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1.0 DEFINITIONS:-

The following terms and expressions shall have the meaning hereby assigned to them except where the context otherwise requires.

- 1.1 **‘BHEL’** shall mean Bharat Heavy Electricals Limited, a Company registered under the Indian Companies Act, 1956 with its Registered Office at BHEL House, Siri Fort, New Delhi, Pin-110049 through its office at Piplani, Bhopal – 462022 or its authorized Officers or its Engineers or other employees authorized to deal with any matters with which these persons are concerned on its behalf.
- 1.2 **‘CONTRACTOR’** shall mean the individual, firm or Company who enters into contract with BHEL for providing the services as per this Tender and shall include their executors, administrators, successors and permitted assigns.
- 1.3 **‘CONTRACT’ or ‘CONTRACT DOCUMENT’** shall mean and include the agreement, the work order, General Terms & Conditions of the Contract, Instructions to tenderer, statutory compliances & the Letter of Intent /acceptance letter issued by BHEL. Any conditions or terms stipulated by the bidder in the tender documents or subsequent letters shall not form part of the contract unless specifically accepted in writing by BHEL in the letter of intent and incorporated in the Work Order.
- 1.4 **LETTER OF INTENT** shall mean the intimation by a letter / telegram / fax to the bidder that the tender has been accepted in accordance with provision contained in that letter. The responsibility of the contractor commences from the date of issue of this letter and all the terms and conditions of contract are applicable from this date.
- 1.5 **‘WORK’ or ‘CONTRACT WORK’** shall mean and include the work to be done by the Contractor as specified in the Tender documents.

2.0 MODES OF COMMUNICATION :


Generally, all communications, references etc. shall be delivered through email, fax or given to the authorized supervisor. It will be undertaken that the firm has read and understood the message, within three days of the delivery, even if they have not received / not opened/ having technical problems on their side. Firm shall communicate their change of authorized supervisor, email address in advance.

3.0 FACILITIES TO BE PROVIDED BY BHEL

- 3.1 BHEL shall provide water & light facility. Rest everything is to be arranged contractor.

4.0 EARNEST MONEY DEPOSIT (EMD) :

- 4.1 EMD is to be paid by tenderers for securing fulfillment of any obligations in terms of the NIT.
- 4.2 EMD also accepted in the form of FDR issued by scheduled banks/public financial institutions as defined in the companies act (FDR should be in the name of the contractor, a/c BHEL)
- 4.3 EMD in excess of Rs.2 lakh also accepted in the form of BG.
- 4.4 Forfeiture of EMD
EMD by the Tenderer will be forfeited as per NIT conditions, if:
 - i) After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL.
 - ii) The Contractor fails to deposit the required Security deposit or commence the work within the period as per LOI/ Contract.
 EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant “Guidelines on Suspension of business dealings with suppliers/ contractors” and forfeited/ released based on the action as determined under these guidelines.
- 4.5 EMD given by all unsuccessful tenderers shall be refunded normally within fifteen days of award of work.
- 4.6 EMD of successful tenderer will be retained as part of Security Deposit

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5.0 SECURITY DEPOSIT

- 5.1 Upon acceptance of offer, the successful bidder shall deposit 5% of the contract value as security deposit.
- 5.2 The full or 50% Security Deposit may be deposited online or in the form of BG/FD/Securities before start of work. The balance 50% of Security Deposit shall be recovered from the running bills@10% of the value of each running bill commencing from first running bill itself till the full Security Deposit is made up.

5.3 Refund of Security Deposit:

The Security deposit shall be refunded to the firm, only after minimum 1 month, of successful completion of the contract, after producing "Clearance and No Dues Certificate" from the concerned executive.


6.0 Agreement signing:

The firm will be required to sign a contract with BHEL on a proper Non-judicial stamp paper of appropriate value (as per prevailing Govt. guidelines) in a prescribed format. The cost towards agreement shall be borne by the firm.

7.0 Safety Compliances & Others

- 7.1 The contractor shall be fully responsible for safety of the vehicles, personnel and to comply with the security /safety regulations of BHEL/Govt. inside factory. The contractor is required to maintain first aid box at work place. The contractor shall ensure that no damage is caused to any person/any existing work / property of BHEL/ other parties working inside the factory.
- 7.2 Accident occurred, if any, during the course of company's work should be reported by the Contractors to BHEL immediately and certainly not later, than 24 hours. This should be followed by a detailed report from the Contractor.
- 7.3 The contractor shall arrange necessary Insurance cover with appropriate Third Party Liability cover for the vehicles/cranes and WC/Personal Accident Policy as applicable for the O&M crew. If any accident/ injury/ loss occur due to the operation of the vehicles/ cranes, to any other person/ public and the properties of BHEL/ client/ other agencies/ third party, the contractor shall have to pay necessary compensation and other expenses, so decided by the appropriate authorities/victims.
- 7.4 The Contractor will have to indemnify BHEL against –
- All claims for injury or damage to any person/property caused by his negligence or negligence of his staffs and any other unforeseen claims, whilst in BHEL premises.
 - Observance of Labour & Industrial Laws, including regular remittance to EPF and ESI.
 - The Contractor will accept liability for compensation in accordance with the provision of the Indian Worker's Compensation Act, 1948, amendments thereafter and or other law for the time being in force for personal injury caused to any workmen by accident arising out of and in the course of this contract.
 - BHEL shall not be held liable for any loss, damage or compensation to third parties rising from or in relation to transport operations done by the contractor. If any such damage/loss is caused, the contractor shall be responsible to make good the losses and compensate the affected parties/victims at his own cost.
 - The Contractor will indemnify the company against all payments by way of compensation or otherwise which the company may be called upon to make under the provisions of the said Acts to any workmen as aforesaid, and any cost incurred by the company in connection with any claim preferred by such workmen and or against all actions, claims and demand whatsoever in respect thereof or in respect of any loss, injury or damages whatsoever to any third person arising out of or occasioned by the negligent, imperfect or improper performance of this contract by the Contractor, their workmen servants or agents.
 - The contractor shall be responsible for all acts and omissions of their staff and Liabilities arising out of the acts and omissions of such staff shall be borne by the contractor. BHEL shall in no way be responsible for any such acts, omissions or any liabilities arising there from.

The contractor will be required to submit Indemnity Bond in favor of BHEL as per above on Non – Judicial Stamp Paper of appropriate value.

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8.0 GENERAL CONDITIONS:


- 8.1 The contractor should follow the prevailing industrial / labour laws/ Govt. laws as amended from time to time.
- 8.2 Any other requirement as per MV Act/Labor Laws etc.
- 8.3 The Contractor shall be fully responsible for the performance of the workmen deployed by them. The work shall be executed strictly in accordance with the instructions given by BHEL.
- 8.4 **Gate Pass** for entry into BHEL Factory would be required for all the persons deployed by the contractor. Special permission would be required for working beyond normal working hours. The contractor shall be arranging the passes and working permission beyond normal working hours on their own. BHEL Engineer shall provide necessary help and guidance for the same.
- 8.5 Only the authorized staff attached to the contracted work or representative nominated by the contractor shall be allowed entry inside the company's or any other premises during the period of contract.
- 8.6 The contractor will be solely responsible for all disputes, strikes and other issues connected with his workmen. The contractor has to ensure that the people deployed by them restrict their movement in the area earmarked.
- 8.7 BHEL reserves the right to short close the contract at its discretion at any point of time with one month notice period without assigning any reason thereof.

9.0 LAW GOVERNING THE CONTRACT AND COURT OF JURISDICTION'

The contract shall be governed by the law for the time being in force in the Republic of India. The Civil Court at Bhopal shall alone have exclusive jurisdiction in regard to all claims in respect of this Contract.

10.0 TERMS OF PAYMENT

- 10.1 Firm shall submit their clear & legible bills (in duplicate) on **Monthly basis**, duly verified by concerned engineer through Measurement book.
- 10.2 Payment shall be released within 60 days, after submission of the bills (Measurement book), with meeting all formalities in advance. All payments shall be released through electronic-pay mode only.
- 10.3 No interest shall be payable by BHEL on Earnest Money, Security Deposit/or on any money due to the Contractor by BHEL.
- 10.4 **GST:** - Extra as applicable. Vendor to inform GSTIN no., HSN code, SAC codes and other details along with documents. BHEL will avail tax credit as per GST rules.
 - I. Bidder has to give his undertaking that GST portion of the **invoice shall be released only upon:-**
 - a. All invoices raised by contractors/vendors must be GST compliant Tax invoices as per GST invoices as per rule 46 of CGST Rule, 2017.
 - b. Contractor must declare such invoices in his GSTR-1 in the respective month.
 - c. Receipt of goods/services and Tax Invoice by BHEL and Confirmation of payment of GST thereon by contractor on GSTN portal
 - d. Contractor has to give an undertaking to BHEL that they have declared invoice in his return and paying GST within timeline prescribed for availing ITC by BHEL.
 - II. Bidder has to ensure and to give an undertaking that in case tax credit is delayed/denied to BHEL due to **non/delayed receipt of services/goods and /or tax invoice** or expiry of the timeline prescribed in tax laws for availing such ITC, or any other reason not attributable to BHEL, tax amount shall be recoverable from the contractor along with interest levied/ leviable on BHEL.
 - III. Bidder has to give an undertaking that in case he delays in declaring such invoice in his return and GST credit availed by BHEL is denied or reversed subsequently as per GST law, GST amount paid by BHEL towards such ITC reversal as per GST Law shall be recoverable from them along with interest levied/leviable from BHEL. Hence payment of GST portion along with interest portion will be payable only after the last date/chance for availing ITC.
 - IV. Contractor has to submit monthly reconciliation statement to ensure minimum mismatches and avoid delay in availment of ITC by BHEL.

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V. In respect of goods, reverse charge liability to pay GST shall arise at the earliest of date of receipt of goods or date of payment to supplier or date of immediately following 30 days from the date of issue of invoice by the supplier.

VI. Penalty/LD shall be charged as per the NIT condition. GST applicable on the same shall be charged extra.

10.5 Progressive payment may subject to the deductions towards security deposit, income tax with surcharge, any other tax or levies applicable and recoveries towards materials/ services rendered on chargeable basis.

10.6 Firm shall arrange his own finance for smooth execution of contract, wages payment, other statutory payments to his employees and all other agreed conditions Payment against running bills, on achievement of milestones, will have no relation with the payment schedule of firm for wages etc. of their personnel.

10.7 All statutory liabilities such as wages, PF, ESI, bonus, leave/holiday, National holiday payment & all other payments to workmen shall be fulfilled by contractor. No separate payment shall be entertained other than deployed manpower and machine rate.

10.8 Manpower should be deployed as per BHEL's requirement as communicated from time to time.

11.0 FORCE MAJEURE

11.1 The following shall amount to force majeure conditions: Acts of God, act of any Government, War, sabotage, riots, civil commotion, police action, revolution, flood, fire, cyclone, earthquake and epidemic and other similar causes over which no contractor has any control.

11.2 In such cases, firm shall resume their operations, after reasonable and mutually agreed time.

12.0 ARBITRATION

12.1 All disputes between the parties to the Contract arising out of or in relation to the Contract, other than those for which the decision of the Engineer in the Contract or any other person is expressed to be final and conclusive, shall after written notice by either party to the contract to the other party, be referred to sole arbitration of the General Manager or his nominee. The Arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Reconciliation Act, 1996.


12.2 The parties to the Contract understand and agree that there will be no objection that the General Manager or the person nominated as arbitrator had earlier in his official capacity directly or indirectly dealt with the matters to which the Contract relates or that in the course of his official duties had expressed views on all or any of the matters in dispute or difference. The award of the arbitrator shall be final and binding on the parties to this contract.

12.3 The arbitration proceedings shall be held at Bhopal.

13.0 Benefits earmarked for Micro & Small Enterprises (MSEs)

13.1 Tender documents shall be issued free of cost & no EMD wherever called for will be insisted upon. MSE bidders shall submit along with bid relevant documents w.r.t. their respective MSE status as per extant norms. Date to be reckoned for determining the deemed validity will be the last date of Technical bid submission. Non- submission of such document will lead to consideration of their bid, at par with other bidders and MSE status of such bidders shall be shifted to Non- MSE supplier till the supplier submit these documents.

13.2 In tender, participating MSEs quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE, the supply shall be shared proportionately. A quantum of 6.25% out of 25% quantity, so earmarked, will be reserved for MSE's owned by SC / ST entrepreneurs who submit their bid with relevant documents provided that in event of failure of such MSE(s) to participate in tender process or meet tender requirements and L1 price, 6.25% sub-target for procurement earmarked for MSE(s) owned by SC or ST entrepreneurs shall be met from other MSE(s). In case of indivisible tender the full quantity shall be awarded to MSE.

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- 13.3 Minimum 3% reservation for women owned MSEs within the above mentioned 25% reservation.
- 13.4 If an enterprise falling under MSE category as defined in the MSMED Act 2006, graduates to a higher category from its original category or beyond the purview of the Act, it shall continue to avail all non-tax benefits of its original category notified by the Ministry of Micro, Small and Medium Enterprise for a period of three years from the date of such graduation to the higher category.
- 13.5 MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate having deemed validity (five years from the date of issue of acknowledgement in EM II) or valid NSIC certificate or EM II certificate along with attested copy of a CA certificate (As per BHEL Format, where deemed validity of EM II certificate of five years has expired) applicable for the relevant financial year (latest audited). 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. No benefits shall be applicable for this enquiry if any deficiency in the above required documents are not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer.

14.0 RIGHTS OF BHEL

BHEL reserves to itself the following rights in respect of this Contract without entitling the Contractor to any compensation:-

To terminate the contract at its discretion at any point of time with one month notice period without assigning any reason thereof and forfeit the Security Deposit and recover the loss sustained in getting the balance work done through other agencies in addition to liquidated damages in any event of the followings:-


- Contractor's continued poor performance, withdrawal from or abandonment of the work before the completion of contractual period.
- in case of misbehavior, disobedience, dishonesty, clandestine insolvency, any court order or any other related activities on their part or their failure to fulfil the terms and conditions of this agreement.
- Assignment, transfer, subletting of the contract work without BHEL's written permission.
- Non-fulfilment of any contractual obligations.
- The bidders offer may be rejected based on unsatisfactory past performance, default on earlier occasions in their contractual obligation & statutory obligation, in any of the contracts of BHEL Bhopal or any of its units.
- This contract may be terminated at any time without paying any compensation whatsoever to the Contractor in case of misbehaviour, disobedience, dishonesty, clandestine insolvency, any court order or any other related activities on their part or their failure to fulfil the terms and conditions of this agreement.

15.0 ATTENDANCE RECORD OF CONTRACT WORKERS

"The contractor should maintain an Attendance Register against each work order in respect of the contract labours deployed by him in that department. The contractor shall record the daily attendance of the workers. The register shall bear the daily signature of contract workers & contractor. The register shall at all the times of work, be available at the place of work/dept. Attendance register shall be maintained in the format of Form No XVI as per CL (R&A) Central rules 1971 and available on CLC web page. If during any inspection, the attendance register is not found at the place of work, the contract is liable to be short closed/terminated."

16.0 WAGE RECORD OF CONTRACT WORKERS

"The contractor should maintain a Wage Register against each work order in respect of the contract labourers deployed by him in that department. Wage Register shall be maintained in the format of Form No. XVII/XVIII as per CL (R&A) Central Rules 1971 and available on CLC web page. The Wage Register shall be based on the Attendance Register as mentioned above. The Contractor shall issue Wage Slip to each contract worker, every month on the last day of the wage month. Wage slip shall be as per the CLC format

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available at CLC Web page. The Contractor shall pay wages not later than 7th of the succeeding month. The Wage Register shall bear the PF and ESI nos. of the workers.

17.0 COMPLIANCE OF PF/ ESI DEDUCTIONS

"The Contractor shall file the electronic return of PF/ ESI and submit proof of payment of both the employer's and employees' contributions every month. (PF has to be remitted by 15th and ESI by 21st of the succeeding month.) Contractor shall submit the challan along with copy of a self-certified list of contract workers (bearing their names and PF/ESI no. and deductions made) for whom the contribution has been submitted by him for the said period. Such list shall be displayed in the notice board of the department."

18.0 ESI CARD BASED LABOUR ENTRY

"Only those workers shall be allowed entry into Factory premises who have valid ESI card."

19.0 UNIFORM, SHOES & HELMET FOR CONTRACT WORKERS

"In the first month of the execution of work order the contractor shall provide uniform, shoes & helmet to his workers and provide an undertaking on this regard to the department and the first bill shall be processed only on the production of the undertaking. In case of non-compliance beyond second month the contractor shall be issued notice of termination of contract."

20.0 CONTRACT LABOUR ACCIDENTS WHILE AT WORK:

"In case of medical emergencies faced by contract worker at work, medical facilities in the interest of the wellbeing of the worker shall be provided by BHEL. The decision of the doctors attending the emergency shall be final and binding. The cost incurred shall be deducted from the bills of the contractor. The Contractor shall complete the ESI formalities and BHEL shall submit claim of reimbursement of medical expenses to ESI. The amount reimbursed by ESI shall be paid back to the contractor."


21.0 PROHIBITION ON INFLUENCING AND INTERFERING ON BEHALF OF CONTRACTOR

"The Contractor shall neither try to influence, chase or interfere into the working of BHEL officials nor engage BHEL employee or any other third person for the same. In case such incident does occur, it may lead to disqualification / debarring from the contract. Any contractor shall be debarred from consideration if any of his relations is working in the product/functional group in which the contract is being issued. Before issuing tender form to any contractor for limited tender enquiry a confirmation has to be given by contractor that none of his relations are working in that product/functional group."

22.0 FIRST AND FINAL BILL TO BE CLEARED ONLY AFTER SUBMISSION OF FORM VI A & VI B: "Contractor shall within 5 days of commencement /completion of Work Order submit Form VI A to RLC office. Contractor shall submit a copy of Form VI A bearing the receipt seal of RLC office to HR department. The first and final bill shall be processed only on clearance regarding submission of Form VI A and VI B by contractor. New Work order no. shall be allotted only after the contractor concerned furnishes copy of Form VI A regarding the closure of the earlier contracts (if any).

23.0 "BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life / permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below.

- a) Victim: Any person who suffers permanent disablement or dies in an accident as defined below.
- b) Accident: Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious occurrence caused during the manufacturing/operation and works incidental thereof at BHEL factories/ officers and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving, overhaul, renovation and retrofitting, trial operation, performance guarantee testing undertaken by the company or during any works / during working at BHEL Units/ Officers/ townships and premises/ Project Sites.
- c) Compensation in respect of each of the victims:
 - (i) In the event of death or **permanent disability** resulting from **Loss of both limbs**: Rs. 10,00,000/- (Rs. Ten Lakh)

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(ii) In the event of **other permanent disability**: Rs.7,00,000/- (Rs. Seven Lakh)

d) Permanent Disablement: A disablement that is classified as a permanent total disablement under the proviso to Section 2 (l) of the Employee's Compensation Act, 1923".

24.0 In order to comply above clause 23.0, contractor may submit an undertaking (Annexure VIII) that, in case they bag the contract, they will fulfil the necessary condition w.r.t. insurance coverage of workers as mentioned in the clause by way of taking an accidental insurance cover of the said amount for their workers. After issue of work order, the successful contractors will have to take insurance and submit documents before commencement of work. However, if otherwise clause 23.0 as above shall be applicable.

25.0 THE BHEL CONCILIATION SCHEME :


The Parties agree that if at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the agreement, contract or the Memorandum of Understanding (delete whichever is inapplicable), which the Parties are unable to settle mutually), arise inter-se the Parties, the same may, be referred by either party to Conciliation to be conducted through Independent Experts Committee to be appointed by competent authority of BHEL from the BHEL Panel of Conciliators.

Notes:

- (i) No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.
- (ii) Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.

The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS .

Name & Signature of the bidder
(Seal)

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ANNEXURE-VIII

Undertaking from the Contractor

I/we..... Hereby, undertake that in case I/we get the work order for for EOT crane operation, I/we will submit insurance cover for work force for conditions mentioned in clause 23.0 of “General Terms and Conditions (NIT:33890901)” before commencement of work.

Name & Signature of the bidder

(Seal)