

Terms & Conditions for supply of Copper Tube under 2 years Rate Contract Enquiry No. E0899002 on finished basis.

1. **General** : Sealed tenders are invited in Two-Part Bid system for purchase of Copper Tube as per Specifications and terms & conditions mentioned in the Annexures -"I to VIII" on finished basis. The supplies against this rate contract enquiry shall be subject to our General Terms and conditions of enquiry and PO. In addition, the terms and conditions given under this annexure shall specifically apply to this enquiry. If any difference between the General Terms and conditions of enquiry and PO and the conditions included in this annexure, the conditions included in this annexure shall prevail. The offer of the bidders who are in the banned list as also the offer of the bidders who engage the services of the banned firms shall be rejected. List of banned firms is available on BHEL website: www.bhel.com. Likewise, offers of those bidder(s) will not be considered who have been suspended (under hold / delisting) by BHEL, Jhansi during the given period. Lot wise quantity and delivery schedule indicated in the enquiry sheet is tentative. Actual procurement will be carried out progressively as per requirement of BHEL against the rate contract.

2. **Procedure for Bid submission** :- Offer shall be submitted by the bidders in two parts:-

Part - I Technical cum Commercial bid (Un-priced)

- A- Part-I of the bid shall contain complete detail of the product offered, all techno commercial terms & conditions and acceptance to the following:-
- (i) Instruction to bidders containing Commercial Terms & Conditions applicable for tender enquiry of cable - **Annexure - I.**
 - (ii) Techno - commercial format - **Annexure - II**
 - (iii) **PQR Format - Annexure III.**
 - (iv) Un-Price format - **Annexure IV & Annexure-V.**
 - (v) Integrity Pact - **Annexure VIII.** (Page 1 to 5)
 - (vi) General 'Terms and conditions rev 02 of enquiry (JHS 2055A) for and BHEL PO Terms and Conditions as available on "Supplier Information Portal".
- B- In case it becomes necessary to deviate in any of the above, the deviations must be clearly brought out in bid Part-I of the offer. Copy of un-priced bid part-II with status "**quoted (Q) & un - quoted (NQ)**" must accompany bid part-I.

Part - II Price bid

Price bids shall be submitted packages wise in two separate envelopes as per **Price Bid- Annexure-VI & VII** and required with duly filled, signed & stamped by the authorized signatory of the vendor. Enquiry Number, Due Date & Price bid of relevant Packages-(either I or II) must be super scribed on every envelopes.

NOTE: Part -I sealed envelope shall be duly super scribed as **Part - I 'Technical cum Commercial bid'**, Part -II, considering 2 **separate sealed envelopes** shall be duly super scribed as **Price bid of Package-I & Price bid of Package-II.** The enquiry number and due date shall also be super scribed on every envelopes.

If any suppliers quote for both the packages then two separate sealed envelopes shall be submitted for price bid else offer shall be liable for rejection.

3. **Bid Opening** :- The 'Techno-commercial' part of the bid i.e. Bid Part - I of the offers shall be opened on the due date of tender opening. Clarifications, wherever required on this part, shall be obtained from the bidders for their evaluation. The Price bid Part-II of such vendors alone shall be opened whose techno-commercial bids are found acceptable. The date of 'Price bid -Part II' opening shall be intimated later on. Before price bid opening / RA (reverse auction) all formalities for registration has to be completed by the bidders as per new supplier link at www.bhel.com.

Alternatively: "BHEL reserves the right to go for Reverse Auction (RA) (Guidelines as available on www.bhel.com) instead of opening the sealed envelope price bid, submitted by the bidder.

This will be decided after techno-commercial evaluation. Bidders to give their acceptance with the offer 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.

Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'Process compliance form' (to the designated service provider) as well as 'Online sealed bid' in the Reverse Auction. Non-submission of 'Process compliance form' or 'Online sealed bid' by the agreed bidder(s) will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/contractors (as available on www.bhel.com).

The bidders have to necessarily submit online sealed bid less than or equal to their envelope sealed price bid already submitted to BHEL along with the offer. The envelope sealed price bid of successful L1 bidder in RA, if conducted, shall also be opened after RA and the order will be placed on lower of the two bids (RA closing price & envelope sealed price) thus obtained. The bidder having submitted this offer specifically agrees to this condition and undertakes to execute the contract on thus awarded rates.

If it is found that L1 bidder has quoted higher in online sealed bid in comparison to envelope sealed bid for any item(s), the bidder will be issued a warning letter to this effect. However, if the same bidder again defaults on this count in any subsequent tender in the unit, it will be considered as fraud and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/contractors (as available on www.bhel.com)."

4. **Pre Qualification Criteria**

Offers of those Bidders who meet the Pre-qualification criteria mentioned below will be accepted. Any deviation from these shall render offer submitted by bidder as rejected :

SL	REQUIREMENT	Bidder Response
1	Bidders should be the "Original Manufacturer" of Copper Tube. For this, Bidders to provide Copy of DIC Registration Certificate / Certificate of incorporation / Factory license / GST Registration / Memorandum of Articles.	☐ Yes ☐ Submitted
2	Annual average financial turnover of last three financial years ending on 31 st March 2019 should be of Rs. 100.00 Lakhs minimum. As evidence of the above information, bidder to attach Profit & Loss Statement of last three financial years. In case the Balance Sheet of the last financial year is not yet audited, the un- audited balance sheet of the last financial year can be enclosed along with certificate of CA.	☐ Yes ☐ Submitted

3	EXPERIENCE:- a) Bidders should have experience of supplying Copper Tube to Railways/PSUs/State owned Generation & Distribution Companies, reputed Transformer Manufacturers BHEL / ABB / Siemens / Alstom / Crompton Greaves / Bharat Bijlee / TELK / EMCO / T & R / Voltamp Trfr, Schneider Electric, Control & Switchgears Co Ltd in the last three years. b) The bidders have to provide minimum two orders but quantum of supply should not less than 18000 Kg of Copper Tube in the last three years, one month prior to date of issue of tender shall be considered for qualification. As evidence of the above information, the bidder to attach the documentary proof as below : <table border="1" data-bbox="313 560 1238 884"> <thead> <tr> <th>Supplies made to</th> <th>Documentary Proof to be attached</th> </tr> </thead> <tbody> <tr> <td>BHEL,Unit(s)</td> <td>Purchase Order Copies to be submitted</td> </tr> <tr> <td>Other PSUs / Govt Undertakings</td> <td>Copy of Performance certificate/Tax Invoices, Purchase Order issued by Customer and test certificates of any one lot to be submitted.</td> </tr> <tr> <td>Private Sector</td> <td>Copy of Purchase Order, relevant Tax Invoice / TDS certificate and test certificates of any one lot to be submitted.</td> </tr> </tbody> </table> c) Self-undertaking that goods supplied by us have been found satisfactory and "NO" quality problem was reported by the customer(s).	Supplies made to	Documentary Proof to be attached	BHEL,Unit(s)	Purchase Order Copies to be submitted	Other PSUs / Govt Undertakings	Copy of Performance certificate/Tax Invoices, Purchase Order issued by Customer and test certificates of any one lot to be submitted.	Private Sector	Copy of Purchase Order, relevant Tax Invoice / TDS certificate and test certificates of any one lot to be submitted.	38 ☐ Yes ☐ Submitted PI tick ✓ as applicable ☐ BHEL Units ☐ Other PSUs / Govt Undertakings ☐ Private Sector ☐ Confirmed
Supplies made to	Documentary Proof to be attached									
BHEL,Unit(s)	Purchase Order Copies to be submitted									
Other PSUs / Govt Undertakings	Copy of Performance certificate/Tax Invoices, Purchase Order issued by Customer and test certificates of any one lot to be submitted.									
Private Sector	Copy of Purchase Order, relevant Tax Invoice / TDS certificate and test certificates of any one lot to be submitted.									
4	New vendors who are not registered with BHEL, Jhansi should submit duly filled "Supplier Registration Form (SRF)" along with the requested documents. The SRF is available on line on our website www.bhel.com.	☐ Document Submitted								

- We agree that our bid is liable to be rejected in case (a) the relevant information is not filled, (b) documentation is incomplete, (c) there are false declarations, and (d) if we do not meet the PQR.
- Criteria at Sl. No. 4 is desirable. Other are mandatory.
- Details as mentioned in **Annexure III** has been filled and supporting documents are submitted.

5. **Bid evaluation:** The bid shall be evaluated on total delivered cost to BHEL (landed cost net of input tax credit) taking into account all duties / taxes / Cess as per prevailing structure on date of tender enquiry (bid part-I) opening.

Bidders may note that quoted rates shall be loaded for any deviation from the terms & conditions given in this enquiry, to arrive at landed cost and same shall be communicated to techno-commercially suitable bidders before price bid opening.

Evaluation of tender shall be done on package wise L1 basis.

Since evaluation of tender shall be done on package wise L1 basis, bidders must have to quote every item available in particular package. If any bidder doesn't quote a particular item of a particular package then their offer shall not be considered for that particular package.

6. **Technical Parameters and Tendered Quantity:-** Copper Tube shall conform to the latest revision of the purchase specifications. Tentative quantity break up is mentioned below;

Enquiry Item	MATERIAL DESCRIPTION	Qty (in Kg)	
1	COPPER TUBE 20 TO 44 O/D IN 2500 MM LENGTH TO CPS BP12082 REV 06	15000	BP12082 Rev06
2	COPPER TUBE 60.33 O/D IN 6600 MM, 6900 MM OR 7200 MM LENGTH TO CPS BP12082 REV 06	70000	BP12082 Rev06
3	COPPER TUBE 6 O/D IN 4 TO 6 MTR LENGTH TO CPS AA12017 REV 02	1200	AA12017 Rev 02
4	COPPER TUBE 45 TO 63.33 O/D IN 2500 TO 6500 MM LENGTH TO CPS BP12082 REV 06	25000	BP12082 Rev06

Package-2

Enquiry Item	MATERIAL DESCRIPTION	Qty (in Kg)	
5	CU TUBE WITH OD FROM 25 MM TO 40 MM WALL THICKNESS 1.651 MM AND LENGTH 6 MTRS LONG, CONFIRMING TO CLW SPEC NO. CLW/MS/3/030 ALT-12 OR LATEST ALTERATION, REVISION AND AMENDMENT.	3000	CLW/MS/3/030 ALT-12
6	CU TUBE WITH OD FROM 9 MM TO 13 MM WITH WALL THICKNESS 1.245 MM AND LENGTH 6 MTRS LONG, CONFIRMING TO CLW SPEC NO. CLW/MS/3/030 ALT-12 OR LATEST ALTERATION, REVISION AND AMENDMENT	2700	CLW/MS/3/030 ALT-12
7	COPPER TUBE WITH OUTER DIA 6.35 MM (1/4"), WALL THICKNESS 0.889 MM AND LENGTH 6 MTRS LONG, CONFIRMING TO CLW SPEC NO. CLW/MS/3/030 ALT-12 OR LATEST ALTERATION, REVISION AND AMENDMENT.	25	CLW/MS/3/030 ALT-12

- Above quantity may vary to +/- 30% of total quantity of packages irrespective of individual item quantity called in particular package.

7. Pricing Terms :- Material will be supplied on finished basis as per below PVC clause:-

Rates are based on HCL price of "Copper Cathode Full" for the month of May-19 i.e Rs 474.799 per KG .Any change in price of "Copper Cathode Full" at one month prior to the month of schedule delivery or actual delivery, whichever is lower shall be applicable in ratio 1:1. Wherever, early supply with respect to contractual delivery is required by BHEL (in writing), then rate of "Continuous cast copper wire rod 8 MM" for the month prior to the month of supply shall be considered.

The quoted rate shall be inclusive of all tooling cost, packing, freight, insurance and forwarding charges etc. and no extra charges shall be payable on whatsoever account.

Bidders shall quote their most competitive rates, which shall be valid regardless of whether Reverse Auction is conducted or not.

8. PVC (Price variation Clause) Applicable: Yes as per clause 7.

9. Transit Insurance: - By the bidder.

10. Number of Suppliers:- We need 2 suppliers for execution of this contract and the tentative distribution of quantities among L1 & L2 would be in the ratio of 70:30. Number of minimum suppliers required to execute this contract may change depending upon committed capacity and also acceptance to counter offer, if any, made by BHEL. Number of bidders for quantity distribution shall be (n-1), limited to 2 bidders where n is number of techno – commercially qualified bidders and shall be as shown below.

n	L1	L2	L3	Total
1	100	-	-	100
2	70	30	-	100

11. **Supply Tolerance : +/- 2 %**
12. **Inspection of material :-**
Final inspection for acceptance of quality and quantity shall be done at BHEL's works after receipt of material. Test Certificates as per Annexure, purchase specifications, QA plan etc. must accompany each lot.
13. **Replacement of rejected Goods :-** Final inspection for acceptance of quality shall be at BHEL's works after receipt of material and results shall be binding on the suppliers. In case of rejection due to non compliance to agreed specification and for the reasons attributable to the vendor, the materials shall be replaced by vendor free of charge on "FOR BHEL works basis" including interlay cost elements such as total transportation, insurance and other taxes / levies etc as applicable. The rejected goods shall be subsequently returned to the vendor at his cost.
14. **Taxes & Duties:-** All taxes & duties as applicable at the time of dispatch within India only will be paid / reimbursed by BHEL and same will be loaded for price comparison on delivered cost to BHEL (i.e. landed cost net of input tax credit) .
15. **Payments Terms:-** 100% payment within 90 days of receipt of material (45 days for MSE / NSIC registered suppliers as per relevant act in force), subject to acceptance of material at BHEL, on direct presentation of the documents.
Any deviation from the above payment terms, if accepted (by BHEL), shall be loaded @ SBI base rate (as on date of Part I bid opening) + 6%, for the purpose of bid evaluation.
16. **Terms of delivery:-** On FOR Bhel Jhansi basis.
17. **Validity of Offer :-** Offer should be valid for a period of 120 days from the date of techno-commercial bid opening date (part-1) for finalization of the contract.
18. **Levy of Penalty for delayed performance:-** Bidders to note that penalty @ 0.5% per week or part thereof subject to 10% maximum on undelivered portion shall be applicable for delay in supply beyond contractual delivery period. Bidders are requested to give specific acceptance for penalty clause. Date of receipt of material at BHEL works i.e. CISF date will be considered as proof of delivery for calculating delayed performance in case of indigenous vendors. In case of foreign vendors, B/L date shall be taken as proof of delivery. Failure on the part of the bidder to accept above clause will attract the loading of 10% on the quoted price for the purpose of evaluation.
19. Commercial Conditions quoted by the vendor in any place including as stated in bidder's 'General Terms and Conditions rev 02 of enquiry' if any, shall not be binding on the Purchaser and the conditions contained in this annexure, including General terms & Conditions rev 02 of enquiry, if any, for this enquiry shall only prevail.
20. **Integrity Pact (IP) – Independent external monitor (IEM) :-**
IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner.
A panel of Independent External Monitors (IEMs) have been appointed to oversee implementation of IP in BHEL.
The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory who signs in the offer) along with techno-commercial bid. Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification.

Details of IEM for this tender is furnished below:

Name: Shri Pravin Tripathi, IAS (Retd.)

Address: D-243, Anupam Gardens,
Lane IB, Neb Sarai, Sainik Farms, New Delhi- 110 068

Email: pravin.tripathi@gmail.com

Ph : +91 11 29533206 /
29531715

35

36

(b) Please refer Section-8 of the IP for Role and Responsibilities of IEMs.

In case of any complaint arising out of the tendering process, the matter may be referred to the IEM mentioned in the tender.

Note: No routine correspondence shall be addressed to the IEM (Phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc on the tender issued. All such clarification / issues shall be addressed directly to the tender issuing (procurement) department

For all clarifications/ issues related to the tender, Please contact:

Name: (1) Naveen Mahaseth (2) A.K.Verma
Deptt : Material Management
Address : PO khailar, BHEL Jhansi-284120
Phone : (Landline/ Mobile)
(1) 0510-241 2329/2460 (2) 8765956505 / 9425604688
Email: nkmahaseth@bhel.in, arunverma@bhel.in
Fax: 0510-2412120

Naveen

Prepared By
(Naveen Mahaseth)
Sr. PO (MM)

Arun

Checked By
Arun Verma
Sr.DGM(MM)

Techno – commercial format for procurement of Copper Tube against enquiry E0899002

SL. NO.	DESCRIPTION	BIDDERS RESPONSE
1	Name of the supplier	
2	Name & designation of the contact person	
3	Address of the works at which inspection / delivery is offered.	
4	Complete acceptance to Technical Terms & conditions including Technical/Purchase Specs as mentioned in Enquiry as well as in Annex. – I.	☐ Accepted
5	Complete acceptance to all terms & conditions of tender enquiry as mentioned in Annex.-I and general terms and conditions rev 02 of enquiry (JHS 2055 A) and BHEL PO terms and conditions as available on Supplier Information Portal. https://www.bheljhs.co.in/apps/sip/index.php	☐ Accepted
6	Acceptance for finalization of Price bid part-II through on line bidding (Reverse Auction).	☐ Accepted
7	*Acceptance for the final inspection of material after receipt at BHEL works and results shall be binding on the supplier.	☐ Accepted
8	Quoted delivery in number of days for contractual purposes on FOR destination basis from date of PO.	 Days
9	Applicable GST (mention NA if not applicable)	
	A. IGST@	 %
	B. CGST @	 %
	C. SGST @	 %
10	*Acceptance to Pricing Terms as per sl.no: 7 of Annexure – I.	☐ Accepted
11	*Acceptance to bid evaluation criterion at sl.no.5 of Annexure – I	☐ Accepted
12	Acceptance to Delivery Terms on F.O.R BHEL Jhansi as per clause 16 of Annexure-I	☐ Accepted
13	Acceptance of penalty @ ½ % per week or part there of subject to max. of 10% for delay in supply beyond agreed delivery as per sl.no 18 of Annexure – I.	☐ Accepted
14	Acceptance to payment terms as per sl.no 15 of Annexure – I. 100% payment with in 90 days of receipt (45 days for MSE registered suppliers as per relevant act n force), subject to acceptance of material at BHEL.	☐ AcceptedMSE ☐ Accepted90day
15	*Acceptance to rejection replacement clause as per sl.no.13 of Annexure - I.	☐ Accepted
16	Validity of offer to be reckoned from the date of bid Part-I opening and it will be 120 days from the date of techno-commercial bid opening date (part-1) for finalization of the contract.	☐ Accepted
17	Un-Price Bid (Annexure – IV & V) submitted in un-priced condition with 'Q (Quoted)' OR 'NQ (Not Quoted)' status with bid part – I.	☐ Submitted
18	*Integrity Pact submitted in original duly signed	☐ Yes
19	*Acceptance to Warranty , Corresponding Repairs / Replacement of Goods, and Deductions as per clause 17(A) of GTC rev 02.	☐ Accepted
20	In case of any inconsistency between offers of supplier and the accepted terms and conditions in this sheet, the terms and conditions of this sheet shall prevail.	☐ Accepted

*In case of non-acceptance to these clauses, your bid may be liable for rejection.

Signature with name of the Authorized Signatory

Details for Pre Qualification Criteria for Enquiry no E0899002

1	We confirm that we are “Original Manufacturer” of Copper Tube. For this, we are submitting Copy of DIC Registration Certificate / Certificate of incorporation / Factory license / Excise / GST Registration / Memorandum of Articles etc. (Pl tick appropriate documents)					☐ Yes ☐ Submitted
2	Turnover during last three Financial years					
FY	2016-17	2017-18	2018-19	Average Turnover	Remark, if any	
3	Details for supplies made the customers referred at point 3 under heading “Experience” to meet Qualifying Requirement (PQR)					
S No	Customer Name	Order No. & Date	Qty. in MT	Order Copy, Tax Invoice No., Test Certificate & Date	Remark, if any	
4	We hereby confirm that supplies made against above orders have been found satisfactory and “NO” quality problem was reported by the customers.					
5	Supplier Registration Form submitted as per Application No. : (For Qualifying, this is not mandatory)				Dated	

(Use separate sheet, if needed)

(Signature of the Supplier with Name, Designation & Seal)

UNPRICE BID FOR PACKAGE-1, FOR ENQUIRY NO. E0899002

Supplier Name & Address :

Bidders have to tick (✓) appropriate option as given below:

Enquiry item no.	Quoted rate in figure (Rs / Kg basis)	Quoted rate in words (Rs / Kg basis)
Enq. # 1	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)
Enq. # 2	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)
Enq. # 3	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)
Enq. # 4	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)

Note:- The price bid submitted in any other fashion or by adding any condition (e.g. minimum order quantity, rates applicable for specified quantity, discount for quantity, rate based on slabs, rate based on terms of payment etc.), offer shall be straight way REJECTED even if, offer has been found technically & commercial acceptable before opening of price bid.

Signature of Authorized Signatory:

Name :
Contact No. :
Email Address :

UNPRICE BID FOR PACKAGE-2, FOR ENQUIRY NO. E0899002

32

Supplier Name & Address :

.....

Bidders have to tick (✓) appropriate option as given below:

Enquiry item no.	Quoted rate in figure (Rs / Kg basis)	Quoted rate in words (Rs / Kg basis)
Enq. # 5	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)
Enq. # 6	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)
Enq. # 7	Quoted(Q) / Not Quoted (NQ)	Quoted(Q) / Not Quoted (NQ)

Note:- The price bid submitted in any other fashion or by adding any condition (e.g. minimum order quantity, rates applicable for specified quantity, discount for quantity, rate based on slabs, rate based on terms of payment etc.), offer shall be straight way REJECTED even if, offer has been found technically & commercial acceptable before opening of price bid.

Signature of Authorized Signatory:

Name :
Contact No. :
Email Address :

PRICE BID FOR PACKAGE-1, FOR ENQUIRY NO. E0899002

Supplier Name & Address :

Enquiry item no.	Quoted rate in figure (Rs / Kg basis)	Quoted rate in words (Rs / Kg basis)
Enq. # 1		
Enq. # 2		
Enq. # 3		
Enq. # 4		

Rates are based on HCL price of "Copper Cathode Full" for the month of May-19 i.e Rs 474.799 per KG as per PVC clause mentioned at sl no-07 of Annexure-I

Note:- The price bid submitted in any other fashion or by adding any condition (e.g. minimum order quantity, rates applicable for specified quantity, discount for quantity, rate based on slabs, rate based on terms of payment etc.), offer shall be straight way REJECTED even if, offer has been found technically & commercial acceptable before opening of price bid.

Signature of Authorized Signatory:

Name :
Contact No. :
Email Address :

PRICE BID FOR PACKAGE-2, FOR ENQUIRY NO. E0899002

Supplier Name & Address :

.....

Enquiry item no.	Quoted rate in figure (Rs / Kg basis)	Quoted rate in words (Rs / Kg basis)
Enq. # 5		
Enq. # 6		
Enq. # 7		

Rates are based on HCL price of "Copper Cathode Full" for the month of May-19 i.e Rs 474.799 per KG as per PVC clause mentioned at sl no-07 of Annexure-I

Note:- The price bid submitted in any other fashion or by adding any condition (e.g. minimum order quantity, rates applicable for specified quantity, discount for quantity, rate based on slabs, rate based on terms of payment etc.), offer shall be straight way REJECTED even if, offer has been found technically & commercial acceptable before opening of price bid.

Signature of Authorized Signatory:

Name :
 Contact No. :
 Email Address :

INTEGRITY PACT**Between**

Bharat Heavy Electricals Ltd. (BHEL), a company registered under the Companies Act 1956 and having its registered office at "BHEL House", Siri Fort, New Delhi - 110049 (India) hereinafter referred to as "The Principal", which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

and

_____, (description of the party along with address), hereinafter referred to as "The Bidder/ Contractor" which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for _____

_____. The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal will appoint Independent External Monitor(s), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1- Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the process all known prejudiced persons.

1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions:

27 28

Section 2 - Commitments of the Bidder(s)/ Contractor(s)

- 2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
- 2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he/ she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- 2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- 2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant Indian Penal Code (IPC) and Prevention of Corruption Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 2.1.4 Foreign Bidder(s)/ Contractor(s) shall disclose the name and address of agents and representatives in India and Indian Bidder(s)/ Contractor(s) to disclose their foreign principals or associates. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- 2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 2.3 The Bidder(s)/ Contractor(s) shall not approach the Courts while representing the matters to IEMs and will await their decision in the matter.

Section 3 - Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process or take action as per the separate "Guidelines on Banning of Business dealings with Suppliers/ Contractors", framed by the Principal.

Section 4 - Compensation for Damages

- 4.1 If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent Earnest Money Deposit/ Bid Security.
- 4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to

demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/ Performance Bank Guarantee, whichever is higher.

Section 5 - Previous Transgression

- 5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- 5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 - Equal treatment of all Bidders/ Contractors / Sub-contractors

- 6.1 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors. In case of sub-contracting, the Principal contractor shall be responsible for the adoption of IP by his sub-contractors and shall continue to remain responsible for any default by his sub-contractors.
- 6.2 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

Section 7 - Criminal Charges against violating Bidders/ Contractors /Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

Section 8 - Independent External Monitor(s)

- 8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- 8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.
- 8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality in line with Non- disclosure agreement.
- 8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

- 8.5 The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- 8.6 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 8.7 The IEMs would examine all complaints received by them and give their recommendations/ views to CMD, BHEL, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal/ administrative action. IEMs will tender their advice on the complaints within 10 days as far as possible.
- 8.8 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.
- 8.9 IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging mala fide on the part of any officer of the organization should be looked into by the CVO of the concerned organisation.
- 8.10 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant Indian Penal Code/ Prevention of Corruption Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.11 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.
- 8.12 The word 'Monitor' would include both singular and plural.

Section 9 - Pact Duration

- 9.1 This Pact shall be operative from the date IP is signed by both the parties till the final completion of contract for successful bidder and for all other bidders 6 months after the contract has been awarded. Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- 9.2 If any claim is made/ lodged during currency of IP, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/ determined by the CMD, BHEL.

Section 10 - Other Provisions

- 10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.

25

- 10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- 10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- 10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.5 Only those bidders / contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

For & On behalf of the Principal

(NAVEEN MAHASETH)
Sr. P.O. (MMX)
(Office Seal)
B.H.E.L., JHANSI

For & On behalf of the Bidder/

Contractor

(Office Seal)

Place-----

Date-----

Witness: (अजय कुमार वर्मा)
(A. K. VERMA)
(Name & Address) (सामाजी प्रबंधन)
Sr. DOM (MM)
बी.ए.एल., जहानाबाद, जिला-284120
B.H.E.L., JHANSI-284120

Witness: _____
(Name & Address) _____