(Attachment to Enquiry No. **F5A1T35123** Due on Date **18.11.2020** for submission by **11.00 hrs** to open from **14.00 hrs**.)

INSTRUCTIONS TO BIDDER (ITB)

NOTE: Bidder to confirm in affirmative by typing "YES" or "Applicable Data" in the response column. Deviations, if any shall be recorded in deviations/comments column (Separate sheet can be attached if needed). Non deviatable clauses are indicated as "NON DEVIATABLE".

Sl. No.	DETAILED TERMS & CONDITIONS	VENDOR RESPONSE (YES/NO)	DEVIATIONS / COMMENT
1	**SCOPE OF SUPPLY:**		
	Signed & Sealed offers are invited for the Scope of Supply of goods and Services or both as detailed in the enquiry. Relevant enclosures/supporting documents / catalogue, if any shall be enclosed to the technical offer. Bidder can also submit offer through email at their own risk. The offer is to be submitted in two parts. Technical offer to be submitted to mail ID technicalbid_hyd@bhel.in, and price bid to be submitted to mail ID pricebid_hyd@bhel.in as an attachment only. Interchanging the information in the mails may lead to rejection of the offer. Supplier shall have no claim on e-mail offers sent on any other e-mail ID. In case of e-mail offers, the mail subject should contain Enquiry No. Due date and Supplier name,Supplier address including contact details shall be mentioned in the content of the mail. Without these details offer is liable for rejection.		
2	**GENERAL INSTRUCTIONS:**		
A	The quotation should be neatly typed and free from over writing/ erasures. Any correction or addition must be authenticated. The offer including annexures and brochures should be submitted in English / Hindi. All Pages of Techno Commercial Bids (Main Pages), ITB should be signed and Stamped. If there is a conflict in case of bilingual submission, the submission in English will be final.		**Non Deviatable**
B	In case of Single-Part bid Tender, the complete bid shall be submitted in a single sealed cover super subscribing the Tender number and due date. Incomplete offers are liable for rejection. E mail bids shall be sent to mail ID pricebid_hyd@bhel.in as an attachment only.		**Non Deviatable**
C	Bidders to please note that the Terms & conditions contained in this document and Special conditions, if any, are to be read fully before submission of quotations.		**Non Deviatable**
D	BHEL reserves the right to process the tender through Reverse Auction (RA) route. Bidders are requested to go through RA guidelines (which are attached) and confirm acceptance of the same. Otherwise the offer is liable for rejection. BHEL will decide (after technical bid opening), at its discretion, to process the tender through Reverse Auction or by opening price bids.		**Non Deviatable**
E	Vendors are advised to comply with specific conditions of the enquiry, Should there be any deviations (where deviations are permitted), it shall be entered in the deviation column. BHEL reserves the right to reject such offers or load the bid suitably for evaluation.		**Non Deviatable**
F	Offers shall be submitted directly, only by the vendor or by their authorized representative / agent and the offer should be in line with the regulatory guidelines (i.e A valid Agency agreement between principal vendor and agent / representative shall be attached and the agreement shall cover the scope of services rendered by Agent, Agency Commission and any other information called for as per the regulatory guidelines). OEM / Mill details shall be provided if supplier is not a manufacturer. Bid envelops shall bear the name of Supplier. In case of submission through authorized representative/agent, the name of representative/agent should also be mentioned apart from supplier name.		**Non Deviatable**
G	Offer received after the specified time and date of submission shall be rejected. No further correspondence shall be entertained.		**Non Deviatable**
H	Unsolicited offers shall not be considered.		**Non Deviatable**
3	**OTHER PARTICULARS (Please indicate applicable data)**		
A	Name of the Bid currency (freely tradable foreign currency for imports and Indian Rupees for indigenous purchase).		
B	Name of the Port of loading and Port of Discharge (applicable to imports).		
4	**BID SUBMISSION PROCEDURE:**		

A.	**For Single Part Bids:** Offers addressed to DGM/CMM, Vendor Complex, BHEL, Hyderabad must be sent in a sealed cover on which tender enquiry number and the due date shall be super subscribed and sent by appropriate mode to above address or dropped in tender box located at vendor complex on or before the specified time and date of submission of offers, preferably in the bidder's envelope. For e-mail offers please follow the procedure mentioned in 2 (B).		**Non Deviatable**
B.	**For two-Part Bids:**		

i	Two part bid consisting of i)Techno-commercial Bid - (Part-I), with all technical specification & scope including bill of material etc., EMD (where applicable) and unpriced bid with all applicable Commercial Terms and Conditions, rates of agency commission , duties, taxes and other charges, except ii) the price, super scribing enquiry No. (Techno-Commercial Bid) and due date Signed and Stamped ITB and special conditions of contract, if any is required to be attached along with Techno-commercial Bid - (Part-1) AND iii) Price Bid (Part-II), containing ONLY the price (including agency commission, if any) and the applicable duties/taxes/other charges shall be kept in a separate sealed cover super subscribing Enquiry no. (Price bid) & due date. Both these covers shall be kept in a Third cover super subscribing Enquiry no. & due date. All techno commercial terms & conditions mutually agreed prior to price bid opening shall prevail and supersede any terms and conditions specified otherwise in price bid.		**Non Deviatable**
ii	Techno-commercial Bid will be opened on the assigned date .Only the price bids of vendors whose techno commercial bids are accepted will be opened later on a specified date. In case BHEL opts for Reverse Auction, the date of conducting RA will be intimated separately to all the qualified bidders.		**Non Deviatable**
iii	The bidders whose bids are techno commercially not accepted will be informed & EMD (Earnest Money Deposit) shall be returned wherever submitted.		
iv	Bidders will be allowed to submit the impact on their quoted prices due to changes in technical scope, specifications, and commercial terms/conditions as specified in NIT which in the opinion of BHEL warrant changes in prices.		**Non Deviatable**
v	Bids shall be opened on due time and date in the presence of bidders who may like to be present. Only one representative of each bidder shall be permitted to attend the bid opening.		**Non Deviatable**
5	**Delivery Instructions**		
A	Indigenous Purchase		
	Goods shall be delivered on FOR Destination basis to the named destination(s) or as specified in the enquiry, Insurance in the scope of supplier.		
B.	Imports		
	The goods shall be delivered on CIP-basis to port of discharge as mentioned in the purchase order.		
6	**Documentation:**		
A	Indigenous Purchase		
	Seller shall arrange to send to BHEL, Hyderabad along with all the required documents as detailed in Purchase Order, such as, Tax Invoice (Original for Recipient, Duplicate for Transporter), consignee copy of LR, Packing list , Pre-dispatch Inspection report, Test/ Guarantee/ Warranty certificate/ O&M manuals (as applicable) etc. immediately on dispatch of the goods. Any addition/ exclusion to such documents shall be as specified in the Purchase Order. In case of dispatches from vendor works to site, material receipt certified by site office / Customer shall be provided. Softcopies of the above documents shall be uploaded in Pradan portal **https://web.bhelhyd.co.in/mm/** immediately after dispatch of the material		**Non Deviatable**

B Imports

i) Seller shall inform the purchaser the readiness of material along with packing details well in 30 days advance from the date of delivery.

Seller shall also upload soft copy of the dispatch documents consisting of BL / AWB, Invoice, Shipping list & Test certificates and other documents as specifically indicated in the Purchase Order in PRADAN Portal (https://web.bhelhyd.co.in/mm/) within 3 days from the B/L date for sea shipment and 1 day from AWB date for Air shipment.

ii) In case of CIP shipments, seller shall also inform purchaser the information about discharge port agent details and ship arrival information within 7 working days from the date of Shipment.

iii) In case the material shipped in Full Containers(FCL), Seller shall ensure that the Bill of Lading should clearly spell out the following

1. Port of discharge -- "Nhavaseva"/chennai
2. Place of Delivery / Final Destination - "ICD Sanath Nagar".
3. For air consignment the port of discharge will be Hyderabad, India and consignee shall be BHEL.

iv) In case of Air shipment, the following dimensions of single package may be noted.

a). Dimension of the cargo(ODC) -- > 125" x 88" x 63"

b).Weight of the cargo -- >3.5 MT.

If any package dimension or weight crosses the above set limits, it will be treated as Over Dimension Cargo (ODC) or Over Weight Cargo and seller shall inform BHEL well in advance of 20 days prior to the delivery date to enable BHEL to finalize the freight forwarder

(v). Recovery charges for non-submission of documents : -
Seller shall submit all the required documents to BHEL as prescribed in the Purchase order and NIT.
If BHEL incurs any charges such as Penalty, demurrage, container detention, wharf age, storage, Ground rent etc., due to non - compliance / non - submission of documents prescribed in Purchase Order/Tender Document/Letter of credit , the same shall be recovered from the seller as under:

1. EUROPE/USA/Black Sea/ Far East/Middle East/South East sector

A. For EX-WORKS / FCA/ FAS / FOB Sea Consignments:-

Penalty for late submission / negotiation of documents beyond 14 days shall be as under:

Sl. no	Period (From Date of Bill of Lading)	Recoverable Charges	Recoverable Charges per day per container	
		LCL per week/ Break bulk cargo per day	20FT Container	40FT Container
i	Upto 14th day	Nil	Nil	Nil
ii	15th day onward	USD 10	USD 50	USD 105

of

SD 10

	B. For CIF / CFR / CIP / CPT Sea Shipments:- For CIF / CFR / CIP / CPT Sea Shipments, Vendor shall provide rates for detention char free period at the time of offer itself in case of engagement of 20FT Container and 40FT In case late presentation of documents to the bank recovery will be effected from the Ve the rates quoted by the Vendor at the time of offer in this regard. In case of Break bulk cargo and LCL Demurrage/storage charges shall be recovered at r U per day and storage charges rate of USD 10 per week respectively shall be charg cha (vi) Description of items in invoice, packing list, BL / AWB or LR shall be same a description. Vendors shall ensure that invoice shall contain PAN nos. of both seller and b with other tax related numbers. BHEL PAN AAACB4146P and BHEL TAN HYDB00086C Any other additional documents sought by the statutory authorities, the same shall be pro seller on priority basis. (vii) Seller shall provide package details including number of packages, gross weight, etc. (viii) The seller shall provide the following documents at the time of submission of offer a) No Business Connection in India declaration issued by the seller as per the forma (or) b) (i) No Permanent Establishment in India declaration issued by the seller as per th specified. (ii) Tax Residence Certificate issued by the seller's tax authorities. (iii) Form 10F issued by the supplier. c) In case the seller has a Business Connection in India as per Section 9 of Income Permanent Establishment in India as per Article 5 of Double Taxation Avoidance Agree India and the seller's country, the seller shall provide a withholding tax order issued by the Tax authority for recovery of applicable tax.	ed as late presentation		

7	Delivery Schedule		1
A	The tendered goods shall be delivered within the period stipulated in PO . Delivery **at BHEL** can be accepted at the earliest**,** 30 days prior to delivery date as mentioned in the Purchase order. Delivery **earlier than** 30 days of contractual delivery date may be accepted with the written permission of BHEL -Purchase department. Goods arriving after the delivery date will be accepted only with the prior written permission of BHEL otherwise they will not be allowed inside the factory. BHEL reserves the right to reject the material, if not delivered by scheduled Purchase Order Delivery Date. (In case of imports , the final entry date of Import General Manifest (IGM) will be reckoned as delivery completion date)		**Non Deviatable**
B	Documents such as TC,GCs Inspection reports are to be submitted within 10 days of dispatch of these materials. C note date or Date of submission of documents whichever is later shall be considered as delivery date incase documents are not submitted within 10 days from the dispatch of the material. Supply of plant/ equipment/ stores shall not be considered complete until they have been inspected and accepted at the place and destination specified for delivery by the time stipulated under the terms & conditions of the Order/ Contract. Mere payment by itself shall not constitute acceptance of the goods or materials in any manner, whatsoever.		
8	**Pricing Terms**		
	Prices once quoted shall remain firm and valid during the execution of PO. Offers with PVC will be rejected outright except in cases where specifically called for in the NIT.		**Non Deviatable**
9	**PRICE VALIDITY :**		
	Unless otherwise specified, offer shall be valid for a period of 90 days from the date of bid opening (Technical bid /part-I in case of two part bid). However the prices quoted for spare parts of the Main equipment shall be kept valid for a period of 1 year from the date of Placement of PO for the main equipment.		
10	**Taxes & Duties (RATE TO BE INDICATED by the bidder against the space provided)**		
A	Indigenous Purchase		
	The Taxes as applicable shall be quoted in the following manner.		
i	Vendor to indicate HSN of Goods or SAC of Services.		
ii	IGST/CGST/SGST/UTGST: Rate of Tax to be quoted as extra in %		
	NOTE: Bidders to ensure correct applicability of IGST/CGST/SGST/UTGST based on the Inter / Intra state movement of goods. Taxes prevalent on the contractual delivery date or the actual delivery date (in case of delay) which ever is lower shall be applicable paid. In case Bidder has opted for GST Composition Scheme, the same may be stated explicitly both in their technical and price bids.		
iii	Any other taxes & duties not covered anywhere above may be indicated separately.		
iv	Taxes deducted at source: TDS as per the extant statute shall be recovered. In case vendor does not provide PAN details/concessional certificates, the TDS deduction shall be at the maximum percentage stipulated as per the provisions of Income Tax Act.		**Non Deviatable**
B. i	Foreign Purchase (Imports)		
	The offered price shall be inclusive of all the Taxes and duties as applicable in country of bidder / country of dispatch for the quoted CIP price.		**Non Deviatable**
ii	Taxes deducted at source: TDS as per the extant statute shall be recovered. In case vendor does not provide PAN details/concessional certificates, the TDS deduction shall be at the maximum percentage stipulated as per the provisions of Income Tax Act.		**Non Deviatable**
1	**Payment Terms: Unless otherwise specified in Special Conditions, following shall be the terms of Payment.**		

A	Indigenous: 100% payment along with taxes, freight & insurance will be made within 75 days from the date of receipt of complete documentation as per PO. However payment would be done only after receipt of original documents, including site/ Customer acknowledgement on LR (MRC - Material Receipt Certificate at site) / GR clearance at BHEL Stores. For MSEs (covered under MSME Act) which are registered and periodically renewed with BHEL, this period will be 45 days* as prescribed in the relevant act. Adherence to the above time schedule of payment is contingent upon Vendor complying with GST provisions and availment of Input Tax Credit by BHEL before the date of payment. *The taxes ~~and duties~~ that are reimbursed would be the ones applicable as on the contractual Purchase Order delivery date or the amount actually paid whichever is less. In case GST credit is delayed/ denied to BHEL, due to non/delayed receipt of goods and/or tax invoice or expiry of timeline prescribed in GST Law for availing such ITC, or any other reason not attributable to BHEL, GST amount shall be recoverable from Vendor along with interest levied/ leviable on BHEL.		
B	Imports:- i) 100% payment (less Indian Agency Commission, if any) shall be paid **through "Usance Letter of Credit / Cash Against Documents (CAD) / Wire Transfer" with a credit period of 60 days** ii) LC will be opened after successful completion of pre dispatch inspection prior to the scheduled / **agreed** delivery date **LC will be opened within 7 working days from the date of request.**		
C	Note: 1) No advance payment is acceptable. However, in exceptional/rare cases, BHEL at its discretion, may consider advance payment against Bank Guarantee valid up to receipt of material at BHEL for 110% of advance amount issued / confirmed by any of the BHEL consortium banks. 2) Wherever EMD (Earnest Money Deposit) is applicable, it may be noted that no interest will be paid on EMD and the EMD will be paid back to unsuccessful bidders within **fifteen days** after award of the contract. Successful bidder's EMD will be converted to SD (Security Deposit). **Tender Cost wherever applicable is not refundable.**		**Non Deviatable**
12	**Penalty clause:** In the event of delay in supply of goods, penalty of 0.5% per week or part there of shall be levied on the undelivered portion subject to a maximum of 10% of the order value. Penalty amount so determined along with applicable GST thereon shall be recovered.		
13	**Excess materials** supplied beyond tolerance limit as specified in PO, will not be accounted for.		**Non Deviatable**
14	**Rejected materials**, if any, shall be collected by the vendor within 90 days of such communication to the vendor .Beyond 90 days a ground rent of 0.25 % of the value of the material per week will be levied for a maximum period of two weeks.. Beyond this period the supplier forfeits their right to the materials.		**Non Deviatable**
15	**Guarantee / Warranty Period :** (Deviation to this clause is not acceptable.) Wherever required, and so provided in the specifications/Purchase Order, the seller shall guarantee that the goods supplied shall comply with the specifications laid down, for materials, workmanship and performance. If within the guarantee period, the delivery is found to be non-complaint, the seller shall on his own account, replace repair, or re-execute the delivery at Purchaser's discretion on the purchaser's first request or within the mutually agreed period, without prejudice to Purchaser's other legal rights. If the seller continues to default on their obligations, purchaser has the right to proceed to replace, repair or re- execute the order at the seller's expense, with or without help from third parties. Purchaser shall notify the seller of the exercise of this right in advance where ever possible. Unless otherwise specified, guarantee period shall be 12 months from the date of commissioning or 18 months from the date of supply/replacement whichever is earlier. For bought out packages which are intended to be incorporated in installations or systems the guarantee period shall not start until the time the installations or systems are commissioned, provided always that the period ends not later than 30 months after the date of supply of the goods. **The guarantee period shall be extended by the period during which the goods are not in compliance. A guarantee period as described above shall apply afresh to replaced, repaired or re-executed parts of a delivery.**		**Non Deviatable**

NOTE: Deviations (Commercial as well as Technical) from the tender specifications and conditions are generally not acceptable. However, deviation if any, shall be brought out clearly with proper justification in the offer. The deviation, if considered by BHEL, shall be loaded for comparison, while evaluating the offer. If a bidder unconditionally withdraws any deviation before price bid opening, the same shall not be loaded. Loading criteria in respect of major commercial conditions where deviations if any are accepted shall be as per clause No.16.
The Vendors may specifically note the following.

16	**Evaluation and Loading Criteria:**
A	Evaluation of prices shall be done item-wise unless otherwise specified in the enquiry. Evaluation shall be on the basis of delivered cost, i.e. "total cost to BHEL" w.r.t the finalized technical scope and commercial conditions (after considering incidence of applicable taxes and duties and loading). For evaluation, exchange rate (TT selling rate of State Bank of India) as on the date of bid opening (Part-I, in case of two-part bids) shall be considered. If the relevant day happens to be a bank holiday, then the forex rate as on the previous bank (SBI) working day shall be taken.
B	In case of foreign bidders, the quoted CIP price shall be loaded by the following factors to arrive at the Delivered Cost:
i	- Import duty as applicable at the time of Price/ Part-II bid opening.
ii	- Port handling/ clearing charges & inland freight and insurance: @ 5% of CIP value (10% for plates, pipes & structurals).
iii	In other cases subject to acceptance by BHEL, loading for various factors (in addition to above) as the case may be will be done as follows: 0.5% for unloading at Port of Destination Marine Freight 4% and Marine Insurance 1% (9% and 1% towards Freight and Insurance respectively for Plates, Pipes, Rounds & Structurals)
C	Incase of Indigenous Bidders, Ex-works offers received (as against FOR Destination mentioned in enquiry) shall be loaded by 4% of Ex-works value (9% for plates, pipes, rounds & structurals) unless otherwise mentioned in enquiry.
D	Deviated Penalty: Any loading on penalty clause shall be 10% or to the extent to which the vendor has opted for deviation.
E	Deviated Payment Terms: Terms: In case BHEL considers any deviation in payment terms, the bids shall be loaded with 18% interest per annum to the extent of deviation.
17	Procurement directly from the manufacturers/ suppliers shall be preferred. However, no agent shall be allowed to represent more than one manufacturer/ supplier in the same tender. Moreover, either the agent could bid on behalf of the manufacturer/ supplier or the manufacturer / supplier could bid directly but not both. In case bids are received from both from the manufacturer/ supplier and the agent, bid received from the agent shall be ignored.
18	**RIGHT OF REJECTION /NON- PLACEMENT OF PO:** BHEL reserves the right to accept or reject any or all bid/s in full or part without assigning any reason whatsoever.
19	**INTEGRITY PACT** Vendors shall have to enter into Integrity Pact with BHEL as per attachment - for order value of rupees five crores and above and shall be signed by the competent authority before the issue of purchase order, failing which vendor's offer will be rejected.
20	**Public Procurement**
A	**Make in India** For this Procurement , the local content to categorize a supplier as a Class I local supplier / Class II local supplier / Non-Local supplier and purchase preference to Class I local supplier , is as defined in Public Procurement (Preference to Make in India) , Oct 2017 dated 04.06.2020 issued by DPIIT . In case of subsequent orders issued by the nodal ministry , changing the definition of local content for the items of the NIT , the same shall be applicable even if issued after issue of this NIT , but before opening of Part – II bids against this NIT Proforma for self certification for minimum local content and auditor's certification is given in Annexure III .
B	Any Bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with competent authority . https://www.mea.gov.in/ to be referred for latest details of competent authority and exemptions . Proforma for self certification for compliance is given in Annexure IV
21	**Benefits earmarked for Purchase from Micro & Small Enterprises (MSEs) – Indigenous Purchase**
21 A	All Micro and Small Enterprises (MSEs) as defined in MSE Procurement Policy are exempt from Paying earnest money deposit . NSIC registered unit bidders shall submit NSIC Certificate along with bid documents. 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 Category till the supplier submits these documents

21 B	In tender,if 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. Out of these 25% minimum 3% shall be earmarked for MSEs owned by women and 6.25% for MSEs owned by SC/STs who submit the bid along with relevant documents . This is applicable in case of item-level evaluation tenders and divisible tenders .

21 C	If an enterprise falling under MSME category as defined in the Act, 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.
22	Startups : For Startups Medium Enterprises, Condition of prior turnover and prior experience in Public Procurement may be relaxed subject to meeting of Quality and Technical Specifications . Startups are exempt from paying earnest money deposit .
23	For Claiming Payments **for goods** received at BHEL works / Site from Vendors' Works) a. Original of Invoice marked as ORIGINAL FOR RECIPIENT b. Duplicate of Invoice marked as DUPLICATE FOR TRANSPORTER c. Packing List - clearly showing number of packages, gross weight and net weight. d. Warranty/Guarantee certificates (If applicable as per PO terms) e. Insurance certificate f. Third Party Inspection Certificates. g. LR Copy signed & stamped by Site incharge / Customer for site deliveries) (For material received at BHEL payment will be made against GR for accepted quantity)
24	Inspection Measuring and Test Equipment (IMTE) whether used by the Seller/ Contractor or sub-contractor shall be calibrated, maintained and controlled. Calibration shall be valid and IMTE maintained in sound condition during usage.
25	ISO-9001, ISO14001 and OHSAS 18001 shall be complied
26	Applicable Conditions :These General conditions of Contract for Purchase apply to all enquiries, tenders, request for quotations, orders and agreements concerning the supply of goods and the rendering of related services (hereinafter referred to as “deliverables”) to Bharat Heavy Electricals Limited, Ramachandrapuram , Hyderabad (hereinafter referred to as “BHEL” or the Purchaser) or its projects/customers. Any deviations from or additions to these General conditions of contract for Purchase’ require Purchaser’s express written consent. The general terms of business or sale of the Seller shall not apply to Purchaser. Orders, agreements and amendments thereto shall be binding if made or confirmed by the Purchaser in writing. Only the Purchasing department of the Purchaser is authorized to issue the Purchase order or any amendment thereof.
27	Being PMD Vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion such PMD vendor from BHEL's approved vendor list Vendor shall ensure that PAN details are available/updated with BHEL, else Vendor shall attach PAN details with enquiry failing which offer shall be liable for rejection.
28	Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 Status
29	Any discount / revised offer / bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer / bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.
30	The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.
31	In case of abnormal delays (beyond the maximum late delivery period as per Penalty clause) in supplies / defective supplies or non-fulfillment of any other terms and conditions given in Purchase Order, BHEL may cancel the Purchase Order in full or part thereof, and may also make the purchase of such material from elsewhere / equivalent market price at the risk and cost of the supplier. BHEL will take all reasonable steps to get the material from alternate source at optimum cost. If bidder does not agree to the above Risk Purchase Clause, BHEL reserves the right to reject the offer. Nonperformance of contract attracts penal provisions inline with BHEL's Suspension of Business dealings.
32	Any other terms and conditions of the bidder attached / referred against the tender enquiry will not be considered.
33	All drawings as also all patterns and tool supplied by BHEL or made at BHEL's expense are BHEL's property. These cannot be used or referred to any other party and must only be used in the execution of BHEL's orders.
34	Any amount payable by the consignor / supplier under any of the condition of this contract shall be liable to be adjusted against any amount payable to the consignor / supplier under any other work / contract awarded to him. This is without prejudice to any other action as may be deemed fit by BHEL.
35	The bids of the bidders who are on the banned list and also the bids of the bidders, who engage the services of the banned firms, shall be rejected. The list of firms banned by BHEL is available on BHEL web site www.bhel.com
36	Definitions

Throughout these conditions and in the specifications, the following terms shall have the meanings assigned to them, unless the subject matter or the context requires otherwise.

36A Purchaser' means BHEL-HPEP, Ramachandrapuram, Hyderabad-502 032 of Bharat Heavy Electricals Limited (A Govt. of India Undertaking) incorporated under the companies Act having its registered office at BHEL House, Siri fort, New Delhi-110049, India and shall be deemed to include its successors and assigns. It may also be referred to as BHEL.

36 B 'The seller' means the persons, firm, company or organization on whom the Purchase order is placed and shall be deemed to include the seller's successors, representatives, heirs, executors and administrator as the case may be. It may also be referred to as Contractor, supplier or vendor.

36 c 'Contract' shall mean and include the Purchase order incorporating various documents viz., tender/offer, letter of intent/acceptance, the General Conditions of contract and special conditions of contract for Purchase, specifications, inspection/quality plan, schedule of prices and quantities, drawings, if any enclosed are to be provided by the Purchaser or his authorized nominee and the samples or patterns if any to be provided under the provision of the contract.
In case of any inconsistency or contradiction between any of the documents, the order of precedence shall be Purchase Order, LOI/LOA followed by specific conditions, special conditions of contract and general conditions of contract for commercial conditions; and specific agreement on technical conditions, special technical conditions and general technical conditions, tender/ offer.

37 'Parties to the contract' shall mean the seller and the purchaser as named in the main body of the Purchase Order.

38 Ordering and confirmation of order

The seller shall send the order acceptance in Toto within one week from the date of LOI/Purchase order or such other period as specified/agreed by the Purchaser. Purchaser reserves the right to revoke the order placed if the order confirmation differs from the original order placed. Purchaser shall only be legally bound if agreed explicitly in writing to be in agreement with the deviation. The acceptance of deliverables or supplies by Purchaser as well as payments made in this regard shall not imply acceptance of any deviations.
The Purchaser order will be deemed to have been accepted if no communication to the contrary is received within one week (or the time limit as specified /agreed by the Purchaser) from the date of P.O.
Purchaser, is at liberty to send signed P.O. through electronic media such as e-mail and the receipt of which shall be treated as receipt of order.

39 Execution

The whole contract is to be executed in the most workman like manner, substantial and approved as per the contracted terms.

40 Progress Report

The seller shall render such report as to the progress of work and in such form as may be called for by the Purchaser from time to time. The submission and acceptance of such reports shall not prejudice the rights of the purchaser in any manner. Seller shall communicate to BHEL immediately, change of address, ownership, contact person(s), the mobile numbers and e-mail of the dealing person concerned.
Milestones shall be periodically updated by vendor/subcontractor through PRADAN Portal **(https://web.bhelhyd.co.in/mm/).**Non updation will adversely affect service rating of vendor performance.

41 Product information, Drawings and documents / Non-disclosure and Information Obligations

Drawings, technical documents or other technical information received by one party shall not without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to third parties. All information and data contained in general product documentation, whether in electronic or any other form, are confidential and binding only to the extent that they are by reference expressly included in the contract.
The seller shall, as per agreed date/s but not later than the date of delivery, provide free of charge any information and/or drawings which are necessary to permit the Purchaser to erect, commission, operate and maintain the product. Such information and drawings shall be supplied in the number of copies agreed upon or at least three copies of each.
All intellectual properties, including designs, drawings and product information etc. exchanged during the formation and execution of the contract shall continue to be the property of the submitting party.
The seller shall provide Purchaser with all information pertaining to the delivery in so far as it could be of importance to Purchaser.
The seller shall not reveal confidential information to its own employees not involved with the tender/contract and its execution and delivery or to third parties, unless Purchaser has agreed to this in writing beforehand. The seller shall not be entitled to use the Purchaser's name in advertisements and other commercial publications including website without prior written permission from Purchaser.
In the event of violation of the confidentiality as agreed, BHEL will take legal action as deemed fit. Non disclosure agreement to be entered as per **Annexure- II** wherever applicable.

42 Inspection and Testing

42A The goods and stores shall be manufactured by approved quality system and each part/component may be inspected and tested by the Purchaser prior to shipment and shall fully comply with relevant requirements of Purchaser.

Purchaser has the right to inspect at any stage during manufacture/ delivery. In the event of rejection, Purchaser shall inform the seller accordingly and Purchaser shall be entitled to replacement or repair at his discretion or may proceed to terminate or cancel the agreement. All this, does not affect Purchaser's right to recover compensation.

42 B	Purchaser or his authorized representative shall be entitled at all reasonable times during execution to inspect, examine and test at the seller's premises the material and workmanship of all stores to be supplied under the contract, and if the part of the stores are being manufactured at other premises, the seller shall obtain for purchaser or his authorized representative permission to inspect, examine and test as if the said stores are being manufactured at the seller's premises. Such inspection, examination and testing, if made shall not release the seller from any obligation under the contract. For indigenous suppliers all costs related to first inspection request shall be borne by the purchaser and the cost of subsequent inspections due to non-readiness of material/rework/ rejections shall be borne by the seller. In case of imports all inspection charges including third party inspections if any shall be borne by the seller. The cost of inspection staff/third party specified by the Purchaser shall be borne by seller unless otherwise specifically agreed. Whether the contract provides for tests on the premises of the seller or any of his sub-contractor/s, seller shall be responsible to provide such assistance, labor, materials, electricity, fuels, stores, apparatus, instruments as may be required and as may be reasonably demanded to carry out such tests efficiently. Cost of any type test or such other special tests shall be borne by the seller unless otherwise specifically agreed in the contract. The Seller shall give the authorized representative of the purchaser reasonable notice in writing of the date on and the place at which any stores will be ready for inspection/ testing as provided in the Contract. Annexure - I may be strictly be complied with for the time lines. Any delay in submission of the documents by the vendor will not alter the delivery date.
43	Quality and Condition of the Deliverables
	The seller shall be responsible for compliance with applicable technical, safety, quality, environmental requirements and other regulations in relation to his products, packaging and raw and ancillary materials.
44	Packaging and Dispatch
	The seller shall package the deliverables safely and carefully and pack them suitably in all respects considering the peculiarity of the material for normal safe transport by sea/air/rail/road to its destination suitably protected against loss, damage, corrosion in transit and the effect or tropical salt laden atmosphere. The packages shall be provided with fixtures/hooks and sling marks as may be required for easy and safe handling by mechanical means. Special packaging conditions/ environmental conditions as defined in the enquiry shall be fully complied. Each package must be marked with consignee name, P.O. number Package No. gross weight & net weight, dimensions (LxBxH) and seller's name. The packing shall allow for easy removal and checking of goods on receipt and comply with carrier's conditions of packing or established trade practices. Packing list of goods inside each package with P.O. item No. & quantity must also be fixed securely outside the box to indicate the contents. If any consignment needs special handling instruction, the same shall be clearly marked with standard symbols/instructions. Hazardous material should be notified as such and their packing, transportation and other protection must confirm to relevant regulations.
45	Delivery:
	Except as otherwise indicated in the Purchase order, delivery shall be FOR (Destination) for indigenous orders and CIP for imported orders. The delivery date (s) or delivery period (s) as stipulated in the agreement shall be firm and binding and shall apply to the entire delivery for each P.O. item. Partial shipments may however, be permitted by the purchaser on prior intimation from the Seller. Unless specifically agreed otherwise, transit insurance coverage will only be within India for imported consignments by BHEL. Accordingly, the seller shall send an intimation to the Purchase officer/Manager giving Purchase Order No., shipping particulars, Invoice value etc., immediately on dispatch of goods.
46	Penalty
	The time or period of delivery as stipulated in the schedule of delivery shall be deemed to be the essence of the contract. Should circumstances arise whereby the deadline for an agreed delivery date(s) or period(s) is expected to be exceeded, the seller shall inform Purchaser hereof without delay. If delay in delivery is caused by any of the circumstances mentioned in clause 54 (Force Majeure) or which are caused exclusively by the acts of Purchaser, the Purchaser shall extend the time for delivery by a period which is reasonable having regard to all the circumstances in the case. If the Seller delays beyond any agreed delivery date(s) or period(s), Purchaser shall levy penalty for such delay @ 0.5% per week (7 days) or part thereof on delayed portion of the order value subject to a maximum of 10% of the value of the Purchase Order. However, penalty for delayed delivery will be calculated on 100% of the purchase order value if the material supplied cannot be put to intended use. The penalty will be charged on the value of the purchase order excluding statutory levies, freight and insurance wherever not included in the price. Penalty amount so determined along with applicable GST thereon shall be recovered. Imposition, recovery or settlement of this penalty shall not affect Purchaser's right to performance, compensation and termination of the agreement. For delay analysis, period referred in Annexure-I will be considered as standard time lines for various major activities.
47	Transfer of Ownership and Risk
	The risk for the delivery remains with the seller until the goods are delivered at the agreed place. However ownership shall get transferred as per terms of purchase order in line with INCOTERMS.
48	Price, invoicing and payment

	The agreed prices are fixed prices in the currency as specified in the Purchase Order. They shall include packing, forwarding , loading and carriage to the place specified by the purchaser and are exclusive of all applicable taxes, duties etc., except for those specifically agreed by the Purchaser. Invoices shall be submitted bearing the Purchase Order number & date, item number/s and supporting documents as called for in the Purchaser order. The direct payments (including LC/documents through Bank on collection basis), shall be made by E-payment mode and not by cheque /bank drafts except in special circumstances. Vendors shall furnish the E-payment particulars in the prescribed formats duly authenticated by their respective Bankers, If not got registered earlier with the Buyer. - Invoice has to be raised quoting HSN Code of Goods or Accounting Code of Services. Invoice should mention BHELHPEP-HYDERABAD GSTIN: 36AAACB4146P1ZG or GSTIN of BHEL Nodal Agency as mentioned in PO.
	Indian Agency commission if payable and so specified in the Purchase order shall be paid in Indian Rupees, considering the SBI TT selling exchange rate prevailing on the date of tender opening (part 1 in case of two part bid), after successful completion of the contract. If so stipulated in the order, the seller shall furnish, on receipt of the Purchase Order or along with order acknowledgement, the billing break-up of prices (BBU) for approval by the purchaser in respect of the major items/components going into the equipment. This BBU is required by the Purchaser for admitting the claims of the seller if part shipments are contemplated and also to facilitate custom clearance after payment of duties in case of imports. In case of delay in receipt of supporting document details, consequential demurrage/wharf age /detention charges shall be to the account of the seller. Payment does not imply in any respect whatsoever a waiver of Purchaser's right to performance of the agreement. Purchaser is entitled to set off claimable debts against claimable liabilities with the seller by means of a setoff Note.
49	Contract variations; Increase or decrease in the scope of supply
	Purchaser may vary the contracted scope during execution due to exigencies of project requirement. If the seller is of the opinion that the variation has an effect on the agreed price or delivery period, Purchaser shall be informed of this immediately in writing along with technical details, and in the event of additional work, submit a quotation with regards to the price and period involved, as well as the effect this additional work will have on the other work to be performed by the seller. Provided, that if unit rates are available in the contract, the same shall be applied to such additional work. The seller shall not perform additional work before purchaser has issued written instructions/amendment to the purchase order to that effect. The work which the seller should have or could have anticipated in terms of delivering the service (s) and functionality (ies) as described in this agreement should be executed by the vendor without any price implication.
50	Short shipments/ warranty/guarantee replacements
	In case of any short shipment during initial supply which is subsequently dispatched by the seller or any guarantee / warranty replacements shall be dispatched on "DDP-Delivered duty paid BHEL stores" basis for imported items and "FOR-BHEL Stores/designated destination" basis for indigenous items. Taxes, if any paid by indigenous vendor for short supply, guarantee /warrantee replacement, repair activity shall be to vendor's account only. Vendor has to raise a credit note for short supplied quantity as per GST provisions.
51	Rejection/Replacement
	The seller shall arrange replacement / repair under its obligation under the contract within one month from the date of intimation or mutually agreed period. The rejected goods shall be taken away by the seller and replaced on DDP/FOR-BHEL Stores/designated destination basis within such period. In the event of the seller's failure to comply. Purchaser may take appropriate action including disposal of rejections, at the cost and risk of the seller. Vendor has to raise a credit note for rejected quantity as per GST provisions.
	In case defects attributable to seller are detected during processing of the goods at purchaser's / his subcontractor works, the seller shall be responsible for replacement /repair of the goods as required by the purchaser at seller's cost.
52	Export Administration Regulations
	If a delivery includes such technology and / or supply that is subjected to the export regulations the seller shall obtain due permissions, approvals, license etc.
53	Cancellation / Termination of contract and risk purchase

	Purchaser shall have the right to completely or partially terminate the agreement by means of written notice to that effect without prejudicing their other rights in the event that : -The seller is declared bankrupt, its business has been shut down or liquidated, a substantial part of its assets have been attached/destroyed, or the business has been transferred to a third party. -Any misrepresentation or hiding of material fact if detected at a later stage. -The delivery is rejected after inspection or re-inspection. -In the event of termination, the risk of the items already delivered but not of use to Purchaser, as determined by purchaser, remains with the seller. The items shall then be at the seller's disposal and they are to be collected by the seller. The seller shall refund any payments made by purchaser in terms of the terminated agreement immediately, not later than 30 days, - In the event of Cancellation/ termination of contract, BHEL reserves the right to procure the items which are not delivered as per PO and charge the excess cost from the defaulting seller. Incase the excess cost is not repaid by or recovered from the defaulting seller within 30 days, apart from legal recourse for effecting such recoveries, Penal action in line with BHEL's Suspension of Business dealings will be taken.
54	**Force Majeure**

	The supplier shall not be considered in default if delay occurs due to causes beyond their control such as Acts of God, Natural calamities, Fire, Frost, Flood, Civil War, civil commotion, riot, Government Restrictions. Only those causes that have duration of more than seven days shall be considered cause of force majeure. Notification to this effect duly certified by local chamber of commerce/statutory authorities with supporting documents shall be given by the supplier to BHEL by registered letter/courier service immediately without loss of time. In the event of delay due to such causes the delivery schedule shall be extended for a length of time equal to the period of Force Majeure or at the option of BHEL the order may be cancelled. Such cancellation would be without any liability whatsoever on the part of BHEL. In the event of such cancellation the supplier shall refund any amount advanced or paid to the supplier by BHEL and deliver back any material issued to him by BHEL and release facilities, if any provided by BHEL.
55	Non-waiver of Defaults
	If any individual provision of the contract is invalid, the other provisions shall not be affected.
56	Settlement of Disputes
	Except as otherwise specifically provided in the contract, all disputes concerning questions of the facts arising under the contract, shall be decided by the Purchaser, subject to written appeal by the seller to the purchaser, whose decision shall be final.
	Any disputes of differences shall to the extent possible be settled amicably between the parties thereto, failing which the disputed issues shall be settled through arbitration.
	The seller shall continue to perform the contract, pending settlement of disputes(s).

57	**Arbitration & conciliation clause and Interest clause :** (I).Except as provided elsewhere in this contract, in case amicable settlement is not reached between the parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the contract; or, the respective rights and liabilities of the parties; or, in relation to interpretation of any provision of the contract; or, in any manner touching upon the contract, then, either party may, by a notice in writing to the other party refer such dispute or difference to the sole arbitration of an arbitrator appointed by head of the BHEL unit issuing the contract. The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the parties. Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause, the seat of arbitration shall be at Hyderabad. The cost of arbitration shall be borne as per the award of the Arbitrator. Subject to the arbitration in terms of clause 55, the courts at Sangareddy, Telangana State shall have exclusive jurisdiction over any matter arising out of or in connection with this contract. Notwithstanding the existence or any dispute or differences and / or reference for the arbitration, the contractor shall proceed with and continue without hindrance the performance of its obligations under this contract with due diligence and expedition in a professional manner except where the contract has been terminated by either party in terms of this contract. **In case of contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:** In the event of any dispute or difference relating to the interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party for arbitration to the sole arbitrator in the Department of Public Enterprises to be nominated by the secretary to the Government of India in–charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and justice, Government of India. Upon such reference the dispute shall be decided by the Law secretary or the special Secretary or Additional secretary when so authorized by the Law secretary, whose decision shall bind the parties hereto finally and conclusively. The parties to the dispute will share equally the cost of arbitration as intimated by the arbitrator. (2) INTEREST CLAUSE: In order to bring uniformity in all the contracts / agreements entered between BHEL and its contractors / vendors / suppliers / service providers etc., it is hereby advised to incorporate the following clause in all tenders and agreements. **“No interest shall be payable by BHEL on earnest money or security deposit or any money due to the contractor by BHEL.”**
58	Applicable Laws and jurisdiction of Courts
	This agreement shall be construed and interpreted in accordance with the laws of India and shall have exclusive jurisdiction of Sangareddy/Hyderabad courts, Telangana, India.
59	BHEL-Fraud prevention policy shall be adhered to.
	The Bidder along with its associate/ Collaborators/ Sub-contractors/ sub-vendors/ consultants/ service providers shall strictly adhere to BHEL Fraud Prevention policy displayed on BHEL Website http://www.bhel.com and shall immediately bring to the notice of BHEL management about any fraud or suspected fraud as soon as it comes to their notice.
	Fraud prevention policy and list of nodal officers is hosted on BHEL Hyderabad website web.bhelhyd.co.in
Note: Purchase officer has to fill AnnexureI while sending	
enquiry	