duly filled-in Supplier Registration form (SRF) through online portal http://www.supplier.bhel.in and submit all relevant documents as required. | |
| 05. | **Offer Submission:**<br>➢ Offer is to be submitted in **TWO part bids system** (Technical bid + Price bid) in the E-Procurement portal. Scan copy of the filled Annexure-A, Tender documents etc., shall be uploaded in the EPS portal.<br>➢ At its option, BHEL may consider extending the due date/s for the tender openings. Sufficient notice would be given by BHEL for such extensions and it will be published as corrigendum in following websites,<br>**https://bhel.abcprocure.com**<br>**http://tenders.gov.in**<br>**http://eprocure.gov.in**<br>➢ After the scrutiny of PQR & technical bids, the price bids of only techno-commercially qualified offers shall be opened with prior intimation. | |
| 06. | **Authorization for participation in EPS portal through DSC:** | |

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| | **i) E-Tender Participation requirements**<br>Either Principal or authorized agent shall register their Digital Signature Certificate (DSC) (Class 3- SHA2- 2048 BIT- SIGNING & ENCRYPTION). Suppliers are advised to go through the FAQ available in the web portal (https://bhel.abcprocure.com**).** DSC shall be registered for the authorized person and all transaction done using that DSC against our tenders shall be taken as valid communication and shall be binding on principal/agent and is valid legally.<br><br>**ii) For foreign Principal**<br>In case of Principal (being foreigner), they may apply for DSC through Indian embassy at their country and can register with us for participating in E-tenders. Details of the applicable procedure is available in the webpage **http://www.cca.gov.in/cca/.**<br><br>iii) **For Indian agent**<br>In case of agents participating/registering their DSC (of authorized person), it will be at the sole authorization of principal to their agents to participate on their behalf and all transactions done using that DSC against our tenders shall be known as valid communication and shall binding on principal and is legally valid.<br><br>**Please intimate the authorized person name, Mail ID for registering DSC with BHEL to participate in E-Tenders** | |
| | iv) The suppliers have to indicate the **name of the mill person & agent, contact no, email IDs**, who is responsible for bid submission & further clarification query. | |
| **7.** | **Validity:** Offer/Price validity of **60 days is required** after the price bid opening in case you are technically and commercially qualified. | |
| **8.** | **Delivery**:<br>The offer shall clearly indicate delivery period in **fixed number of Days / Weeks** from the date of Purchase Order. | |
| **9.** | **Terms of Delivery:**<br>**A. INDIGENOUS:**<br>Bidders should submit their offer for – **FOR Destination -BHEL Stores, Trichy** | |
| | The above quote should be inclusive of all charges, including testing, packing & forwarding, inspection etc.<br>a) Any other extra charges like GST- SGST, CGST/IGST etc. are to be indicated clearly. The offer will be evaluated on total landed cost to BHEL Trichy.<br>b) Any other Tax are to be indicated in offer and is payable extra only on submission of documentary proof.<br>c) ITC: If the tenderer is availing ITC for this input material, the effect of preformed credit should be passed on to the purchaser. Tenderer under ITC shall be preferred.<br>d) The soft copies of the Invoice, LR copy & Test certificates shall be forwarded to BHEL immediately after dispatch.<br><br>**Information for Indigenous suppliers:**<br>1. Response to Tenders for Indigenous supplier will be entertained only if the vendor has a valid GST registration no which should be clearly mentioned in the offer. If any specific exemption is available, a declaration with due supporting documents need to be furnished for considering the offer.<br><br>2. Supplier shall mention their GSTN registration number in all their invoices and invoices shall be in the format as specified/prescribed under GST laws. Invoices shall necessarily contain Invoice number (in case of multiple numbering system is being followed for billing like SAP invoice no, commercial invoice no etc., then the Invoice No which is linked/uploaded in GSTN network shall be clearly indicated), item description as per PO, Quantity, Rate, Value, applicable taxes with nomenclature (like IGST, SGST, CGST & UTGST) separately, HSN/ SAC Code, etc.<br><br>3. All invoices shall bear the HSN Code for each item separately (Harmonized System of Nomenclature)/ SAC code (Services Accounting Code).<br><br>4. A declaration to the effect that all invoice particulars are/were uploaded in the GSTN network/ portal & all tax liability as per GST rules and regulations have been and will be discharged, shall be mentioned in the invoice. If not mentioned in the invoice, a separate declaration shall be submitted as per the requirement of BHEL.<br><br>5. All documents like Mill Test Certificate, LR copy, Guarantee/Warrantee certificate, work completion certificate, any other document mentioned in PO, shall be sent along with the vehicle/consignment. For all consignments received within the calendar month, input credit will be availed within that month in line with monthly returns filing cycle. In case of any discrepancy in the document or non-submission of documents mentioned in the PO, then BHEL will not be able to accept or account the material, in such case availing of tax credit will be deferred to next month or so.<br><br>6. In case of discrepancy in the data uploaded by supplier in the GSTN portal or in case of any shortages or rejection in the supply, then BHEL will not be able to avail the tax credit and will notify the supplier of the same. Supplier has to rectify the | |

data discrepancy in the GSTN portal or issue credit note (details to be uploaded in GSTN portal) for the shortages or rejections in the suppliers, within the calendar month notified by BHEL.

7. For any such delay in availing of tax credit for reasons attributable to supplier (as mentioned above), interest (calculated @ SBI Base Rate + 6%) along with penalty if any will be deducted for the delayed period i.e. from the month of receipt till the month tax credit is availed, from the running bills.

**B. <u>IMPORTS:</u>**

- Import vendors to submit offers on CFR (Cost & Freight), Chennai port (LILO – Liner in Liner Out) basis.
- Port of loading should be indicated without fail.
- Port of discharge should be Chennai.
- The preferred shipment mode "**Containerized Cargo** or **Break Bulk**" shall be specified clearly in the offer.

**<u>FOR CFR INCO TERMS – CONTAINERIZED CARGO</u>**

a.) For CFR terms, moved through CONTAINERS (Suppliers should clearly specify this in their offer) it would be presumed by BHEL that the freight charges quoted is on LILO (LINER IN LINER OUT) basis including extra charges, if any, like Container Imbalance Charges, Trade Imbalance charges or any other charges payable to the Liner. No other charges other than the quoted Freight rate will be paid by BHEL excepting applicable Terminal Handling Charges, Container cleaning Charges, DO charges to Shipping Liner at Discharge Port. 14 FREE DAYS FOR Container detention shall be provided. If any deviation is taken by Tenderer, a loading of 22% on the freight rate per MT shall be considered by BHEL for arriving at the Total Landed Cost.

b.) In case of shipment through Containers on CFR basis, the BL should bear the endorsement that "14 free days for Container Detention is applicable".

**<u>BREAKBULK CARGO (Applicable for Japanese suppliers only)</u>**

a.) For CFR terms, moved through BREAK BULK BASIS (Suppliers should clearly specify this in their offer) it would be presumed by BHEL that the freight charges quoted is on LILO (LINER IN LINER OUT) basis. The materials will be Custom cleared from Port itself.

**<u>INFORMATION TO IMPORT SUPPLIERS:</u>**

Indian customs have imposed, a penalty on late filing of Bill of Entries (Air/Sea Shipments) by the importer. The maximum free time allowed is 24 hrs from the time of arrival of cargo at final port of discharge. Rs.5000/- per day (for Initial 03 days) & Rs.10000/- per day (thereafter)

a.) The vendor should furnish the Non-Negotiable Documents (Air Way Bill/Bill of Lading, Commercial Invoice, Packing List, and Certificate of Origin) either by email or post/courier to BHEL well before the landing of cargo at final port of discharge.

b.) Vendor will be held responsible for the penalty arises against the late filing of Bill of entry due to:
   (i) Non availability of Non-Negotiable Documents (NNDs) before the cargo arrival
   (ii) Discrepancy in documents
   (iii) Short landing of Consignments (For shipments on CFR/CPT/CIF/CIP – Chennai Port)

All the shipments for the contracts (POs) finalized on CFR -Chennai basis

(i) Delivery Orders involving multiple agencies like liners/freight forwarders are not allowed. There must be a single agency office at the final discharge Port (Chennai) for issuing the Delivery Order to BHEL.

(ii) The detention/demurrage charges arising due to the delay in collection of Delivery Orders from multiple agencies of liner/freight forwarder also whose offices are not at available Chennai, the same amount will be deducted from Vendor's bills only.

(iii) Apart from the normal charges like Terminal Handling Charges, Container cleaning Charges, Delivery Order Charges at final port of discharge will not be borne by BHEL.

(iv) The liner/freight forwarders should be properly communicated by the Vendor for not to claim such charges for issuing Delivery Order. If the liner/freight forwarder claims such charges in their invoices, the same amount will be deducted from the Vendor bills without any prior intimation in order to avoid the delay in Customs clearance. The likely additional/hidden costs or charges are:
   a. CIC - Container Imbalance Charges/Surcharges
   b. EIC - Equipment Imbalance Charge/Surcharges
   c. CAF - Container/Currency Adjustment Factor
   d. BAF - Bunker adjustment Factor
   e. RDS - Rupee Depreciation Surcharge
   f. CDS - Currency Depreciation Surcharge

10. **<u>Transport Conditions for Import:</u>**

The Original Documents (Bill of Lading, Invoice, Packing List, Certificate of Origin & Test Certificate) shall reach BHEL well in advance before the vessel arrival. The soft copies of the above shall be forwarded to BHEL immediately after shipment.

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| | a. In the event of delayed submission of documents by the supplier, an amount up to 5% of the invoice value will be retained towards demurrage & other charges and the difference if any between actual charges and recovery will be settled separately through supplementary invoice.<br><br>b. In such cases, the Supplier shall authorize the Steamer / Shipping agent / transporter to freely release the consignment to BHEL by providing a "Surrender Bill of Lading".<br><br>c. Otherwise, No-objection Certificate shall be issued to the Liner, authorizing BHEL to get the Delivery Order without producing the Original Bill of Lading.<br><br>Confirmation to the above is required to ensure avoidance of demurrage & detention charges at Chennai Sea-port that may arise in case of delayed presentation of documents by the Seller. | |
| **11.** | **Payment terms:**<br>**i) For Indigenous (Non-MSE) Bidders:**<br>o Payment term is "100% direct EFT payment after 60 days from the date of receipt and acceptance of materials at BHEL Stores".<br>o Any deviation in the above payment terms, any other conditions in payment terms or any other Payment Terms will not be accepted and offer will not be considered<br><br>**ii) For Imports:**<br>o BHEL Payment term is 100% payment on CAD basis after 60 days from the date of receipt of documents, specified in PO, at BHEL bank. Respective bank charges to respective account.<br>o If supplier insists for LC, only Usance LC with 60 days credit will be opened one month prior to material readiness, further loading will be considered @ 1.5% on the offered value. Hence supplier shall intimate the material readiness accordingly for opening of LC. LC validity period will be 90 days and for any extension, applicable charges will be to supplier's account.<br>o Any deviation in the above payment terms, any other conditions in payment terms or any other Payment Terms will not be accepted and offer will not be considered<br><br>**iii) New Suppliers:**<br>o For new suppliers not registered with BHEL Trichy for the product, payment shall be made 60 days after receipt and acceptance of materials.<br>o In case of Foreign supplier, first lot of mutually agreed quantity shall be supplied with payment as CAD basis after 60 days from the date of receipt and acceptance of material. If insisted for LC, after acceptance of first lot, only Usance LC with 120 days credit will be opened one month prior to material readiness.<br><br>**iv) MSE Suppliers:**<br>Payment for MSE Indigenous vendors will be as per MSMED Act 2006. | |
| **12.** | **Liquidated Damage (Indigenous & Imports):**<br>1. Liquidated damages shall be 0.5% of the total order value per week or part thereof subject to a maximum of 10% of the total order value | |
| | 2. For staggered delivery schedule (If accepted by BHEL), LD shall be 0.5% of the undelivered portion per week of the delay or part there of subject to a maximum of 10% of the total order value | |
| | 3. Any deviation from the above LD clause, loading will be applied to the extent to which it is not agreed by the bidder (at offered value). | |
| | 4. a) IMPORT: For CFR terms, BL date will be considered for LD calculation.<br><br>b) INDIGENOUS: For **"**FOR Delivery terms", Lorry way bill date will be taken for LD calculation. | |
| **13.** | **Risk Purchase clause:**<br>BHEL at its option will be entitled to terminate the contract and to purchase 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 thereof. The supplier shall be liable for any loss which BHEL may sustain by reason of such risk purchases in addition to LD at the maximum rate mentioned in the LD clause above. Confirm your acceptance. | |
| **14.** | **Non-Disclosure Agreement (NDA):**<br>The bidders shall enter into the Non-disclosure agreement totally voluntarily, with full knowledge of its meaning and without duress. (Format attached). | |

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| **15.** | **Patent Right**<br>The supplier shall, at all times, indemnify and keep indemnified the purchaser, free of cost, against all claims which may arise in respect of goods & services to be provided by the supplier under the contract for infringement of any intellectual property rights or any other right protected by patent, registration of designs or trademarks. In the event of any such claim in respect of alleged breach of patent, registered designs, trademarks etc. being made against the purchaser, the purchaser shall notify the supplier of the same and the supplier shall, at his own expenses take care of the same for settlement without any liability to the purchaser. | |
| **16.** | **Comprehensive Economic Partnership Agreement (CEPA):**<br><br>Foreign suppliers shall ensure that the benefits as applicable under comprehensive economic partnership agreement (CEPA) with government of India are disclosed in the bid and relevant documents such as certificate of country of origin, issued by the appropriate authority in the country of exports, is provided by the vendor along with dispatch documents. Bids shall be evaluated with such applicable benefits. In the event of seller failing to provide appropriate documents for purchasers to avail disclosed concessional duty benefits in India, financial loss, so incurred, will be to the seller's account. | |
| **17.** | **Role of Agents:**<br>i) BHEL shall deal directly with foreign vendors, wherever required, for procurement of goods. However, if the foreign principal desires to avail of the services of an Indian agent, then the foreign principal should ensure compliance to regulatory guidelines - which require mandatory submission of an Agency Agreement<br>ii) It shall be incumbent on the Indian agent and the foreign principal to adhere to the relevant guidelines of Government of India, issued from time to time.<br>iii) If the offer is submitted by Agents, duly signed agency agreement shall be submitted along with the offer in Techno-Commercial bid. The Agency Agreement should specify the precise relationship between the foreign OEM / foreign principal and their Indian agent and their mutual interest in the business. All services to be rendered by agent/ associate, whether of general nature or in relation to the particular contract, must be clearly stated by the foreign supplier/ Indian agent. Any payment, which the agent or associate receives in India or abroad from the OEM, whether as commission or as a general retainer fee should be brought on record in the Agreement and be made explicit in order to ensure compliance to laws of the country.<br>iv) Any agency commission to be paid by BHEL to the Indian agent shall be in Indian currency only.<br>v) Tax deduction at source is applicable to the agency commission paid to the Indian agent as per the prevailing rules.<br>vi) In the absence of any agency agreement, BHEL shall not deal with any Indian agent (authorized representatives / associate / consultant, or by whatever name called) and shall deal directly with the foreign principal only for all correspondence and business purposes.<br>vii) The supply and execution of the Purchase Order (including indigenous supplies/ service) shall be in the scope of the OEM/ foreign principal. The OEM/ foreign principal should submit their offer inclusive of all indigenous supplies/ services and evaluation will be based on 'total cost to BHEL'. In case OEM/ foreign principal recommends placement of order(s) on Indian supplier(s)/ agent on their behalf, the credentials/ capacity/ capability of the Indian supplier(s)/ agent to make the supplies/ services will be checked by BHEL, before opening of price bids. It will be the responsibility of the OEM/ foreign principal to get acquainted with the evaluation requirements of Indian supplier/ agent as per SEARP available on www.bhel.com. The responsibility for successful execution of the contract lies with the OEM/ foreign principal.<br>viii) Either the Indian agent on behalf of the Principal/OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same item in the same tender. If offer is received by both Indian agent and Principal/OEM, then the offer from Principal/OEM only will be considered.<br>ix) If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit bid on behalf of another Principal/OEM for the same item. If an agent submits bid on behalf of more than one Principal/OEM for a single item, his offer will be completely rejected for the concerned item. | |

**18.** **<u>MSE CLAUSE:</u>**

i) The bidder may also be a Micro and Small Enterprises (MSE) vendor registered as per MSE act as per the public procurement policy notified by the Central government.

ii) 25% of the tendered quantity is earmarked for MSE suppliers in this tender.

iii) Out of the 25% tendered quantity reserved for MSE suppliers, 6.25% shall be earmarked for procurement from MSE owned by SC / ST entrepreneurs and 3% shall be earmarked for Woman owned MSEs

iv) In case MSE vendor participating in the tender quotes within the price band of L1 + 15%, they will be allowed to supply the portion of the requirement subject to acceptance of L1 price by MSE vendor. In case of more than one such MSE, the supply shall be shared proportionately.

v) MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either Udyog Adhaar certificate having deemed validity OR valid NSIC certificate OR Udyog Adhaar certificate along with attested copy of a CA certificate (Format enclosed at Annexure –C) applicable for the relevant financial year. Date to be reckoned for determining the deemed validity will be the date of bid opening (Part 1 in case of two part bid). Non submission of such documents will lead to consideration of their bid at par with other bidders.

vi) Such Micro/Small Enterprises registered vendors must state the sub-category to which they belong and submit documentary proof for the same. The sub-categories:

a. Enterprises owned by Scheduled Castes.

b. Enterprises owned by Scheduled Tribes.

c. Enterprises owned by other than above two categories

i. The enterprises under (a) & (b) means the proprietor in case of single owned firm and all

ii. partners in case of partnership firm and all directors in case of private/public limited must

ii. belong to SC/ST category

To avail the intended benefits, all the relevant documents must be submitted along with other. Post tender submission of these information will not be considered

**19.** **<u>Evaluation Criteria:</u>**

The offers of both import vendors and indigenous vendors will be evaluated on total landed cost to **BHEL, Trichy**. The evaluation details with respect to the import & indigenous vendors is detailed below:

**I) <u>Indigenous Vendors</u>**

**Total Landed cost = FOR Rate in INR (A) + Applicable Taxes (B) + Loading for payment term & LD (C) – Applicable input tax credit (D)**

A. Indigenous vendors submit offers on Free on Road (**FOR), Trichy** in INR.

B. GST and any other charges quoted by indigenous vendors will be added to the base price.

C. Loading for payment terms & non-acceptance of Liquidated Damages (LD) will be added to the FOR value for arriving the landed rate.

D. However, input credit is availed for GST (SGST, CGST/IGST), hence the same is excluded for arriving at the landed cost.

**II) <u>Import Vendors</u>**

Total **Landed cost = CFR Rate in INR (A) + Applicable Duties (B) + Incidental Charges (C) + Loading for Container Shipment (D) + Loading for payment term & LD (E)**

A. Import vendors to submit offers on CFR (Cost & Freight), Chennai port (LILO – Liner In Liner Out) basis in foreign currency, which will be converted to INR by multiplying with the Exchange rate (SBI TT Selling rate) as on the technical bid opening date.

B. Customs duty, IGST, CUSTOM CESS, Safe guard duty (as per the notification No 02/2014-Customs (SG) dated 13th August 2014) and antidumping duty (as per the notification No 18/2016-Customs (ADD) dated 17.05.2016) as applicable will be added to the INR price.

C. Incidental charges of **2.2%** will be added to the CFR Value. The incidental charge is inclusive of Insurance, port handling charges, & freight charges for movement from Chennai port to BHEL, Trichy.

D. In case of shipment through containers, If 14 free days for Container detention is not provided in the offer, a loading of 22% on the freight rate per MT shall be considered by BHEL for arriving at the Total landed Cost.

E. Loading for payment terms & Non-acceptance of Liquidated Damages (LD) will be added to the CFR value for arriving at the landed cost.

F. Incidental charges of **2.2%** will be added to the CFR Value. The incidental charge is inclusive of Insurance, port handling charges, & freight charges for movement from Chennai port to BHEL, Trichy.

G. In case of shipment through containers, If 14 free days for Container detention is not provided in the offer, a loading of 22% on the freight rate per MT shall be considered by BHEL for arriving at the Total landed Cost.

H. Loading for payment terms & Non-acceptance of Liquidated Damages (LD) will be added to the CFR value for arriving at

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| | the landed cost. | |
| **20.** | **General condition:**<br>a) Bids including all enclosures and supporting documents like catalogues, pamphlets, etc., shall be submitted / uploaded in ENGLISH language only. If the documents submitted have other than **English language**, translation of the same shall be provided for evaluation.<br>b) In addition to TCs in relevant IBR forms corresponding mill TCs should also be provided. **Two** sets of original and **one** copy of all such TCs are to be provided to BHEL, Trichy.<br>c) Acceptance of Test Certificates by BHEL before dispatch is must.<br>d) We require the shipment of the welding wire to be as per the dates mentioned against the individual items in the enquiry.<br>e) Confirmation for partial ordering to be indicated in the offer itself.<br>f) No revision of prices will be entertained after the tenders are opened.<br>g) For the evaluation purposes, exchange rate (TT selling rate of SBI) as on schedule date of tender opening (Part I, i.e. technical bid, in case of two part bid) shall be considered.<br>h) BHEL will consider the ranking after the loading is applied as referred above wherever deviations are observed.<br>i) Lowest price received against BHEL tenders need not be the technically acceptable one and in that case, BHEL reserves the right not to consider the same.<br>j) BHEL reserves the right to negotiate L1 rate or re-float the tender opened if L1 price is not the lowest acceptable price to them inter-alia other reasons.<br>k) In the event of our customer order covering this tender being cancelled / placed on hold / otherwise modified, BHEL would be constrained to accordingly cancel / hold / modify the tender / your purchase order at any stage of execution.<br>l) Offer will be evaluated **on individual item basis.**<br>m) Reverse auction will not be conducted for this enquiry.<br>n) L1 will be arrived based on Landed cost to BHEL- Trichy.<br>o) No payment will be made for the excess quantity<br>p) Offers for part quantities on item level basis are not acceptable to BHEL. While tenderers can quote for some or all the tendered items, no supplier shall quote for partial quantity of any given enquiry item. Such partial offer would not be considered in the enquiry for that item<br>q) All documents submitted with the offer shall be signed and stamped in each page by authorized representative of the bidder.<br>r) Offer should be submitted only as per Unit of Measurement (UOM) specified in enquiry (**per kg basis**)<br>s) The offers of the bidders who are on the banned list as also the offer of bidders who engage the services of the banned firms, shall be rejected. The list of banned firms is available on the BHEL website -www.bhel.com. | |
| **21.** | **Fraud Prevention Policy**<br>"The bidder along with its associate/collaborators/sub-contractors /consultants/service providers shall strictly adhere to BHEL Fraud prevention policy displayed on BHEL website htpp://www.bhel.com and shall immediately bring to the notice of BHEL Management about fraud or suspected fraud as soon as it comes to their notice." | |
| **22.** | **Cartel Formation:**<br>All the firms should desist from forming cartel as the practice is prohibited under Section 3(3) (a) & (d) of the competition Act 2002. If any such instance is observed during this tender will attract disciplinary action as per BHEL policies. | |
| **23.** | **Resolution of Disputes:**<br>a. 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 the 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 of an arbitrator appointed by Head of the BHEL Unit/Region/Division issuing the Contract.<br>b. The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties.<br>c. 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 Trichy (the place from which the Contract is issued)<br>d. The cost of arbitration shall be borne as per the award of the Arbitrator.<br>e. Subject to the arbitration in terms of clause as above, the courts at Trichy shall have exclusive jurisdiction over any matter arising out of or in connection with this Contract.<br>f. 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.<br>g. In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:<br>**h.** 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 by either Party for arbitration to the sole arbitrator 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 | |

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| | 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 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. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator |
| **24.** | **<u>In the event of Force Majeure:</u>**<br>a. Notwithstanding the provisions contained in other clauses, the supplier shall not be liable for imposition of any such sanction so long the delay and/or failure of the supplier in fulfilling its obligations under the contract is the result of an event of Force Majeure. For purposes of this clause, Force Majeure means an event beyond the control of the supplier and not involving the supplier's fault or negligence and which is not foreseeable and not brought about at the instance of the party claiming to be affected by such event and which has caused the non – performance or delay in performance. Such events may include, but are not restricted to, wars or revolutions, hostility, acts of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes excluding by its employees, lockouts excluding by its management, freight embargoes and Acts of GOD.<br>b. If a Force Majeure situation arises, the supplier shall promptly notify the Purchaser/Consignee in writing of such conditions and the cause thereof within twenty-one days of occurrence of such event. Unless otherwise directed by the Purchaser/Consignee in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.<br>c. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period exceeding sixty days, either party may at its option terminate the contract without any financial repercussion on either side.<br>**d.** In case due to a Force Majeure event the Purchaser/Consignee is unable to fulfil its contractual commitment and responsibility, the Purchaser/Consignee will notify the supplier accordingly and subsequent actions taken on similar lines described in above sub-paragraphs |
| **25** | **<u>OTHER TERMS AND CONDITIONS:</u>**<br>i. No revision of prices will be entertained at any circumstances after tenders are opened.<br>ii.On the due date of tender opening, only the Techno-commercial bids will be opened. Techno-commercial bids will be evaluated by us and clarifications required, if any, will be called from the bidders on technical and commercial points.<br>iii.If any difference is found in the terms in the Techno-commercial bid and price bid, the terms mentioned in the Techno-Commercial Bid will be considered.<br>iv.BHEL reserves the right to negotiate or refloat the tender opened, if L1 price is not the lowest acceptable price to BHEL due to inter-alia other reasons.<br>v.The correspondence between the bidder and BHEL through Email is considered as valid document Legally though not signed. It is treated as valid confirmations made on behalf of the respective company and comes under the legal ambit of the business transaction and hence binding on both the parties.<br>vi.If The Due Date of Tender Opening Happens to be a Holiday, those tenders Will Be Opened On Next Working Day.<br>vii.The quality of the supplies should strictly conform to technical specifications applicable for the item. The offer should specifically confirm this.<br>viii.If any quality problem is pointed out by BHEL w.r.t. supplied material, the same shall be settled and corrected immediately by the supplier. If the material cannot be accepted by BHEL; supplier has to replace the material with no extra cost. Collection of rejected material will be sole responsibility of the supplier.<br>ix.BHEL reserves the right to cancel the tender at any stage without giving any reasons<br>x.In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers / contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, loss of business / money / reputation, indulged in malpractices, cheating, bribery, fraud or any other misconducts or formation of cartel so as to influence the biding process or influence the price etc. Guide- lines for Suspension of Business Dealings with Suppliers / Contractors shall prevail over which is available at BHEL website http://www.bhel.com<br><br>i) 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.<br>ii) For any clarifications, you may contact to the following Email IDs:<br>mpraja@bhel.in<br>psdevi@bhel.in |
| **25.** | **<u>Enclosures:</u>**<br>**a)** WCPI-302/03<br>**b)** NDA Format<br>**c)** Annexure-C for MSE Bidders |

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| | **<u>SIGNED BY MANUFACTURER / MILL</u>**<br><br>Name of Mill:<br>Designation / Department:<br>Seal & Signature |