

Annexure-B

Ref NIT No. 29151 (1960520E) dt 27.08.2016

General Enquiry Terms & Conditions

1. Tenderers who are not already registered with BHEL,Ranipet , while submitting their offer are requested to fill up The Supplier Registration Form (SRF) through online http://www.bhel.com/vender_registration/vender.php and submit the same along with Technical Offer. Supplier registration Forms are to be duly filled in all aspects and submitted with supporting documents.
2. Tender may be submitted through <https://bheleps.buyjunction.in>
3. This enquiry shall be subject to jurisdiction of the Courts at Ranipet, Vellore District, Tamilnadu.
4. Un-priced Bid (Price bid without price) is to be submitted along with Technical Offer.
5. **Authorization Letter:** Such of those tenderers who wish to participate in the Tender Opening, should attach an authorization letter which shall be duly signed and stamped in original, identifying the representative to be deputed for tender opening.

a) Terms and Conditions

- 1). No minimum quantities are guaranteed to any vendor.
- 2). The quoted prices shall be on Free Delivery to BHEL Stores at Ranipet 632 406
- 3). The supply should be exactly as per the technical specification indicated and strictly as per our enquiry requirement.
- 4). The Techno-Commercial bid only will be opened on tender due date.
- 5). Offers with insufficient details are liable for rejection.
- 6). BHEL reserves the right to accept / reject any or all offers without assigning any reasons thereof.
- 7). BHEL reserves the right to negotiate the L1 price or refloat the tender opened, if L1 price is not the lowest acceptable price to inter-alia other reasons.
- 8). Lowest prices received against BHEL tenders need not be the technically acceptable one. Hence, merely quoting the lowest prices shall not be automatically entail the vendors for placement of order. BHEL's decision will be final in this regard.
- 9). Liquidated damages shall be levied @ 0.5% per week up to a ceiling of 10% for undelivered part beyond the agreed delivery period. This shall be specifically accepted in writing by the tenderer in the quotation.
- 11). The applicable ED & ST shall be shown separately.
- 12). Variation in statutory levies like ED, & ST during the currency of the contract can be considered but delayed deliveries will not get increased ED & CST /VAT. Other than this, the statutory levies imposed during the tenure of the contract would be considered.
- 14). BHEL may revise the Delivery Schedule/ Qty depending up the requirement .In that case, additional requirement will be informed to the supplier suitably and the vendor has to supply accordingly.
- 15). **Deviation summary** submitted in two parts – giving the summary of technical deviations separately and the commercial deviations separately, if any.
- 16). **Clientele list** with their full address including details of contact person with phone no., fax no. & e-mail ID (if any) to whom the same / similar items are supplied in the past two years. The date of supply may also be indicated, against each client.In addition, vendors may submit an

experience certificate detailing the quantity supplied year wise along with the unpriced PO copies and proof of supply along with the offer for all the tendered specifications. Technical acceptance of offer by BHEL, shall be based on the evaluation of offer and the submitted documents.

17) BHEL reserves the right to split the tendered quantity against each enquiry in the ratio of 70:30 among the L1 and L2 vendors respectively. The L1 rate will be counter offered to the L2 vendor and upon acceptance of the counter offer, PO will be placed on L2 vendor for 30% of the enquiry quantity. If L2 vendor does not accept counter offer, it will be counter offered to next higher bidders leaving out H1 bidder (i.e., H1 bidder will not be given any counter offer) and also if no one accepts the counter offer, the entire enquiry quantity will be ordered on the L1 vendor. Pl note that delivery should be staggered as per our Enquiry. No advance delivery acceptable to us. BHEL may revise the Delivery Schedule / Qty depending up on production requirement and the vendor has to supply accordingly.

C) Reverse Auction (RA)

BHEL reserves the right to go for Reverse Auction (RA) instead of opening the sealed envelope price bid, submitted by the bidder. This will be decided after techno-commercial evaluation and the same will be communicated to the technically & commercially qualified bidders after technical evaluation . All bidders to give their acceptance for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids , in case BHEL decides to go for RA. Details / General terms/guidelines for conduct of RA are shown below.

Bidders are requested to confirm their acceptance for BHEL proceeding with RA route for finalization of the enquiry:

Those bidders who have given their acceptance for Reverse Auction (quoted against this tender enquiry) will have to necessarily submit “ online sealed bid” in the Reverse Auction. Non-submission of “ online sealed bid” by the bidder for any of the eligible items for which techno commercially qualified, will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines in vogue.

1. For the proposed reverse auction, technically and commercially acceptable bidders only shall be eligible to participate
2. BHEL will engage the service provider who will provide all necessary training and assistance before commencement of online bidding on internet.
3. BHEL will inform the bidder in writing in case of reverse auction, the details of Service Provider to enable them to contact and get trained.

4. Business rules like event date, time start price, bid decrement, extension etc. also will be communicated through service provider for compliance.
5. Bidders have to fax the compliance form in the prescribed format (provided by Service provider) before start of Reverse auction. Without this, the bidder will not be eligible to participate in the event.
6. BHEL will provide the calculation sheet (e.g. EXCEL sheet) which will help to arrive at “Total cost to BHEL” like Packing and forwarding charges, Taxes and duties, Freight charges, Insurance, Service tax for services and loading factors (for non-compliance to BHEL standard Commercial terms and conditions) for each of the bidder to enable them to fill in the price and keep it ready for keying in during the Auction.
7. Reverse auction will be conducted on scheduled date and time.
8. At the end of Reverse Auction event, the lowest bidder value will be known on the network/auction panel.
9. The lowest bidder has to fax/e-mail the duly signed and filled-in prescribed format for price break-up including that of line items as provided on case-to-case basis to BHEL, through service provider within 24 hours of Auction without fail.
10. Any variation between the on-line bid value and the signed document will be considered as sabotaging the tender process and will invite disqualification of bidder to conduct business with BHEL as per prevailing procedure.
11. In case BHEL decides not to go for Reverse Auction procedure for this tender enquiry, the price bids and price impacts, if any, already submitted and available with BHEL shall be opened as per BHEL’s standard practice in the presence of those tenderers who choose to be present.
12. BHEL reserves the right to negotiate if need be, with the “L1” bidder of the reverse auction.
13. Bidders shall be required to read the “Terms and Conditions” section of the auctions site of service provider, using the Login IDs and passwords given to them by the service provider before reverse auction event. Bidders should acquaint themselves of the “Business Rules of Reverse Auction”, which will be communicated before the Reverse Auction.
14. If the Bidder or any of his representatives are found to be involved in price manipulation/ cartel formation of any kind, directly (or) indirectly by communicating with other bidders, action as per extant BHEL guidelines, shall be initiated by BHEL and the results of the RA scrapped/aborted.
15. The bidder shall not divulge either his Bids (or) any other exclusive details of BHEL to any other party.

16. In case BHEL goes for reverse auction & depending on the number of bidders, the H1 bidders (whose quotes are highest in online sealed) may not be allowed to participate in further RA process. Further, in case of sufficient vendors, exclusion of H1 bidders may get extended up to 20%..
17. Only those vendors, who participate in the online initial opening Bid, will be eligible to participate in the subsequent online English Reverse Auction.

D) MSME Status-Applicable only for Indian Suppliers (Micro and Small Only)

As per the Public Procurement Policy notified by the Central Government, Micro and Small Enterprises quoting within the price band of L1+15% shall be allowed to supply the requirement up to 20% of the tender value subject to condition that such Enterprises bring down their price to L1 price where L1 price is from other than a Micro and Small Enterprise.

If L1 offer is from a Micro / Small Enterprise, this provision will not be applicable.

In case more than one Micro and Small Enterprise is there within this span, the supply shall be shared proportionate to the tender quantity. (70:30 or 50:30:20 of the eligible quantity)

Note: Special provision for Micro and small enterprises owned by SC or ST: -

Sub target of 20% (i.e. 4% out of 20%) would be earmarked for procurement from Micro and Small Enterprises owned by the Scheduled Caste or Scheduled Tribe Entrepreneurs provided that in event of failure of such Micro and Small Enterprises to participate in the tender process or meet the tender requirements and the L1 price, the 4% sub-target for procurement ear-marked MSE owned by Scheduled Caste or Scheduled Tribe Entrepreneurs shall be met from other MSE Enterprises/s.

Such of those Suppliers who are already registered with BHEL, Ranipet as an MSE and whose registration is valid on the date of the tender opening (technical bid opening date in the case of two part bid) will be considered as eligible for the above concession.

(Note: The details of the registration such as the name of the chartered accountant / firm that has certified for the MSE status, the date of the certification and the date of receipt of the certificate by BHEL, Ranipet are available in the web-site: <http://bapscm.bhelrpt.co.in/purc>)

In their own interest the registered Bidders are advised to check the current status of the validity of the registration, which is one year from the date of the certification by the Chartered Accountant before submitting their Bid document/s. In the event that on the date of the tender opening the registration is not valid, then the Supplier will be treated under non-MSE category for this tender.

In case the validity of the registration has expired and if the Bidder wants to be considered as an MSE then, the Supplier shall submit the necessary certificate from a chartered accountant certifying the status of their Unit / Works clearly specifying the address of the works which is to be considered as MSE and send the same to BHEL, Ranipet either before the tender opening date or as a part of the tender document. If the offer is accompanied with the certificate, then the Bidder would be considered as an MSE. If the certificate is sent separately BHEL will not be responsible for any postal / courier / delivery delays and the status as on the date of the bid opening as available with BHEL Ranipet's records shall be used for reckoning the status of the Bidder as an MSE or otherwise.

Offer/s received without these documents will be treated as non-MSE and order finalization will be done based on this premise.

Documents submitted after Bid-opening will not be considered in this tender.

This provision for MSE will apply subject to the condition that the participating MSE meets the tender requirements.

In case of any change in the MSE status of the Bidder, it shall be the responsibility of the Bidder to notify the change as a part of the Bid document. If at a later date it comes to the knowledge of BHEL, Ranipet that the change in the status has not been intimated by the Bidder and the order is obtained under the premise of an MSE then BHEL would cancel the pending order against this tender and take necessary steps for suspension of the business dealing with the Bidder as per the procurement policy of BHEL.

In case after the bid opening it is seen that no MSE has become L1, then depending on the nature of the item, if it is not possible to split the tendered items / quantities on account of reasons like customer contract requirements of supplying one make for a given project or technical reasons like the tendered item being a system etc. then BHEL would not counter offer the L1 prices even though there may be MSE bidders within the +15% band of L1.

MSE suppliers ,if registered with BHEL,Ranipet already , should check for the validity of the certificate and in their own interest, they should ensure that the certificate submitted is current and valid.

E) Special Terms and Conditions

- 1). This enquiry is for the purpose of Procurement of Rust preventive Fluid for Heating element as per BHEL specification
- 2). No minimum quantities are guaranteed to any vendor.
- 3). Offers shall be submitted in two part bid basis i.e., Techno-Commercial Bid & Price Bid in Two separate sealed covers super scribing the Enquiry No. & Date over the covers and should reach us on or before the tender due date by 14:00 Hrs.
- 4). The quoted prices shall be on Free Delivery to BHEL Stores at Ranipet. Price shall be inclusive of freight & insurance , with nil Packing & Forwarding. No other delivery terms are acceptable. If any other delivery term is quoted, the offer will be rejected.
- 5).The supply should be exactly as per the technical specification indicated and strictly as per our enquiry requirement.
- 6). The Techno-Commercial bid only will be opened on tender due date.
- 7). Offers with insufficient details are liable for rejection.
- 8). BHEL reserves the right to accept / reject any or all offers without assigning any reasons thereof.
- 9). After freezing all the technical & commercial points, BHEL reserves the right to go in for Reverse Auction. Techno commercially Qualified bidders only will be allowed to participate in the Reverse Auction. For Terms & Conditions refer Clause "C" , Annexure-B.
- 10). BHEL reserves the right to negotiate the L1 price or refloat the tender opened if L1 price is not the lowest acceptable price to inter-alia other reasons.
- 11). Lowest prices received against BHEL tenders need not be the technically acceptable one. Hence, merely quoting the lowest prices shall not be automatically entail the vendors for placement of order. BHEL's decision will be final in this regard.
- 12). Liquidated damages shall be leviable at the rate of 0.5% per week up to ceiling of 10% for delivery, beyond the agreed delivery period. This shall be specifically accepted in writing by the tenderer in the quotation. If BHEL std LD is not accepted, loading will be done on the rate quoted as given in Annexure-C
- 13). The applicable ED & ST shall be shown separately.
- 14). Variation in statutory levies like ED, & ST during the currency of the contract can be considered but delayed deliveries will not get increased ED & CST /VAT. Other than this, the statutory levies imposed during the tenure of the contract would be considered.
- 15). BHEL may revise the Delivery Schedule/ Qty depending up on production requirement and in that case additional requirement will be informed to the supplier suitably and the vendor has to supply accordingly.



- 16) Original for buyer copy of invoice + 2 original tax invoices shall be submitted directly to purchase department for arranging payment.
- 17) Duplicate copy for transporter shall accompany the supply for claiming cenvat.
- 18) Penalty clause: @0.5% per week subject to maximum 10% of order value is applicable beyond your quoted delivery .
- 19) Risk purchase: in case of default/late delivery, purchaser (BHEL) reserves the right to make alternate arrangement of procuring material at supplier's risk and cost.
- 20) BHEL reserves the right to split the tendered quantity against each enquiry in the ratio of 70:30 among the L1 and L2 vendors respectively. The L1 rate will be counter offered to the L2 vendor and upon acceptance of the counter offer, PO will be placed on L2 vendor for 30% of the enquiry quantity. If L2 vendor does not accept counter offer, it will be counter offered to next higher bidders leaving out H1 bidder (i.e., H1 bidder will not be given any counter offer) and also if no one accepts the counter offer, the entire enquiry quantity will be ordered on the L1 vendor. Pl note that delivery should be staggered as per our Enquiry. No advance delivery acceptable to us. BHEL may revise the Delivery Schedule / Qty depending up on production requirement and the vendor has to supply accordingly.

21) Landed Cost :

The price quoted should be FIRM till completion of the order. The L1 bidder is one whose landed cost is the Lowest.

Total cost= Price quoted-Discout (if any) +Excise Duty+sales tax +Freight (if extra).....A

Modvat /VAT benefit= Modvat (that can be passed on to BHEL)+TNVAT.....B

Landed cost= (A-B).

Order will be considered on the vendor who quotes the lowest landed cost.

22) Modus operandi :

This is an Open tender floated for the Procurement of Rust preventive Fluid for Heating element as per BHEL specification . The quantity mentioned in the tender is indicative and it may vary slightly depending upon our production schedule. As the HE oil based on the petroleum product whose price fluctuates in the market over a period, it is proposed procure this qty in a phased manner i.e may be in 2 (or) 3 lots , through Reverse Auction/Sealed bid.

The tender will be floated in two part i.e Part-I will be the techno-Commercial offer and Part-II will be the price bid. The unprized price bid (i.e bid without price details) should be submitted along with the technical offer.

The **technical offer (Part-I)** consists of the following things.

- Technical offer meeting the relevant IS /BHEL specification
- MSME certificates (micro and small only) if applicable
- Unprised price format
- Filled SRF format along with relevant documents, if the supplier is not already registered with BHEL,Ranipet.
- Any other documents as called for in the tender (like documents required for pre-Qualification requirement, etc).

Part-II (Price Bid):

- Price Bid as per the BHEL format attached.
- The technical offer will be opened first and the same will be evaluated . **The accepted "Techno-Commercial" Offers are valid till the procurement of the entire tender quantity.** The Reverse Auction (RA) documents like EXCEL sheets,etc will remain the same

for all the LOTs . Only the price alone will vary for each Lot. In order to quote a Firm Price for each lot, BHEL will communicate the Firm Quantity before the RA. Once the rate is finalized in the RA, the rate will remain FIRM till the entire PO quantity is supplied. Thus Bidder will submit a separate price bid alone, for each RA (for definite enquiry quantity).

- h) Prices bids of the bidder whose offer is technically acceptable, alone will be considered for opening. Order will be placed on the bidder whose price is the lowest (**on the landed cost basis**). During the Purchase order period (from the date of award of contract till the full PO quantity is supplied), the price finalised against this purchase should remain FIRM . Also note that apart from the price, other items like discount (if any), freight, other costs also should be valid and remain FIRM for the entire contract period. If there is any statutory variation viz Excise Duty, Sales tax, cess & the same is supported by documentary evidence, the same thing will be considered. Upward revision in the duties & taxes for the delayed supply (delay due to the supplier) will not be considered.

PRICE FORMAT

Sl No	Price/duties & taxes details	Per Ltr (in INR)	
1	Basic Price		
2	Excise Duty @		
3			
4	Billable rate (sl nos 1+2+3)		
5	Discount if any		
6	Sub-Total after Discount (sl no 4-5)		
7	Transport Charges		
8	Sub-Total (sl no 6+7)		
9	VAT/CST on sub total (sl no: 8)		
10	Total Cost (sl no : 8+9)		
11	Modvat /VAT credit (sl no: 2+3+9 (if TNVAT)		
12	Landed Cost (sl no: 10-11)		

Price should be inclusive of packing, forwarding, insurance, octroi and any other cost other than shown above.

Note

- (i) The materials offered, shall conform to the specification and scope attached in the tender.
- (ii) All taxes and duties payable as extra to the quoted price should be specifically stated in offers. Offer from within India shall be submitted along with CST & TIN No. / Tariff No. etc, failing which the purchaser will not be liable for payment of such taxes and duties. Our TIN No. 33024364741, CST No. 1141686, BHEL ECC No. AAACB4146PXM008.
- (iii) The un-priced bid is to be used to indicate relevant commercial implications without indicating price.



- (iv) Commercial terms are to be indicated clearly in the offer.
- (v) No changes shall be entertained once the bid is opened unless otherwise specifically agreed to in writing by BHEL.
- (vi) Money values shall not be indicated anywhere in the un-priced bid.

Price Bid (i.e. Un-priced bid but with Price duly filled-in) in conformance with the commercial terms .

The Prices shall be indicated in both figures and words, clearly specifying the currency used. Differential foreign currencies may not be used in a given offer.

Wherever there is a discrepancy between the figures and the words, the value as indicated by words shall be taken as the "Price" by the Purchaser. Similarly if there is a discrepancy between the Unit Price and the Value on account of arithmetical error in the computation of the Value (Price x Quantity), only the Unit Price would be taken by the Purchaser for consideration. No corrections would be permitted after the submission of the bids. Error statements should be completely erased / struck out and fresh values given in the offer, which should be initialled and attested by the tender submitting authority. Offers without the above may become liable for rejection.

Note

- (i) The price break-up should be in line with technical specification / scope of the tender. (Cost of material, packing charges, forwarding charges, freight, insurance charges shall be shown appropriately, as applicable).
- (ii) No Price Variation Clause will be entertained . No advance payment will be made by BHEL.
- (iii) In case, there is a discrepancy in the term quoted in techno-commercial bid and price bid, the term as per the techno-commercial bid (Cover I) shall hold good .The commercial terms quoted in the Price Bid (Cover II) shall not be considered.
- (iv) In their own interest, all Tenderers are advised to double check their prices, applicable duties and taxes.
- (v) The quotation should be valid at least for a period of 90 days from the tender opening date.
- (viii) Indian bidders should submit the prices in Indian Rupees only.
- (ix) Foreign bidders may submit their bid in their home currency. The currency should be clearly indicated in the un-priced commercial bid as well as in the price bid.
- (x) Suppliers shall quote on FOR Destination basis only. Destination is BHEL, Ranipet Stores.

B] Opening of Offers

a) Tenders shall be received up to 1400 Hours on said due date and be opened on the same day at 1430 Hours.

b)BHEL reserves the right to open the Price-Bids, *'in-camera' / reverse auction process / opening of physical bids*. Intimation to this effect would be given to the Supplier by BHEL, before the opening of the Price-Bids.

c)In case of Price Bid opening through Reverse Auction, it will be English method. All tenderers would have to specifically give their acceptance for this in their bid/s.

Note

- (i) Bids including all enclosures and supporting documents like catalogues, pamphlets, etc., shall be provided in ENGLISH language only.
- (ii) 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.



(iii) Specifications are the basic essence of the “Item”. and all deviations shall be summarized and provided in a “Deviation Statement”, listing the points and the deviation against each point, and

(iv) At its option BHEL may choose to resort to opening the Price-Bids instead of conducting the Reverse Auction (R/A). All suppliers shall give specific acceptance for this clause along with the Techno-Commercial offer. In such cases Bidders would be asked to give the “Negative impact” price arising out of BHEL’s decision to move away from RA to Sealed Bid Opening. In such cases, both the original price bid and the negative impact price bid would be opened to arrive at the final prices in the event BHEL decides the mode of price bid opening as “Sealed Bid Opening”.

(v) The decision of the type of price bidding and quantity split would be notified to all successful bidders before the Price Bidding stage, giving reasonable time for the Bidders to submit the “Negative Impact” price Bid.

(vi) Offers for part quantity are not acceptable to BHEL.

C] Evaluation of Offers

a) The price bids including the negative impact price of the technically acceptable offers alone, contained in Cover II shall be opened.

b) All bidders shall submit their offers by filling-in the format of the BHEL tender documents. Offers received in any other format are liable to be rejected. Offers are asked in BHEL’s format for purpose of standardisation - to help in the offer evaluation.

c) Offer with any pre-conditions (like conditional discounts) for price are liable to be not considered / rejected. For evaluation the such conditions would be removed and only the base offer would be considered for evaluation and comparison.

d) In the event of any change in scope / quantity arising out of the discussions, offerers would be given a chance to submit their revised offer. The revised offer shall contain only the price addition / deletion for such change in the scope / quantities, over and above the original scope and price quoted. The original price quoted shall not be changed on account of the technical discussions.

e) BHEL reserves the right to reject without assigning any reasons / load any offer with factors other than already specified for such offers having deviations to BHEL Specifications, Standard Terms & Conditions at its discretion. The decision of BHEL in this regard shall be final.

f) BHEL reserves the right to reject an offer due to unsatisfactory past performance during tender finalisation / execution of a contract at any of BHEL projects / units or if unsatisfactory performance report is received from the party/s referenced by the supplier at any time during tender finalisation.

g) BHEL reserves the right to operate Purchase / Price preference to Government of India Undertakings, which shall be given as per the guide lines of Government of India given from time to time and / or relax the Terms and Conditions of the tender.

h) BHEL reserves the right to conduct negotiations on the “Price” and “Other Commercial Terms and Conditions” with the lowest ranked offerer at any time after the bid opening but before the release of the Purchase Order and

i) If so required by BHEL, Supplier may have to share their cost data / costing sheet with BHEL.

D] Execution of the Order

a) BHEL will have the option to pre-inspect the materials at Supplier's works by BHEL's own inspector or by third party agency appointed by BHEL or BHEL's end customer/s **but this does not absolve the Supplier from giving the specifications as agreed upon.**



- b) Deviations, if any pointed out by the visiting Inspection team of BHEL shall be corrected and the items as per specification shall be dispatched on or before the contract delivery date.
- c) The final inspection for acceptance will, however, be carried out at BHEL's works at Ranipet.
- d) The contract delivery date is the date of ex-works dispatch of the item for suppliers in India and the date of dispatch clearance given by BHEL for overseas suppliers.
- e) Travel & other local stay cost for the Inspectors sent by BHEL will be to BHEL account, but other Inspection Charges, if any shall be to the account of the Seller only.
- f) Foreign suppliers shall dispatch on CFR Chennai Sea-Port basis, according to the contract conditions. Indian suppliers shall dispatch on free delivery (door-delivery) at BHEL stores basis only. Unloading the materials at BHEL Stores would be to the account of BHEL only.
- g) In the event of any short supply, it shall be the responsibility of the supplier to deliver such short supplied/missing items on Free-of-Cost basis at BHEL stores, including customs clearances at Indian Ports in the case of foreign suppliers.
- h) Materials shall be dispatched only after getting the dispatch clearance of BHEL (Dispatch clearance would either be faxed / e-mailed as a scanned document / couriered.) and
- i) Payment terms: The acceptable mode is "100% direct within 90 days of receipt and acceptance of materials at BHEL for Indigenous Suppliers" and through "100% at Sight L/C", payable within 7 days after receipt of the documents at the opening bank", for foreign suppliers. Payment to Indian suppliers would be through Electronic Fund Transfer (EFT). The EFT form which is a part of the tender document has to be filled in and submitted by the Indian bidder along with the techno-commercial offer in Cover-I. No other payment terms are acceptable.
- j) Any incidence of tax like Income tax, Service Tax and any other similar tax / duties /levies imposed by the Government of India, or the State Government, where the BHEL Unit is located, deductible at Source, during the tenure of the Order shall be deducted by BHEL and necessary certification of the deduction (Tax deduction at Source) would be given.
- k) The Guarantee period shall start from the "Date of receipt and acceptance of the materials at BHEL Stores."

E] Liquidated Damages Clause:

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 for undelivered part subject to a maximum of **10%**. Delivery for purpose of L.D, will be reckoned as the date of the ex-works dispatch of the materials by the Supplier. Supplier shall deduct the applicable LD from the first payment when raising the claim for the same. The applicable LD, if any, would be communicated by BHEL along with the dispatch clearance. The LD would apply on the undelivered portion only. In case of reasons attributable to BHEL for the delay in delivery (for e.g. delay in arranging the pre-inspection) then the delivery time would be reset to the extent of the time delay attributable to BHEL, with waiver of the LD. Delivery being the essence of BHEL's contract requirements, In the event that a Supplier does not accept the LD condition above, the offer would be loaded to the extent of the shortfall with respect to upper limit specified above. Offers which do not accept for any LD would stand rejected.

The offer/s of such of those bidders who do not accept for levy of liquidated damages (LD) for delay in delivery is likely to be summarily rejected. No correspondence would be entertained by BHEL in this regard, on this subject. BHEL specifically draws the need of this mandatory requirement to the notice of all Bidders. The Price Bid of such of those offerers failing to meet this requirement, would not be considered for the Price-Bid Opening.

F) Miscellaneous

i) Role of Agents:



BHEL prefers to deal directly with the Main producers only.

BHEL strongly discourages the engagement of Agents in India by foreign principals, to deal with BHEL, in BHEL's tenders.

BHEL will not enter into any correspondence with an Indian Agent.

The Indian Agent will not be extended the privilege given to the principals, such as that of attending the tender openings, attending technical discussions, commercial discussions or price negotiations and such like.

In case, in spite of the above, a foreign principal insists on engaging an Indian Agent, It is made clear by BHEL that:

It is the sole responsibility of the foreign principal to ensure the Agent does not represent any other foreign principal in a given tender.

An undertaking to this effect shall be given by the foreign principal that his / her Agent does not represent any other foreign principal in the tender. This document shall form a part of the techno-commercial offer.

If at any stage of the tender, BHEL finds that an Indian Agent has represented more than one foreign principal, all such offers of and all the foreign principals would be disqualified summarily in the tender inquiry. BHEL will only give an intimation of notice of the disqualification. No correspondence would be entertained by BHEL, on their decision. Such decision of BHEL shall be irrevocable, firm and final and shall be binding on the tenderer.

BHEL, due to business reasons would ban, would have banned Indian agents from dealing with BHEL.

Any foreign principal who engages such a banned agent, or an employee of the banned agency, or any other person connected with the banned agency, at any time during the tender proceedings, would be disqualified from the tender proceedings. The decision of BHEL in this regard shall be final and be binding on the OEM.

Hence in their own interests, prospective tenderers may check with BHEL, the status of their proposed agent vis-à-vis BHEL.

In view of the requirement of BHEL, it is strongly suggested that in their own interest, foreign principals may desist from engaging any Indian agent and deal with BHEL directly and it is stressed that any Main producer proposing to deal with BHEL by engaging and through an Indian Agent does so at their own risk.

BHEL shall in no way be responsible for any consequences that may arise to the foreign principal on account of the antecedents / actions of their Indian Agent.

In the event of the foreign principal engaging an Indian Agent:

a) The Supplier shall furnish an authenticated copy of the Agency Agreement with his agent detailing the precise relationship between them and their mutual interest in the business along with techno-commercial bid.

b) The Supplier shall furnish original authorization letter for the Indian Agent. The letter shall contain name, contact person, complete postal address including phone, fax and e-mail ID. It shall also spell out the type of services to be rendered by Indian Agent.

c) Indian Agent & Agency commission: An Indian Agent can represent only one Foreign Manufacturer against a particular Tender. The FOB price quoted by the foreign bidder shall include the agency commission. However, the agency commission component payable to their Indian Agents shall be shown separately in the Offer, either as a lump-sum or as a percentage of the quoted price. This will be paid by BHEL in Indian Rupees, on satisfactory receipt & acceptance of the materials. For calculation of Rupee equivalent of Agency Commission, exchange rate as prevailing on the date of Purchase Order will be taken and

d) For all discussions, technical clarification and negotiations etc. only the principal would be authorized for interaction with BHEL. The Agent shall not be a party to the discussions / negotiations and would not be normally allowed to participate.

ii) Terms & Conditions of Letter of Credit (L/C) for overseas suppliers (indicated for acceptance).

a) Unconfirmed irrevocable Letter of Credit only will be opened by BHEL. Confirmation of L/C is not preferred by BHEL.

b) Bank charges out side India are to the Supplier's account.

c) In case of L/C extension caused by delays attributable to the Supplier, the L/C extension / commitment charges are to be borne by the Supplier.

iii) Other terms & conditions for letter of credit: - Documents for negotiation

a) Signed Commercial invoice in quadruplicate, for a value not exceeding the draft amount, quoting the import Licence No and certifying goods evidencing shipment of the merchandise are as per Applicant's



Purchase Order. The amount of invoice after deducting Indian Agent's commission, if any, should not exceed the Credit amount. (The Indian agent's commission, if any, is payable in India in Indian rupees only.)

b) Certificate of Country of Origin, from the country of manufacture, issued by the Chamber of Commerce.

c) One set of Original and two sets of Non-negotiable copies of 'signed', 'unmarked', 'clean on board' Ocean Bill of Lading, showing Shipper as "Government of India" Account M/s. Bharat Heavy Electrical Ltd, Unit: BHEL, Ranipet as consignee (The opening bank should not be notified as consignee), marked freight payable / prepaid at destination.

d) Packing list in 4 copies in English, indicating Size wise Number of bundles / pieces shipped and weight.

e) Certified copy of the fax / e-mail sent by the beneficiary to the applicant giving the following particulars of shipment, as the insurance is to be arranged by the Applicant in India: (a) Purchase Order Number & date; (b) Bill of Lading Number & date (c) Name of vessel; (d) Port of Loading; (e) Number of bundles / pieces and weight; (f) Invoice Number, date and value (g) Purchase Order item number's despatched. The cable / fax is to be sent within 2 working days of shipment.

f) Beneficiary's certificate showing the relevant airmail / courier reference no. and date that the following clauses have been complied with:

1] Beneficiary to forward by Registered Airmail / Courier one complete set of original documents and one set of non-negotiable documents within 3 working days of obtaining shipping documents to Regional Manager (ROD), Bharat Heavy Electricals Ltd, No. 165, Thambu Chetty Street, Chennai – 600 001. India. (Phone: +91-44-25341249, 25341240 / Fax - +91-44-25340787; e-mail: guru@bhel.in)

2] Beneficiary to courier at his cost 3 copies of complete set of non-negotiable documents to the Officer who released the Purchase Order.

3] Declaration by the Supplier certifying that the contents in each case are not less than those entered in the invoices / packing list and that the invoicing for the supplies effected is strictly in accordance with agreed rates as stipulated in the Purchase Order.

4] Declaration to the effect that all other documents as per purchase order has been couriered to the Purchase order releasing authority

5) The carrying steamer should be seaworthy, less than 25 years of age and approved by Lloyds / Classification Societies / General Insurance Corporation of India from time to time and

6) Copy of Dispatch Clearance / Instruction issued by BHEL.

iv) Documents to be sent directly to the Purchaser prior to shipment

a) Manufacturer's Original Internal Inspection / Test certificate in triplicate.

b) Manufacturer's Original Guarantee certificate as per Purchase Order. The material shall be guaranteed for a period of 12 months from the date of acceptance of the materials at BHEL stores or 18 months from the date of dispatch whichever is earlier. The acceptance would be evidenced by the Stores Receipt Voucher (SRV) which will be raised by BHEL..

c) Inspection / Test Certificate issued by BHEL / Inspection agency specified in the Purchase Order. In the event that Inspection prior to dispatch is not carried out by the Engineers of BHEL, the Inspection certificate of the third party so authorized by BHEL and

d) Any other documentation as specified in the Purchase Order.

v) Conditions for transportation:



- a) All shipping documents shall show the Purchase Order Number & Date, Import Licence Number & Date, and Letter of Credit Number & Date.
- b) Transshipment is to be avoided.
- c) Loading on deck is not permitted. The transport document must not contain a provision that goods may be carried on deck.
- d) A transport document which is produced or appearing to have been produced by reprographic, automated or computerized systems or as carbon copy will be accepted as an original document provided that it is marked as original and is ink-signed.
- e) The transport document must contain all the conditions of carriage on the original document.
- f) The transport document must not indicate the place of destination as being different from the port of discharge.
- g) The transport document must not contain the indication 'intended' or similar qualification in relation to the vessel or other means of transport or port of loading or port of discharge.
- h) The transport document must be issued by the carrier or his agent and not by any freight forwarder.
- i) Transport documents bearing reference by stamp or otherwise, to costs additional to the freight charges are not acceptable.
- j) The Bills of Exchange must be dated and presentation of documents for negotiation must not be later than 15 days after the date of shipment and in any case not later than the expiry date of the Credit.
- k) Material shall be dispatched through the agency nominated by BHEL.
- l) Indian suppliers shall dispatch the materials, freight prepaid, on door-delivery basis (FOR Destination – Destination: BHEL Stores) preferably through any one of the approved carriers of BHEL only and
- m) In the event there is a delay by the Supplier in negotiating / submitting the document, any demurrage / wharfage arising out of the same shall be to the account of the Supplier and shall be deducted from the final payment. Also, 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". Over-seas Suppliers have to give a No-Objection Certificate to BHEL, authorizing BHEL to get the Delivery Order from the Steamer Agent without producing the Original Bill of Lading. This is required to ensure avoidance of incidence of demurrage at Chennai Sea-port that may arise in case of delayed presentation of documents by the Seller.

G) Reverse auction (RA) / on-line bidding on internet:

BHEL will finalize the tender through Reverse Auction Procedure i.e. On-line bidding on Internet.

The General Terms & Conditions for RA are as below:

- i) For a proposed reverse auction, technically and commercially accepted bidders alone shall be eligible to participate.
- ii) BHEL will engage the services of a service provider who will provide all necessary training and assistance before commencement of on line bidding on internet.
- iii) BHEL will inform the Supplier in writing the details of Service Provider to enable them to contact the Service Provider & get trained.
- iv) Business rules like event date, time, start price, bid decrement, extensions etc. also will be communicated through the Service provider for compliance.
- v) Suppliers have to send the Compliance form in the prescribed format (provided by Service provider) by fax or e mail ,before start of Reverse auction. Without this, the vendor will not be eligible to participate in the event.



- vi) BHEL will provide the calculation sheet (e.g., MS Excel sheet) which will help to arrive at 'Total landed cost to BHEL' like Packing & Forwarding charges, Taxes and Duties, Freight charges, Insurance, Service Tax for Services, loading factors (for non-compliance to BHEL Standard Terms & Conditions), etc. for each of the Supplier to enable them to fill-in the price and keep it ready for keying-in during the Auction.
- vii) Reverse auction will be conducted on scheduled date & time.
- viii) At the end of Reverse Auction event, the lowest bidder value will be known on the network and
- ix) The lowest bidder has to Fax the duly signed filled-in prescribed format as provided on case-to-case basis to BHEL through Service provider within 24 hours of Auction without fail. Failure to do so or if there is any variation between the on-line bid value and the signed document, the same will be considered as sabotaging the tender process and will invite disqualification of Supplier to conduct business with BHEL as per prevailing procedure.
- x) Opening bid in reverse Auction: The opening bid (in the reverse Auction) of the bidders shall be same as that quoted in their final sealed price submitted to BHEL (along with Technical offer) or less. The bidder shall confirm in writing to BHEL that their opening bid (in reverse auction) shall be the same as that quoted in their final sealed price bids submitted to BHEL against this NIT along with Technical Bid (Part-1). If any bidder offered a unsolicited discount or rebate, in separate cover etc. in any place other than the sealed price bid, then the opening price bid in reverse auction, by such a bidder in Reverse Auction, shall be the price offered in final sealed price bid submitted (against this NIT) minus discount offered in any place other than the sealed price bid.
- xi) BHEL reserves the right to cancel Reverse Auction (RA) without assigning any reasons and resort to considering the sealed bids submitted by vendor for processing and finalizing the tender.
- xii) In case the process of reverse auction is found unsuccessful by BHEL, then BHEL at its discretion may decide to call the L1 bidder of reverse auction for further negotiation.
- xiii) Any variation between the on-line bid value and signed document will be considered as sabotaging the tender process and will invite disqualification of vendor to conduct business with BHEL as per prevailing procedure.
- xiv) In case BHEL decides not to go for Reverse auction procedure for this tender enquiry, the Price Bids and price impacts, if any, already submitted and available with BHEL shall be opened as per BHEL's standard practice.
- xv) Only those vendors, who participate in the Online Initial Opening Bid, will be eligible to participate in the subsequent Online English Reverse Auction.
- xvi) Price bids offered by the bidders during reverse auction process is considered as an offer to execute the work. Bids once made by a bidder cannot be cancelled/withdrawn and bidders shall be bound to execute the work at the final bid price. BHEL shall take appropriate action if the bidder fails to do so.
- xvii) Cancellation of RA: Even where BHEL has specified Reverse Auction as the mode of competitive bidding in the tender enquiry, BHEL reserves the right to cancel the RA and go in for competitive sealed price bidding. In that event, BHEL would intimate the acceptable offers of the same in writing. The decision of BHEL to replace RA with competitive sealed bidding would be final and would be binding on all the technically qualified bidders. Such decision would be communicated to the technically successful bidders and BHEL is under no obligation to assign any reason for changing the mode of bidding from RA to sealed cover competitive bidding. It shall be presumed that all bidders participating in this tender have read this condition and have accepted this, in submitting their offer..

H] Force Majeure

If at any time during the currency of this contract, the performance in whole or in part, by either party of any obligations under this contract shall be prevented or delayed by reason, of any war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, explosions, epidemics, quarantine, restrictions or acts of GOD (hereinafter referred to as events), then provided notice of happening of any such events is given by either party to other within ten days from the date of occurrence thereof, neither party shall reason of such events be entitled to terminate this contract nor shall either party have any such non performance and delay is resumed as soon as practicable after such events has come to an end or ceased to exist. If the



performance in whole or part of any obligation under this contract is prevented or delayed by reason or any such event claims for extension of time shall be granted for period considered reasonable by the purchaser subject to prompt notification by the seller to the purchaser of the particulars of the events and supply to the purchaser if required of any supporting evidence. Any waiver of time in respect of partial installment shall not be deemed to be a waiver of time in respect of remaining deliveries.

I] Cancellation of Order:

In the event of non-performance of the contract by the Supplier, BHEL reserves the right to cancel the order with issue of a written notice. BHEL would provide a curing period of 7 days, for the Supplier to rectify the situation. If the Supplier fails to rectify the reason/s that led to the issue of cancellation notice by BHEL, then the cancellation order would be issued automatically by BHEL, without further recourse to the Seller. BHEL will not pay any cancellation charges or any other charges / damages to the Supplier, arising out such cancellation. In the event of the non-performance of the supply contract, by the Supplier, the rights of BHEL include, in addition to cancelling the order, to take alternate purchase action at the cost and risk of the supplier. The additional expenditure to be incurred by BHEL in such alternate purchase would be to the account of the supplier. (Risk Purchase).

K] Others

- a) In case of any contradiction in the terms and conditions given here and elsewhere in the other documents of the tender, it shall be the responsibility of the tenderer to get it clarified from BHEL. The officer authorized to provide such clarifications is DGM / utility Purchase e-mail: mggsekaran@bhelrpt.co.in, phone 04172 28 4338 ,cell no.9943 992201
- b) Alterations to the conditions of the Tender can be done only by the authorized officer, at any time before the date and time of tender opening. Such changes, if any, would be communicated in writing and / or hosted in the web-page.
- c) The laws governing this transaction shall be the laws in India.
- d) Wherever not specified, INCO Terms 2010 shall be used to interpret the Commercial terms and conditions and
- e) In the event of an order, Supplier shall agree to settlement of disputes or differences, if any, by way of arbitration, in accordance with the "Rule of Arbitration" of the Indian Council of Arbitration.

The language in the tender documents downloaded by the Bidders shall at no point of time be changed, altered or modified in any manner by the Tenderer. If such changes are made by any tenderer, it shall be considered as tampering with BHEL's terms and the offer shall be summarily rejected, whenever it is noticed by BHEL. Such Bidders would be disqualified from the Bidding Process and their offers would be forfeited. They would also not be allowed to participate in future tenders of BHEL.