



BHEL:EPD:COMML:OT:2019:01

15.06.2019

**NOTICE INVITING TENDER (NIT) FOR TRANSPORTATION OF SOLAR PV MODULES FROM CHENNAI PORT TO SCCL, TELANGANA SITES**

Sealed Tenders are hereby invited from established, reliable and financially sound transport carriers having a fleet of vehicles and having an established branch in Bangalore and Chennai for transportation of Solar Modules from Chennai Port/Godown to SCCL sites, namely: Ramagundem, Yellandu in Telangana State.

Total 2,15,690 Nos of solar Modules packed in wooden/cotton boxes are to be transported **in 333 Number of vehicles through 40 ft trailer**. However, BHEL reserves the right to modify the number of vehicles required in case of any change in requirement of modules.

Details of the Tender are provided in the Tender Document "BHEL:EPD:COMML:OT:2019:01" . Bidders are requested to download the Tender Documents from BHEL Corporate website at [www.bhel.com](http://www.bhel.com) or [www.https://eprocure.gov.in/](https://eprocure.gov.in/).

It may please be noted that BHEL will not issue or sell any hard copy of the Tender Documents.

**Earnest Money Deposit (EMD)** shall also be submitted along with Tender documents. The value of EMD is given in the tender documents. Non-submission of EMD will render the bids rejected.

The bidders are advised to go through the terms and conditions of the tender schedules carefully before submitting their offers.

Further, bidders are advised to contact Sr. Engineer or DGM of Commercial Department of M/s BHEL – EPD, Bangalore for any clarification in this regard.

The tender enquiry comprises the following documents:

- 1.0 This covering letter of NIT - Ref: BHEL:EPD:COMML:OT:2019:01
- 2.0 Qualification Criterion
- 3.0 Techno Commercial Bid comprising of:
  - 3.1 Instructions to Tenderers
  - 3.2 General Terms and Conditions of Contract
  - 3.3 Special Terms of the contract and specific guidelines
- 4.0 Tender Evaluation Criterion
- 5.0 Annexure Proforma.
- 6.0 Reverse Auction

Bidders may please note that this NIT is only a request and not the contract itself.



BHARAT HEAVY ELECTRICALS LIMITED  
Electric & Photovoltaic Division  
Tel: 08022182388, 22182315, 22182251  
COMMERCIAL SHIPPING  
Transport Tender for shipment from Chennai Port

SCHEDULE OF EVENTS AND IMPORTANT DATES:

1. Commencement of downloading of Tender documents from websites: 17<sup>th</sup> June 2019.
2. Last date of submission of completed tender documents at the Tender Box (for EPD WEX) placed in the Reception of BHEL – EPD, Bangalore : 02<sup>nd</sup> July 2019., 14.00 Hrs
3. Opening of the Techno-Commercial Bids: 02<sup>nd</sup> July 2019, 14-30 Hrs onwards.

(FAISAL HUSSAIN)  
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ELECTRIC & PHOTOVOLTAIC Division, Bangalore  
– 560012  
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**PART-A TECHNO-COMMERCIAL BID**

**2.0 QUALIFICATION CRITERION**

2.1 ESTABLISHED ORGANISATION: The interested bidders shall be an established Transport Carrier with following credentials:

- a. In case of Single Ownership / Proprietorship establishment, relevant documentary proof such as Auditors Letter / Company Registration Documents etc., for proof of Ownership / Proprietorship shall be enclosed.
- b. In case of a Company, relevant extracts of AOA and /or MOA and /or copies of Board resolution, evidencing the authority of person executing power of attorney or signing the quotation, should be furnished.
- c. In case the Bidder is a Partnership Firm, the Firm shall be registered under Partnership Act, a copy of the Partnership Deed and/or a copy of the Power of Attorney attested by a Public Notary shall accompany the Tender. Unregistered Partnership Firms will not be considered.
- d. BHEL will not be bound by any other Power of Attorney granted or the change in the composition of the firm made, subsequent to the execution of the Contract agreement. They may however recognize such Power of Attorney or change in status after obtaining legal advice and the cost involved in that connection shall be chargeable to the Bidder concerned.
- e. In case of other types of establishment, copy of relevant documents such as a proof of registration (Certification of Incorporation, Partnership Deed, Demerger Document, as applicable etc. duly signed by competent authorities) shall be enclosed.

2.2 FINANCIAL SOUNDNESS: The Transport Contractor shall be financially sound and should have a minimum of an Average Annual Turnover of Rs 50 Crores (Rupees Fifty Crores Only) in the last 3 financial years. The following credentials shall be submitted as a proof of fulfilling the financial soundness:

- a. BALANCE SHEET: Average annual turnover (in the transportation field - with respect to freight revenue only) for last three financial years i.e. 2015-16, 2016-17 & 2017-18 shall be a minimum Rs. 50 Crores. Audited balance sheet and profit and loss account/Income statement should be submitted along with the offer for 2015-16, 2016-17 & 2017-18. The Balance Sheet / Annual Report shall be duly audited / certified by a Practitioner/Chartered Accountant registered with Institute of Chartered Accountants of India. The auditor's certificate should bear valid membership number of the Chartered Accountant.
- b. PROFIT LOSS ACCOUNT: The Bidder / Company should have been made profit in all these three years. The average annual profit shall be of minimum Rs. 5/- Lakhs (Taxable Profit as per IT Return). The Carrier should also furnish Form 26AS Tax Credit Statement in support of IT Return. Profit & Loss Account for 3 Years i.e. 2015-16, 2016-17 & 2017-18 duly audited / certified by a Practitioner/Chartered Accountant registered with Institute of Chartered Accountants of India shall be enclosed. The auditor's certificate should bear valid membership number of the Chartered Accountant.
- c. INCOME TAX: Copy of Income Tax Clearance Certificate/SARAL or proof having submitted the returns for Last 3 assessment years i.e. 2015-16, 2016-17 & 2017-18 duly attested by Notary shall be enclosed.

2.3 IBA RECOMMENDATION:

The Tenderer should have an IBA recommendation valid on the date of opening of Tender and shall also ensure that the same is valid throughout the currency of the Contract.

Copy of currently valid IBA Certificate shall be enclosed duly attested by Notary.



Transport Tender for shipment from Chennai Port

- a. If a Transporter is not found to be IBA approved at any time during the Contract period or fails to submit valid IBA approval extension within one month of expiry of validity, the loading of business on them will be stopped immediately and the Contract with him shall ultimately be terminated.
- b. In case identical rates are quoted by more than one Bidder, the ranking & selection of required number of Transporters will be on the basis of seniority of registration with IBA i.e. the senior Carrier will be given first preference.

2.4 MANDATORY BRANCH OFFICE: Definition of the Branch: An established office of the contractor with a Land line phone / Cell Phone, an appointed person to be contacted and available all the time, during office hours. Bidders must have their branch at Bangalore and Chennai.

2.5 EXPERIENCE: Bidders should have the experience in the field of Road Transportation of Engineering / Industrial goods.

- a. The documentary proof of having experience as above shall be enclosed along with Tender. The proof must be the copies of work order with work/job/service completion certificates for the transportation done on or after 01.04.2016, duly signed by the agency who has engaged the Transporter.
- b. In case participating bidders are already working with other units of BHEL against AIRTC, they may provide the copy of the current contract entered into with the BHEL unit.

### 3.1 INSTRUCTION TO TENDERERS

3.1.1 The tender is processed in Two parts viz.

**Part A: Techno Commercial bid.**

**Part B: Price Bid.**

Part A of the tender form which is the Techno Commercial bid along with duly filled Annexures, Earnest Money Deposit (EMD) and other enclosures such as documents for qualifying requirements as per Clause 2.0, branch list, Copy of IBA certificate, commercial terms, etc., must be submitted in one sealed envelope superscribed with Tender Reference No. "BHEL:EPD:COMML:OT:2019:01" and written clearly as "Techno Commercial Bid for BHEL:EPD:COMML:OT:2019:01".

Part B of the tender in the prescribed Proforma – I which should contain only the price bid must be submitted in another separate sealed envelope superscribed with Tender Reference No. "BHEL:EPD:COMML:OT:2019:01" and written clearly as "Price bid for BHEL:EPD:COMML:OT:2019:01"

- 3.1.2 **Both separately sealed "Techno commercial bid" and "Price bid"** must be put in a single envelope super-scribed with tender reference No. "BHEL:EPD:COMML:OT:2019:01" and must be dropped in the Tender Box (for **EPD WEX**) kept in the Reception Hall of BHEL – EPD, Bangalore within specified date and time by the representative of the tenderer. Late offers and quotes through e-mail / fax/ courier etc., will not be considered.
- 3.1.3 The Techno commercial bid should also contain an unpriced price schedule form duly signed for which the price offer has been submitted.



- 3.1.4 Tender forms shall be downloaded from the website, [www.bhel.com](http://www.bhel.com) and <https://eprocure.gov.in>.
- 3.1.5 Any amendments or extensions to the tender will be intimated and put on websites only as indicated above.
- 3.1.6 All entries in a tender document should be in one ink. Corrections, over writings, cuttings, etc. are not permitted. All the columns in the tender form should be filled without leaving blank in any page of the tender and all the pages must be duly signed & official seal affixed by the tenderer.
- 3.1.7 The bidders are requested to submit the bids duly double punched on the left middle of the papers, and tied with file tag. Bidders are also advised strictly not to submit the bids with spiral binding & hard book binding, as it will hamper the speedy evaluation of the offers.
- 3.1.8 Last date/time for receipt of Tender: The completed Tenders shall reach on or before **14:00 Hrs on 02-07-2019** at BHEL, EPD Reception office. It is in the interest of bidders to ensure that the Tenders reach in time. BHEL is not responsible for any postal delay. The Bidders are required to ensure that their bids reach BHEL, EPD, Bangalore Reception Office **before 14-00 Hrs on 02-07-2019**. Late offers will not be considered under any circumstances.
- 3.1.9 Last date/time for opening of Tender: Sealed covers so received will be opened at Tender Room or other designated hall on the same day i.e., **on 02-07-2019 at 14:30 Hrs.** in the presence of the Bidders or their Authorized Representatives who may wish to witness the same. Initially only the Techno Commercial bids will be opened on the above due date. The technical evaluation will be made by the Tender Committee appointed by BHEL. Only the price bids of the technically qualified Bidders will be opened for further course of action. The date / time of Price Bid opening will be communicated to the technically qualified Bidders separately at a later date.
- 3.1.10 **Witnessing the Tender opening:** The representative of the Bidder, who chooses to witness the Tender opening, may have to produce the Authorization Letter, as per the enclosed Proforma-II, before opening of the Tender. The representatives without Authorization Letter in the prescribed format will not be allowed to participate in the Tender. Only one representative from one Bidder will be allowed to participate in the Tender opening.
- 3.1.11 **EARNEST MONEY DEPOSIT (EMD):** EMD is to be submitted along with Tender documents (Part-A) by tenderers for securing fulfilment of any obligations in terms of the NIT. The EMD to be submitted for this tender is **Rs 3.25 Lakhs (Rupees Three Lakhs and Twenty Five Thousand only)**. Non-submission of EMD will render the submitted bid rejected.
- 3.1.11.1 **MODES OF DEPOSIT**
- The EMD may be accepted only in the following forms:
- Cash deposit as permissible under the extant Income Tax Act (before tender opening)
  - Electronic Fund Transfer credited in BHEL account (before tender opening)
  - Banker's cheque/ Pay order/ Demand draft in favour of BHEL payable at Bangalore (along with offer)
- 3.1.12 **AFFIDAVIT:** Bidders shall furnish an undertaking, for the following as per the (Proforma-III) in the form of an affidavit on non-judicial stamp paper valued Rs. 100/- and duly notarized stating that the contractors' are
- Not presently put on hold, suspended, de-listed, banned or black listed by any of the BHEL units.
  - Not been booked by CBI and/or indicted by a court of law in any criminal case relating to transportation during last 5 years.



Transport Tender for shipment from Chennai Port

- c. Should one or more partners/directors/proprietors of the Bidder firm have a relation or relations are employed in BHEL, the authority inviting Tender should be informed of the fact in the offer & concealing this information, & if found by BHEL, BHEL shall cancel the Contract & the EMD/SD will be forfeited.
- d. No Sister Concern of the Carrier participating in this Tender and / or Partners / Board of Directors or any official is connected / has any official binding / business share with any of the other Carriers participating in this Tender, will be allowed to participate in this Tender. Also in a group of companies, only one Company is allowed to participate in this Tender. If found otherwise, BHEL will reject the offers of such Carriers. (For detailed explanation of this clause refer the "General Terms and Conditions – i.e., Prohibition of submitting multiple bids" in this NIT document).

All Scope, Terms, Conditions, annexures, technical / operational requirements of BHEL read, fully understood, accepted without any deviation and then submitted offer unconditionally.

In case it comes to notice of BHEL during the finalization of Tender, after placement of Contract and while executing the Contract, the Contractor is found to have given incomplete, false, incorrect, suppressed information & data, forged documents, fake documents / certificates, fake RTA Certificates or any information prejudicial to BHEL's interest, such Carriers will be immediately suspended at any stage and their EMD, Security Deposit / Bank Guarantee will be forfeited. In addition, if this is found during finalization of Tender, such Carrier's offer will be rejected out rightly and they will be barred from participation in any future Tenders of any of the BHEL units and wide circulation of this information will be put in BHEL websites, IBA websites and other means of communications. If such acts are found after placement of Contract, the Contract will be terminated and severe / appropriate action against such Carriers under the provisions of BHEL's procedure for Suspension of Business Dealings with Suppliers / Contractors, duly considered, will be taken.

3.1.13

**Quoting and Signing the Tender:** The bidders are instructed to carefully read the terms and conditions of the Tender and submit the tenders, the following are few of the points that shall be

- a. While quoting their rates, the Bidders are advised to take into account the likely expenditure, taxes which are incidental for transit and in deploying the vehicles during the operation of this Transport **Contract for 6 months** from the date of award of Contract.
- b. The rates quoted in the schedules are applicable for the distances from Chennai Port to SCCL Sites i.e. Ramagundem and Yellandu in Telangana State.
- c. All entries in Tender documents shall be clearly written in one ink or typed. All the corrections/cancellations/ insertions, if any, shall be duly attested by the Bidders concerned.
- d. Rates should be quoted as per the Price Bid. Rates quoted in any other form will not be accepted and will be rejected.
- e. The rates shall be quoted only in the schedule attached, both in words and figures. Wherever there is a difference between the words and figures, amounts indicated in words only shall be considered as correct.
- f. The Bidder shall fill in all the required particulars of the Tender documents and also sign on each and every page of the Tender documents (Techno - Commercial Bid, Price Bids, Terms & Conditions etc.,) before submitting their Tenders.



Transport Tender for shipment from Chennai Port

- g. In case the Bidder is a Partnership Firm under Partnership Act, the Tender shall be signed by all the Partners of the firm or by the Managing Partner who have authorized to do so or by a person holding the Power of Attorney on behalf of the Partnership Firm.
- h. Should a Bidder find discrepancies or omissions in the Tender documents or should there any doubt as to their meaning, he should at once address the authority inviting the Tender, for clarification well before the due date, so as to submit his Tender in time. (No extension of time shall be given for submission of the Tender on any account)
- i. Conditional and late Tenders, Tenders which are incomplete or otherwise considered defective with respect to Tender conditions and Tenders not in accordance with the Tender conditions herein contained and the Tenders not in original shall be rejected, out rightly, at any point of time during the tender processing.
- j. Bidders to note that while quoting the prices in price bid, they should quote for all the items. Selective quoting for only few of the vehicle categories is not acceptable. Bids with selective quotation will not be considered for evaluation and hence rejected, even if they are techno-commercially qualified. The transporters shall accept the validity of prices for 90 days from the date of tender opening.
- k. During the course of finalization, if the prices offered by L1 Bidders are found to be unrealistic, unworkable with respect to BHEL's PCR, BHEL's estimate, Price Index as published by Office of the Economic Adviser- Ministry of Commerce, General Market rate prevailing, rates obtained by other BHEL Units for similar scope of AITRC, and also such act of the Carrier appear to be intentionally done with a view to sabotage/vitiate BHEL Tendering process and force BHEL to refloat the Tender, then BHEL will exercise their right to reject the offer of / remove such L1 Bidders, application wise from the respective list of Carriers and finalize the Tender with other Carriers responded & place Contract accordingly. In such case, BHEL will also demand the break up cost element for such rates from the Carriers with appropriate documentary evidence and if not submitted it will be construed that they offered the rates with an ulterior motive to sabotage BHEL Tender process/ tamper Tendering procedure, affecting ordering process. In such cases, BHEL will exercise their right to take appropriate action in line with the procedure /guidelines on suspension of Business dealings with Suppliers/ Contractors. Hence the bidders are to exercise abundant care in submitting their offer with genuinely
- l. If a Bidder deliberately gives wrong information in his Tender or creates conditions favourable for the acceptance of his Tender, BHEL will reject such tender at any stage and take very severe action as per BHEL procedure/ guidelines/ practices.
- m. Words imparting singular number shall be deemed to include plural number and vice versa where the context so requires.
- n. Canvassing in any form, in connection with the Tender is strictly prohibited and such Tenders are bound to be rejected. All information furnished is taken to be authentic by the Bidder for evaluation of Tender priorities. Should any information found to be incorrect subsequently, at any point of time, the Tender/ Contract shall be rejected / terminated and the EMD / SD shall be forfeited and will be taken very severe action as per BHEL procedure/ guidelines/ practices.
- o. Should a Bidder's or a Contractor's or in the case of a firm or company of Contractors/any of its shareholder's or shareholder's relative is employed in BHEL, the authority inviting the Tenders shall be informed in writing of this fact at the time of submission of the Tender, failing which the Tender may be disqualified, or if such fact subsequently comes to light, the Contract may be cancelled.
- p. The Tender schedule and the total Tender terms and Conditions shall be deemed to form an integral part of the Contract to be entered into for this work.



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**COMMERCIAL SHIPPING**

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- q. In case, BHEL find/ notice that Carriers join together, form cartel, or influence others / new Carriers to submit offers in their favour, then BHEL will exercise their right to take severe action against such Carriers including legal action & permanent blacklisting / banning of such Carriers for BHEL's Business
- r. All the required documents shall be filled in the same serial order as per the format/column of the "Techno- Commercial bid". All the pages shall be serially numbered on the right hand side top corner. Page numbers of the concerned documents also shall be filled in "Techno-Commercial bid" in the boxes provided. All the pages of tender documents are to be duly signed and stamped by the bidder.



### 3.2.0 GENERAL TERMS AND CONDITIONS OF THE CONTRACT:

#### 3.2.1 Definitions

In these General Conditions of Contract, the following terms shall have the meaning hereby assigned to them, except where the context otherwise requires: -

- a. The "Contract" means, the documents forming the Tender and acceptance thereof, together with all the documents referred to therein including general and special conditions to Contract, Work Order and subsequent amendments issued to the successful bidders in line with the NIT Terms and Conditions and the contract agreement entered into mutually with BHEL - EPD. All these documents as applicable taken together shall be deemed to form one Contract and shall be complementary to one another.
- b. The "work" means, the work described in the Tender documents and in individual work-orders as may be issued from time to time to the Contractor by the Officer-In charge within the power conferred upon him including all notified or additional items of works and obligations to be carried out as required for the performance of Contract.
- c. The "Contractor" means, the individual Firm or Company whether incorporated or not, undertaking the work and shall include their legal representatives of such individuals or the persons composing the firm or Company or the successors of the firm or company and the permitted assigns of such individual or firm or Company.
- d. "The Officer-In charge" means, the Officer deputed by the Competent Authority by BHEL-EPD, to supervise the work or part of the work.
- e. "Approved" and "Directed" means, the approval or direction of Competent Authority of BHELEPD, or person deputed by him for the particular purposes.
- f. "BHARAT HEAVY ELECTRICALS LIMITED" (herein after referred to as BHEL) shall mean the Board of Directors, Chairman, Executive Director, General Manager or other Administrative Officer of the said Company including any other Competent Authority authorized to invite Tenders and enter into Contract for works on behalf of the Company.
- g. "ELECTRIC & PHOTOVOLTAIC DIVISION" (hereinafter referred to as EPD) shall mean one of the division of BHEL having its works at Malleswaram, Bangalore
- h. The "Contract sum" means, the sum accepted or the sum calculated in accordance with the prices accepted in Tender and / or the Contract rates as payable to the Contractor for the execution of the work during the currency of the Contract.

#### 3.2.2 GENERAL CONDITIONS:

The heading to these conditions shall not affect the interpretations thereof.

- a. **Work to be carried out:** Total 2,15,690 Nos of solar Modules packed in wooden/cotton boxes are to be transported in 333 Number of vehicles through 40 ft trailer (22MT carrying capacity).

**The loading of material at Chennai Port is in the scope of BHEL.**

**The unloading is in the scope of the transporter.** All the labour which is required for unloading of the goods from the transport vehicles is the responsibility of the contractor. BHEL will provide the support of fork lifts, mobile cranes and other material handling devices as deemed fit to assist the unloading activity.-The Contractor is deemed to have satisfied himself as to the nature of the site, local facilities of access and all matters affecting the execution of the work.-No extra charges consequent on any misunderstanding in these respects or otherwise will be allowed. Transporters



are responsible for the safety of workmen/unloaders and concerned safety equipment should also be provided to workmen/unloaders by the transporters.

- b. Deviations: The Contractor shall not carry out any work not covered by schedule except in pursuance of the written instructions of Competent Authority, no such work shall be valid unless the same has been specifically confirmed and accepted by BHEL in writing and incorporated in the Contract.
- c. Assignment of Transfer of Contract: The Contractor shall not without the prior written approval of the BHEL, assign or transfer the Contract or any part thereof, or any share, or interest thereon to any other persons. No sum of money which may become payable under the Contract shall be payable to any person, other than the Contractor unless the prior written approval of the BHEL to the assignment or transfer of such money is given. The Contractor shall not sub-let any portion of the Contract without the prior written approval of the BHEL.
- d. Orders Under the Contract: All orders, notices etc. to be given under the Contract shall be in writing, type-script or printed and if sent by registered post to the address given in the Tender of the Contract, shall be deemed to have been served on the date, when in the ordinary course they would have been delivered to him. The Contractor shall carry out without delay all orders given to him.
- e. Contract Supervision: The Contractor shall either himself supervise the execution of the Contract or shall appoint a competent agent acceptable to the BHEL, to act in his stead. Orders given to the Contractor's agent shall be considered to have the same force as if they have been given to the Contractor himself. The Contractor or his accredited agent shall attend when required without making any claim for doing so, either the office of Shipping or the OFFICER-INCHARGE, to receive instructions. The Contract awarding authority shall have full powers and without assigning any reason, require the Contractor to immediately cease to employ in connection with this Contract, any agent, servant or employee where continued employment is, in his opinion undesirable. The Contractor shall not be allowed any compensation on this account.
- f. Precautions against Risk: The Contractor shall be responsible for providing at his own expense for all precautions to prevent loss or damage from any and all risks and to minimize the amount of any such loss or damage and for the necessary steps to be taken for the said purpose.
- g. Damage & Loss to Private Property & Injury to Workmen: The Contractor shall at his own expense reinstate and make good to the satisfaction of the Competent Authority of BHEL, and pay compensation for any injury, loss or damage occurred to any property or rights whatever including property and rights of BHEL (or agents) servants or employee of BHEL, the injury loss or damage arising out of or in any way in connection with the execution or purported execution of the Contract and further the Contractor shall indemnify, the BHEL against all claims enforceable against BHEL (or any agent, servant or employee of BHEL) or which would be so enforceable against BHEL where BHEL is a private person, in respect of any such injury (including injury resulting in death) loss or damage to any person whomsoever or property including all claims which may arise under the Workmen's Compensation Act or otherwise.
- h. Laws Governing the Contract: The Contract shall be governed by all the applicable Indian Laws for the work being carried out by the contractor and in force.
- i. Cancellation of Contract For Corrupt Acts: BHEL, whose decision shall be final and conclusive, shall without prejudice to any other right or remedy which shall have accrued shall accrue thereafter to BHEL cancel the Contract in any of the following cases and the Contractor shall be liable to make payment to BHEL for any loss or damage resulting from any such cancellation to the same extent as provided in the case of cancellation for default. If the Contractor shall:-



Transport Tender for shipment from Chennai Port

- Offer or give or agree to give to any person in BHEL service any gift or consideration of any kind, as an inducement or reward for doing or for bearing to do or for having done or for borne to do any act, in relation to the obtaining or execution of this or any other Contract for BHEL service,  
OR
  - Enter in to a Contract with BHEL in connection with which commission has been paid or agreed to be paid by him or with his knowledge, unless the particulars of any such commission and the terms of payment thereof have previously been disclosed in writing to BHEL.  
OR
  - Obtain or trying to obtain the Contract with BHEL by way of ring Tendering or cartel formation or by way of any other means of non-bona-fide methods of competitive bidding.
- j. Cancellation of Contract for Insolvency Assignment of Transfer or Sub-Letting of Contract: BHEL, without prejudice to any other right or remedy which shall have accrued or shall accrue thereafter to BHEL shall cancel the Contract in any of the following cases:

If the Contractor,

Being an individual or if a firm, any partner thereof shall at any time be adjudged bankrupt or have a receiving order for administration of his estate, made against him or shall take any proceedings for liquidation or composition under any bankruptcy Act or assignment of his effects of composition or arrangement for the benefit of his creditors or purport to do so, or if any application made under any Bankruptcy Act for the time being in force for the sequestration of his estate or if a trust deed be granted by him on behalf of his creditors

OR

Being a Company, shall pass a resolution or the Court shall make an order for the liquidation of its affairs, or a receiver or Manager on-behalf of the debenture holders shall be appointed or circumstances shall arise which entitle the Court or debenture holders to appoint a receiver or Manager,

OR

Assigns, Transfers, Sub-lets or attempts to assign, transfer or sub-let any portion of the work without the prior written approval of the BHEL.

- k. Cancellation of Contract In Part or Full for Contractor's Default: If the Contractor:

Makes default in carrying out the work as directed and continues in that state after a reasonable notice from Competent Authority of BHEL, or his authorized representative;

Fails to comply with any of the Terms and Conditions of the Contract or after reasonable notice in writing with orders properly issued there under;

- a. BHEL, may without prejudice to any other right or remedy which shall have accrued or shall accrue thereafter to BHEL CANCEL the Contract as whole or in part thereof or only such work order or items of work in default from the Contract.
- b. Whenever BHEL exercise the authority to cancel the Contract under such above conditions, BHEL may have the work done by any means at the Contractor's risks and expenses provided always that in the event of the cost of the work so done (as certified by Competent Authority of BHEL which is final and conclusive) being less than the Contract cost, the advantage shall accrue to the BHEL and if the cost exceeds the money due to Contractor under the Contract, the Contractor shall either pay the excess



Transport Tender for shipment from Chennai Port

- amount ordered by Competent Authority of BHEL, or BHEL shall move by appropriate methods for recovery of the same from the Contractor.
- c. In case the BHEL carries-out the work under the provisions of this condition the cost to be taken into account in determining the excess cost to be charged to the Contractor under this condition shall consist of the cost of the materials, hire charges of tools and plants and/or labour provided by the BHEL with an addition of such percentage to cover superintendence and establishment charges as may be decided by the Competent Authority of BHEL, whose decision shall be final and conclusive.
  - d. Termination of Contract on Death of Contractor.: Without prejudice to any of the rights or remedies under this Contract, if the Contractor dies, or if the firm is dissolved or the company is liquidated BHEL shall have the option of terminating the Contract without compensation to the Contractor.
  - e. Special Power to Termination: If at any time after the award of Contract, BHEL shall for any reason whatsoever not require whole or any part of the work to be carried out the Competent Authority of BHEL, shall give notice in writing of the fact to the Contractor who shall have no claim to any payment of compensation or otherwise howsoever on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of the fore-closing of the work.
  - f. Submission of Bills by Contractor: The Contractor shall submit bills for the work done separately for each consignment in triplicate along with the original and a photocopy of the discharged goods consignment note duly acknowledged by the consignee. The bills may be bunched and submitted periodically, preferably every fortnight and clarifications sought if any shall be provided without undue delays to enable BHEL to process the bills on time.
  - g. Submission of Bills if Original LR is Lost: The Contractor shall submit the bills along with the Indemnity Bond if the Original LR is lost. Based on Indemnity Bond, the bills will be cleared. However, the contractor also has to undertake that if any such duplication of Bill happens and submitted for payment twice, then the second bill will not be passed and to warn such kind of duplications, a penalty of Rs. 5,000/- will be levied for each such bill and will be deducted from the running bills.
  - h. Payment of Bills: BHEL will make payment to the contractor periodically after due verification of the bills submitted within reasonable time and as per prevailing standards within one month. All payments to be made to the Contractor shall be done only through NEFT (National Electronic Fund Transfer / RTGS (Real Time Gross Settlement)). Wherever applicable and as a special case as accepted decided by BHEL, payments can be made to the Contractor by ""A/C PAYEE CHEQUE ONLY". No other forms or mode of payment is made by BHEL.
  - i. Bill Format and No. of Bills to be submitted: Prescribed Bill Format will be given by BHEL EPD. All these bills shall be submitted in Triplicate copies.
  - j. Recovery from Contractor: Whenever under the Contract, any sum of money, shall be recoverable from or payable by the Contractors, the same may be deducted from or any sum then due or which at any time thereafter may become due to Contractor under the Contract or under any other Contract with BHEL or from his Security Deposit or he shall pay the claim on demand.
  - k. Post Audit of Work and Bills: BHEL will have the right to carry out the post-payment Audit and technical examination of the work and final bill including all supporting vouchers, abstracts etc., and enforce recovery of any sum becoming due as a result



Transport Tender for shipment from Chennai Port

thereof in the manner provided in the presiding sub-paragraphs. However, no such recovery shall be enforced after three years of passing the final bill.

- i. Force Majeure Clause: If, at any time during the continuance of this Contract the performance in whole or in part by either party of any obligations under this Contract shall be prevented or delayed by reason of any war, hostile acts of the public enemy, civil commotion, epidemics or Acts of God (such as floods, storm/cyclone, hurricane, earth quake or other such natural calamities) then provided notice of happening of any such event is given by either party to other within reasonable time but not later than 15 days of occurrence thereof neither party shall by reason of such event be entitled to terminate this Contract nor shall either party have any claim for damages against the other in respect of such non-performance and delay in performance under the Contract shall be resumed as soon as practicable after such event has come to an end or ceased to exist. If the performance in whole or part of any obligation under this Contract is prevented or delayed by reason of any such event, claims for extension of time shall be granted for periods considered reasonable by the Competent Authority of BHEL subject to prompt notification by the Contractor.
  - m. Signing of Contract and abiding by it : Successful bidders whose tender is accepted for awarding the contract shall enter into a contract at his cost on a valid Non-Judicial stamp paper of value not less than Rs.100/- (Rupees one hundred only) as per the Proforma-IV provided within 15 days from the date of issue of Contract. The contractor shall also inform all their branches of the Terms and Conditions of this contract under intimation to BHEL – EPD, Bangalore to ensure strict compliance with the provisions of the Contract. Each Contract document shall be signed by the Contractor with his usual signature. Contracts by a Company shall be signed with the name of the Company by a person authorized in this behalf. Contract by limited concerns, partnership firms, proprietary concerns, owned by Hindu Joint Family firm or other forms of ownership, may be signed in the FIRM'S name by one of the Partners or the Karta or Manager as the case may be or by any other duly authorized representative followed by the name and designation of the persons so signing. A power of attorney or other satisfactory proof showing that the persons signing the Contract documents on behalf of the contractor is duly authorized to do so, shall accompany the Contract.
  - n. Compliance to regulations and by-laws: The Contractor shall confirm to the provisions of any statute relating to the work and regulations and Bye-Laws of any local authority. The Contractor shall be bound to give all notices required by statute regulations or By-Laws as aforesaid and to pay all fees and taxes payable to any authority in respect thereof.
- i. Statutory Requirements:
- a. All statutory requirements under Minimum Wages Act 1948, Factories Act 1948, Workmen Compensation Act 1923, Employees Provident Fund and Miscellaneous Provisions Act, 1952, Payment of Gratuity Act 1972, Employee State Insurance Act 1948, Contract Labour(R&A) Act 1970, Payment of Bonus Act 1965, Income Tax Act, Service Tax Act and all other applicable Acts shall be complied with by the Contractor.
  - b. Contractor shall comply with all statutory requirements, rules, regulations, notifications in relation to employment of his employees issued from time to time by the concerned authorities. - Contractor shall indemnify BHEL against all claims and losses under various Labour Laws, statutes or any civil or criminal law in connection with employees deployed by him.
  - c. Contractor wherever applicable shall maintain proper records prescribed by the concerned statutory authorities and provide a copy of the same to BHEL.



- d. Contractor shall furnish proper returns to the concerned statutory authorities and provide a copy of the same to BHEL.
- m. Registers & Records: The Contractor shall maintain all registers and records in the proper manner and as required by the regulations of the various authorities concerned and indemnify BHEL from the consequences due to any inaccurate or faulty documentation on the part of the Contractor.
- aa. Remote Transactions: The Contractor shall agree to and comply with all reasonable terms and conditions as BHEL may prescribe from time to time and shall confirm that all transactions effected by or through facilities for conducting remote transactions including the Internet, World Wide Web, electronic data interchange, call centres, teleservice operations (whether voice, video, data or combination thereof) or by means of electronic, computer, automated machines network or through other means of telecommunication established by BHEL shall constitute legally binding and valid transactions when done.
- bb. Change in Constitution of Firm: Changes in constitution of contractors' firm whenever it is made after submission of application or during currency of the Contract, the existing firm has to duly inform the proposed changes to BHEL at the appropriate time before the changes in the constitution are made. In case the absence of any such information BHEL is not responsible for the consequences arising out of the absence or suppression of information and the issue / dispute arising out of these changes and the firm is responsible for settling the issue or dispute among themselves (Partners etc.) or with the bankers or with any other third party. Under the above circumstances when dispute arises and the firm does not inform the change in the constitution of the firm BHEL may reserve its rights for suspending or terminating the Contract.

**n. SECURITY DEPOSIT**

The successful Tenderers shall furnish Security Deposit in any one of the following modes within 15 days from the date of issue of Letter of Intent/Award. The Security Deposit shall be furnished by the successful Tenderers before the commencement of work by them. The security deposit shall not carry any interest. The security deposit payable from the successful contractors will be 5% of the contract value.

Modes of Security Deposit:

EMD submitted will be converted to Security Deposit. The balance amount of Security Deposit to make up the required Security Deposit of 5% of the contract value may be accepted in the following forms:

- a. Cash (as permissible under the extant Income Tax Act)
- b. Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favor of BHEL
- c. Bank Guarantee from Scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format should have the approval of BHEL
- d. Fixed Deposit Receipt issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL)
- e. Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favor of BHEL)

(Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith)

Collection of Security:



At least 50% of the required Security Deposit, including the EMD, should be collected before start of the work. Balance of the Security Deposit can be collected by deducting 10% of the gross amount progressively from each of the running bills of the Contractor till the total amount of the required Security Deposit is collected.

If the value of work done at any time exceeds the contract value, the amount of Security Deposit shall be correspondingly enhanced and the additional Security Deposit shall be immediately deposited by the Contractor or recovered from payment/s due to the Contractor.

The recoveries made from running bills (cash deduction towards balance SD amount) can be released against submission of equivalent Bank Guarantee in acceptable form, but only once, before completion of work, with the approval of the authority competent to award the work.

Security Deposit shall be released to the Contractor upon fulfilment of contractual obligations as per terms of the contract.

The Security Deposit shall not carry any interest.

dd. Refund of Security Deposit: The security deposit shall be refunded after successful completion of the Contract as per agreement and subject to deduction of any amount due to BHEL.

- Security deposit shall not be refunded to the Contractor except in accordance with the terms of the Contract. Important Note:-

(a) The Bidders must ensure their compliance with all the eligibility criteria mentioned in this NIT. Noncompliance of any one of the eligibility criteria will lead to total rejection of the offers submitted by the Bidders, who are not complying with the eligibility criteria, in full. BHEL in no way be responsible for the rejection of bidders for non-compliance to eligibility criteria.

(b) All the supporting documents enclosed shall be duly attested.

(c) All the information furnished / supporting documents enclosed by the Bidders are taken to be authentic for evaluation of Tender. If any information furnished / supporting documents attached are found to be incorrect / fraudulent / forged subsequently, at any later date or during the tenure of the Contract, suitable action viz., delisting, termination of the Contract, legal action etc., will be initiated against such Carriers as deemed fit.

ee. Prohibition of submitting multiple bids: Submission of multiple bids with different companies' names with same or related ownership is prohibited. While submission of bids, the bidder shall disclose the following by way of a notarized affidavit cum undertaking executed on a non-judicial stamp paper of Rs.100/= (Rupees One Hundred Only) as per Proforma – III.

a. Details of its group concerns or affiliates etc., who are also engaged in transportation business.

b. Details / Particulars of Partners / Proprietors / Directors of bidder / such group concerns or affiliates etc., including the details of DIN numbers (in case of Directors) and PAN number (in case of Partners / Proprietors) duly supported by self-attested copies of relevant documents.

c. Confirm that none of its Group concerns or affiliates etc., appear on the list of banner firms / companies by BHEL (list available on [www.bhel.com](http://www.bhel.com) tender notifications page) nor any of the Director / Partner / Proprietor of bidder / such group concern or affiliate etc., are involved with such firm / company.

d. Confirm that other than the bidder, none of its Group concerns or affiliates etc., are participating in the tender either directly or indirectly through any other agency under same Proprietor / common Partner(s) / common Director(s).

e. BHEL may reject the bid or in case the contract has been awarded, then terminate the contract apart from taking any other suitable action under the contract or applicable legal



provisions or BHEL guidelines, including Guidelines for Suspension of Business Dealings, without any liability for any compensation to the Bidder if

- i. BHEL discovers at any time that any statement made by the Bidder in the affidavit cum undertaking is false, fraudulent or
- ii. Any document submitted by the Bidder was fake or forged
- iii. Or if BHEL determines in its sole discretion that any statement was aimed at deliberately misleading BHEL with a view to ensure award of the subject contract to the Bidder.

Non-submission of the affidavit or omitting / modifying the contents of the proforma given for the above purpose will render the bid non-complying and will be summarily rejected.

### 3.3 SPECIAL TERMS OF THE CONTRACT AND SPECIFIC GUIDELINES

#### 3.3.1 SCOPE OF WORK:

The indicative quantum of Transportation of Solar PV Modules from Chennai Port/Godown to SCCL sites namely: Ramagundem, Yellandu in Telangana is as follows:

Description of Item/Product	Modules Qty	Distance Category	Type of vehicle Considered	No.of vehicles required (A)	Site Name
2,15,690 Nos of Solar panels for capacity 71.177MW packed in wooden/carton. Approx 648 Nos of Modules (or 24 boxes) in single trailer	71.177MW	500 Km - 1000 Km	40 ft Trailer Non ODC (22MT)	333	SCCL Telangana Sites: Ramagundem & Yellandu

#### 3.3.2 TENURE OF TENDER CONTRACT

- a. The Transport Contract will be valid for **6 months** from the date of award of Contract by BHEL EPD, Bangalore.
- b. The consignments, including self-consignments booked within the Contract period fall within the scope of the Contract, irrespective of the date of delivery and surrendering of the consignee copies of the LR / GRs.
- c. Extension of Contract: One or more extensions of the Contract may be done with mutual agreement between BHEL, EPD, Bangalore and the approved Transporters, subject to a maximum extension period of 3 months. Such agreements shall be based on acceptance of the lowest rates and terms & conditions of the Contract.

- 3.3.2. REVERSE AUCTION: **BHEL reserves the right to go for Reverse Auction after Techno-Commercial evaluation instead of opening submitted related Price bid. Bidder should confirm participation in reverse auction along with Techno –Commercial bid.**



### 3.3.3 TYPE/ CATEGORIES OF VEHICLE REQUIRED:

- a. ***It is the sole responsibility of the Transporter to place and transport the BHEL consignments in required capacity of vehicles. All BHEL consignments shall be transported only in fully insured vehicles. Any damage due to wrong deployment of vehicles is to the Transporter's account. If the indented vehicle is not placed by any of the transporter, the alternate vehicles which are within the contract and are suitable to carry the required load will be arranged after prior approval of Head of the user Department so that BHEL turnover will not be affected.***
- b. The Contractors shall at their own expense maintain the said vehicles in good condition and shall duly apply for and obtain all Licenses, Permits, TREM Card (wherever applicable), etc., necessary under the rules, in force and promptly pay all registration, License or other fees and all Taxes payable in respect of the said vehicles. The Contractors shall also appoint and provide at their own cost for each vehicle a driver, assistant and other staff as may be necessary. The original RC Book and Driving License shall be produced for verification to BHEL officials for efficient execution of the contract.
- c. The higher capacity vehicle can also be placed against the demand given for lower capacity vehicle. However, in such cases the freight payment will be made as per the demanded vehicle type only. In this case, transshipment en-route is not permitted & consignment should be delivered only in the same vehicle loaded.
- d. BHEL prefer their consignment, being carried in the Contractors' own vehicles. If carried in a hired or third party vehicle, the Contractor should ensure that the party is a reputed one, with well-maintained vehicles and having all valid permits / documents. Should any dispute arise in their deal, it would be viewed with disfavour. In any case, only the contractor will be solely responsible for the safe delivery of BHEL consignments without prejudice or any other rights or remedy, to proceed against the Contractor.
- e. If a consignment falling within a particular consignment category, but practically / technically not feasible to load on that particular category, which requires another or higher category of vehicle, can be transported through alternate / higher consignment category with due certification obtained from approved authorities of BHEL. In such cases the freight bills will be paid as per the freight rates of the alternate / higher consignment category utilized.
- f. Based on the type of goods, BHEL – EPD has identified the following category of vehicle to be deployed by contractors.

Type of vehicle Considered	No. of vehicles required	Site Name	Approx Distance from Chennai Port to site (in Km)
40 ft Trailer Non ODC (22MT)	131	Ramagundem, Telangana Pin- 505188	793
	202	Yellandu, Telangana Pin-507122	616

The distance between Chennai Port and the sites can be decided based on actual distance given by Maps after checking with Pincode of the destination.



### 3.3.5 VOLUMETRIC LOADING

- a. Volumetric Load: Volumetric load means the consignment occupies the vehicle by volume i.e. it is not practically possible to load the vehicle due to the size, nature and type of material / consignment.
- b. Volume Load Certification: If the vehicle cannot be loaded to the full weight carrying capacity of the vehicle due to the nature of the consignment and it occupies full volume of the vehicle. This is technically acceptable and to be certified by the Executive of Shipping section.

The solar modules in this tender are volumetric load.

3.3.6 Transport Load Distribution: For having a practical and workable base of transportation contractors, BHEL, EPD Bangalore will distribute the total available quantum of work to 3 (Three) transporters. The division of load among the Three transporters will be done as follows:

- a. 3 (Three) transporters will be selected from the list of accepted techno-commercially and financially transporters in the order of merit from L1 to L3.
- b. The L-1 transporter will be established by BHEL through negotiation or RA. The L-1 accepted prices will then be offered to others in the order of their standing in price bid (i.e. to L-2, then L-3 & so on). Only on acceptance of this offered price (without further negotiation) the other bidders will be considered for awarding the contract. If the original L-2 bidder refuses to accept the L-1 price, it will be offered to the next in the order of merit till a total of three contractors are shortlisted.
- c. The division of work among the three transporters to be awarded the contract is given in the table below. The final selected three bidders are called the 'approved contractors'.

BIDDER	Share of Load if divided to 3 only	Share of Load if divided to 2 only
L1 - Original	50%	60%
L2 – Subject to accepting L1 price	30%	40%
L3 – Subject to accepting L1 price	20%	-

- d. While dividing the load distribution of work as above, if tenderers other than L1 are not accepting the L1 offered price, the onus of accepting the entire load rests with L1 bidder. Similarly, if sufficient number of bidders (i.e., 2 nos) are not willing to accept L1 offer, then the total load will be redistributed among the number of accepting contractors at the discretion of BHEL-EPD, Bangalore.

### 3.3.7 TRANSIT TIME AND PENALTY FOR DELAYED DELIVERY

- a. BHEL attaches very great importance to the timely delivery of the consignment and hence delivery should be affected without any delay. Hence penalties for delayed deliveries of consignments are levied as under.
- b. Date of dispatch of consignments from the loading point and the date of reporting of vehicle at the unloading point will be excluded from the transit time.
- c. Cases where Road Permit / Online Road permit is required, delivery time shall be reckoned from the date of issuance of valid Road Permit / Online permit to the Carriers.
- d. For determining the number of days for delivery, for the leftover distance which is below the KMs fixed per day, one additional day will be counted.



**Transport Tender for shipment from Chennai Port**

- e. In case the due date of delivery falls on Sunday/Public holiday, next working day will be treated as due date of delivery.
- f. Transit Time for Consignment of goods through trailer is generally considered as 200 kms per day.
- g. Grace Period : For various operational considerations a grace period of 1 day will be provided
- h. Penalty for Full Loads: 2 % of freight per Week subject to maximum of 50% i.e., 0.3% per day.
- i. In case of delayed delivery, the grace time also will be taken in to account for calculating the penalty amount.
- j. Waiver of Penalty for delayed delivery: Wherever there is a late delivery, penalty will be levied. However in case of exceptional situations where the BHEL Official not less than DGM of the user Dept(Shipping / Purchase), shall, based on the representation received from the Transporter on case to case basis, upon verifying the proof of major breakdown beyond the purview of the Transporter, waive off the penalty.
- k. Force majeure condition like cyclone, washout of roads, bridges, civil commotion and other aspects of the clause for all categories. Mechanical failure of the vehicle is not considered as force majeure.

**3.3.8 PENALTY FOR NON PLACEMENT OF VEHICLES**

- a. Transporter / Contractors shall give utmost importance for placement of vehicles as and when requested by BHEL. The vehicle request will be in the form of e-mail and will be generally issued on the evening of the day for the next working day. The vehicles will have to be placed by the Transporter within stipulated period, a maximum of 48Hrs is considered as reasonable time for placement of vehicles.
- b. For non-placement of vehicles within stipulated period the penalty will be imposed and deducted from the bills of the Transporter who have not placed the vehicles. A penalty of Rs.500/- (Rupees five hundred only) per vehicle per day is levied till the vehicle is provided. The penalty is subject to a maximum of Rs. 5000/- (Rupees five thousand only) per vehicle and will be deducted from the transporters running bill or security deposit.
- c. If all the contractors in the approved list fail to provide the vehicles even after levying of penalty, the consignment will be offered to other transporters who were techno-commercially qualified in this tender for consignment in waiting for price bid only. The L1 bidder among them will be offered the work for shipment of the consignment at the offered L1 price. The difference in price between the approved rate and the offered bid will be deducted from the running bills or from the security deposit of the approved transporters / contractors in proportion to the share of load.
- d. The default of the approved contractors will be reviewed periodically, more than three defaults in a quarter is considered serious and will be intimated about non-performance in writing. Failure on the part of the contractors to review and improve the situation may render BHEL to take necessary action including termination of the contract and forfeiture of security deposit. No appeal will be entertained in this regard.

**3.3.9 DETENTION CHARGES AT LOADING & UNLOADING POINTS**

- a. Detention charges shall be paid extra if the vehicles are not loaded and unloaded in time.
- b. Date of reporting of vehicle at loading point and the date of release of vehicle with load at loading point security gate will be excluded for payment of detention charges at loading point.



Transport Tender for shipment from Chennai Port

- c. Date of reporting of vehicle at unloading point with load and the date of release of vehicle at unloading point security gate after unloading will be excluded for payment of detention charges at unloading point.
- d. Detention charges will be paid as follows: -

Detention Charges per Day till consignment is lifted/unloaded			
Up to 5 Days	06 to 10 Days	11 to 20 Days	Beyond 21 Days
Rs. 800	Rs. 900	Rs. 1000	Rs. 1250

**Detention charges will be restricted to maximum for 30 days including detention at loading & unloading point**

- At loading point, the vehicles have to report before 3-00 PM on the day and register/report at the Material security/office.
- BHEL shall provide the load within 24 Hours from the time of reporting and release the vehicle.
- If the vehicle reports before 3-00 PM and the vehicle is not provided with load within 24 Hours from the time of reporting and has to stay at BHEL till the load is provided, detention charges as applicable can be claimed by the contractor.
- At unloading point, the vehicle is expected to be released after unloading of the material within 24 Hrs (1 day). If the consignee is not able to arrange for unloading the material within 1 day, detention charges can be levied by the contractor.
- For the purpose of claim, the contractor has to raise the detention charges along with the bill of transportation on case to case to basis and provide appropriate documentation justifying the claim.
- Detention at Site shall be paid based on the signature and official seal of any personnel at site. In case official seal is not provided by the certifying person at site or further clarity and confirmation is required, certification by Head Commercial / end user is required for payment of detention charges. It is the responsibility of the transport Carrier to obtain the required Gate Entries/Endorsements in G.C. with time & date from other areas such as Shipping / Stores/ Sites etc. to enable BHEL to effect the detention payment. Without this detention claim payment cannot be paid.
- However, no detention charges will be payable if the vehicles report on Sundays & General Holidays.

**3.3.10.a TRANSHIPMENT AND PENALTY**

- a. Transshipment of goods / consignments is generally not acceptable enroute.
- b. However, once transshipment in the enroute is allowed under exceptional circumstances such as major mechanical breakdown of the vehicle requiring extended detention of vehicle, damage to vehicle due to road accident or other natural calamities, or other such reasons beyond the control of the driver / transporter. Transshipment shall be done in such cases with due intimation to BHEL, EPD and obtaining prior permission. In such cases, delay penalty will not be waived in case of transshipment of the consignment enroute. Either delay penalty waiver or transshipment penalty waiver can be claimed by the Carriers.



**Transport Tender for shipment from Chennai Port**

- c. If consignments are transhipped without prior permission a token penalty of 10 % of the freight amount involved, will be levied.
- 3.3.10.b For Non-availability of GPS in the vehicle, a penalty of Rs. 1,000/- for full load vehicles will be applicable.
- 3.3.11 **LOADING AND UNLOADING**  
The loading of material at Chennai Port is in the scope of BHEL.  
While, the unloading at site is in the scope of the transporter. All the labour which is required for unloading of the goods from the transport vehicles is the responsibility of the contractor. BHEL will provide the support of fork lifts, mobile cranes and other material handling devices as deemed fit to assist the unloading activity.
- 3.3.12 **RISK PURCHASE:** In the event of any successful Tenderer / approved contractor, after award of LOA / Contract fail to fulfil any of the Tender Terms & Conditions / Contract obligations, explicitly expressed or implied, including non-lifting of consignments as per contract / Contract agreement, BHEL will exercise their right to arrange for dispatch of those consignments through alternate Transport Carriers. If required, the technically qualified Carriers against this Tender irrespective of their availability in this contract can also be considered for this purpose. For this purpose, the modes operandi will be as follows: -
- a. BHEL will address by mail to all the enlisted Carriers in this tender, except the defaulted Carriers, and call for a price bid alone for the schedules required giving only "three days' time from the date of mail. The L1 rate obtained by this way for the schedules, if acceptable to BHEL will be counter offered to other Carriers, who have submitted the price bid and limit the acceptance of counter offer as required for liquidation of the lot. While calling for the price bid, the details of the lot to be liquidated by dispatch will be indicated.
- b. The additional expenditure / difference in Cost, if any, including consequential cost shall be recovered from the defaulted Carriers against this contract".
- c. The recovery from the Carriers will be in line with the load distribution pattern of the Contract.
- d. The decision of BHEL with regard to arriving at the total cost of recovery from the Carriers shall be final and binding on the Carriers.
- 3.3.13 **TRANSIT CONDITIONS, TRAFFIC REGULATIONS & REQUIREMENTS:**
- a. The Transporters will operate their vehicles entirely at their own risk and BHEL shall not be held responsible for any damage to the vehicle while on the company's/customer's work or when parked in or around the company's/ customer's or any other premises.
- b. The Transporters will make their own arrangements for proper parking of their vehicles overnight/ during detention in company's/customer's premises.
- c. The Transporters will ensure that all vehicles used for the transportation of consignments under transportation rate contracts are covered by a comprehensive insurance policy. Under no circumstance shall the company be liable to compensate them for any loss or damage that may be caused to the vehicles while engaged in the discharge of the Transporter's obligations under this contract.
- d. It shall be the responsibility of the Transporter to provide at his cost trained and licensed personnel for running the vehicles.
- e. The Transporter shall ensure placing vehicles of suitable capacity and quality. Overloading of the vehicles will not be permitted under whatsoever may be the reasons /conditions. Proper loading and lashing of the consignments in most secured manner shall be done keeping in view extant government regulations and constraints en-route for safe transportation of



Transport Tender for shipment from Chennai Port

consignments and its delivery to destination. Transporters shall make aware concerned drivers/staff about the danger related to transportation of hazardous/ODC lifting, handling and tilting of such consignments. Transporters shall ensure that Motor Vehicle Act 1989 and Motor Vehicles Rules (as amended up to date) is strictly followed as applicable. Vehicles must carry up to date fitness, road permit, insurance and related documents/ certificates.

- f. All drivers/concerned staff related to the transportation activities under this rate contract should be well aware about material safety, data sheet etc. and well conversant with the environmental impact arising from the specified activities pertaining to use of fuels, lube oils, its spillage and disposal of various harmful items used in automotive vehicles.
- g. Transporters shall follow all necessary instructions relating to ISO-14001 and ISO-18001 obligations for environmental safety and occupational Health Safety
- h. ROUTE PERMIT/NATIONAL PERMIT/CLEARANCE: The Transporter shall arrange required permits from RTO or other concerned authorities and ensure compliance of any other legal and statutory formalities connected with the transportation of goods at his cost. BHEL doesn't take any responsibility in this regard.
- i. The Transporter shall get permission from Govt. of India, Ministry of Road Transport & Highways or from State Govt(s) or from local bodies necessitating such requirement relating to Motor Vehicles Act. The Transporter will produce such approved documents requiring scrutiny accordingly, before the consignment is loaded.
- j. PROTECTION/SAFETY OF CONSIGNMENT DURING TRANSIT: To ensure safe transit, the consignment loading shall be done by BHEL in its warehouse(s). The Transporter shall ensure placement of vehicles of good and roadworthy conditions having all welded structures and joints of vehicle chassis in sound condition. The tarpaulins in sufficient numbers have to be made available for every vehicle which is placed in BHEL EPD for carrying load and also good quality lashing ropes in sufficient numbers, length and diameters and other items required to accompany the vehicle so as to securely lash the consignment as per lashing scheme to be provided /explained by BHEL unit to ensure its safer transit in the same condition and same vehicle. Whenever explicitly mentioned by BHEL; the same should be got certified by BHEL authority.
- k. To protect the consignments from rains, wind and moisture in warranting situations, Transporters shall ensure proper covering to the consignments with tarpaulin or other covering materials.
- l. Compliance of all the safety precautions and other instructions required in road transportation e.g., red flags/lamps; pilot, escort etc. as may be required shall be the responsibility of the Transporter.
- m. Complaints of unsatisfactory packing or lashing will not be entertained after the vehicle has departed from the loading point.
- n. SAFETY OF CONSIGNMENT: The Transporter shall be solely responsible for the safe custody of the consignments from the time the documents are handed over to him until the consignments are delivered at the destination, duly obtaining acknowledgement of delivery. Any failure in this regard shall be viewed seriously and BHEL shall be free to take deterrent/penal action on the Transporter concerned e.g. Suspension of business forthwith and future business dealings by BHEL and recovery of all losses suffered by BHEL from the Transporter.
- o. The Transporter will indemnify BHEL against any loss, damage, breakage, shortage and pilferage of any materials while in his custody.
- p. Transporter shall auction no material belonging to BHEL where customer/ consignee have defaulted in taking delivery for various reasons. The Transporter will give notice under registered post to BHEL and ask for instruction in the matter. The local manager of the Transporter concerned should follow up these cases with the consignee at one end and



Transport Tender for shipment from Chennai Port

consignor at the other end. Where all measures have exhausted and still the consignment is held by the Transporter for a period of three months or more, material shall be rebooked to the Consignor, on freight "To Pay" but no demurrage payable basis without waiting for instructions. In such cases, liability for to & fro freight will rest with BHEL.

- q. During the transportation of the material, if any penalty or fine is imparted by any of the government agency because of the material being carried, such penalty can be claimed by the transporter after submission of original receipts which will be reviewed by the user agency and can be sanctioned only by the Head of the user department.

3.3.14 STATUTORY OBLIGATIONS OF TRANSPORTER: The Transporter will observe and comply with the requirements of the Minimum Wages Act and all other Industrial & Labor legislation for the time being in force or that may hereafter be brought into force, governing the relationship between the employer and the employee.

- a. The Transporter shall indemnify BHEL against all claims, payments and losses that the company may have to make or suffer on account thereof. The Transporter shall, whenever, required to do so by the company or Govt. officials authorized under law, produce for inspection all forms, register and other papers required to be maintained under the various statutes.
- b. The Transporter shall accept liability for compensation in accordance with the provision of the Indian Worker's Compensation Act 1923 read with Employees State Insurance Act 1948, amendments thereafter and or other law for the time being in force for personal injury caused to any workmen by accident arising out of and in the course of this contract. Should the company be held liable for any loss, damage or compensation to third parties arising from or in relation to transport operations done by the Transporters; the Transporters shall reimburse such loss, damage or compensation to the company together with the costs incurred by the company on any legal proceedings pertaining thereto.
- c. Employer Interests: Contractor shall watch and safeguard BHEL's interests during the performance of the work. The Contractor shall carefully check each consignment with the relevant despatch documents to ensure correctness of each despatch and each delivery.
- d. Lien of Consignments: The Contractor shall have no 'lien' of any kind over the consignments entrusted for transportation. Any dispute with the Contractor and the consignees shall be settled on negotiations but under no circumstances, delivery of the materials shall be withheld by the Contractor.
- e. Octroi and Other Duties: All charges on account of Octroi terminal or Sales Tax and or other Duties on materials obtained for the work shall be borne by the Contractor.
- f. JOURNEY MANAGEMENT: The Bidder shall have modernized system for tracking and informing status of the movement of vehicles to / from BHEL site/ port on a routine basis. Transporter will provide mobile phone in working condition with trucks and Trailers in order to have communication with the vehicle driver and shall e-mail/phone status of items to BHEL on daily basis. Transporter should confirm their acceptance to interact with BHEL through Web/Internet on matters such as confirmation of placement of vehicles, delivery of consignment etc., through existing systems and also those introduced by BHEL during the Contract period. Notwithstanding the above, BHEL will exercise their right to accept or reject any particular offer or part of the offer or part of any particular schedule without assigning any reasons thereof.
- g. MOTOR VEHICLE ACT: As per the Motor Vehicle Act with the latest amendments/notifications there to, overloading of the vehicles will not be allowed over and above the designated carrying capacity as per the registered document. The Transporter should carry the consignment complying with the applicable provisions of the relevant Motor Vehicle Act/State Act. No payment on account of violation of Motor Vehicle Act/State Act shall be payable. If any of the



issues has not been dealt specifically in any schedule, then the same will be decided in line with the provisions of other schedules/terms and conditions dealing with the same issue.

**h. Compensation in cases of death/incapacitation of persons**

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

a) Victim: Any person who suffers permanent disablement or dies in an accident as defined below

b) Accident: Any death or permanent disability resulting solely and directly from any unintended and unforeseen injuries occurrence caused during the manufacturing/operation and works incidental thereto at BHEL factories/offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving, overhaul, renovation and retrofitting, trial operation, performance guarantee testing undertaken by the company or during any works/during working at BHEL Units/Offices/townships and premises/Project Sites.

c) Compensation in respect of each of the victims:

(i) in the event of death or permanent disability resulting from Loss of both limbs:

Rs.10,00,000/- (Rs. Ten Lakh)

(ii) In the event of other permanent disability: Rs. 7,00,000/- (Rs. seven lakh)

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

**3.3.15 - ROUTE AND DISTANCE**

- a. ROUTE: All consignments should be transported through the shortest route established / declared by BHEL and freight payment will be restricted to the same.
- b. Where adoption of longer route becomes necessary for avoiding disturbed / riots prone or flood affected areas, the same shall be determined with reference to the areas to be passed through and weight and dimension of the consignment on case to case basis and such routes will be fixed by BHEL user agency and authorized.
- c. DISTANCE: The distance between two places for freight payment will be determined by the shortest route arrived at with reference to Road Map of INDIA published by SURVEY OF INDIA and Motoring Guide (latest edition) or will be determined by the short distance given by MAPS ONLINE whichever is lower.
- d. BHEL will have the right to update / alter existing distance comparing Road MAP of India time to time during the tenure of Contract.
- e. ROUTE, SURVEY, PERMIT ETC. : It is the responsibility of the Carrier to have made a prior survey of the route through which the subject consignment has to be transported and ensure the technical feasibility of the consignment to be safely carried in that route by conducting route survey where ever necessary including documentation formalities.
- f. In respect of ODC consignment, the Transport Carrier shall obtain prior permission from the statutory authorities concerned or transporting the consignment en route. All the expenses for obtaining permission till delivery of the consignment to the Consignee location will be to the account of Transport Carrier. The Carrier shall take care of all formalities/clearances from various authorities like RAILWAYS, POST & TELEGRAPH, ELECTRICITY BOARDS, MUNICIPALITIES, PANCHAYATS, PUBLICWORKS DEPT., HIGHWAYS, FOREST IRRIGATION, POLICE, and REGIONAL TRANSPORT OFFICES etc. for speedy transportation.
- g. The Transporter shall clear while transporting any obstructions as may arise with the permission of the authorities involved. All expenses incurred in this connection have to be



**Transport Tender for shipment from Chennai Port**

borne by them. Further any damage to Private / Public Property arises in the course of transportation by the Carrier's vehicle /consignment, the Carrier alone shall be liable for its indemnification. The provision of a pilot before the main vehicle, if required / advised by BHEL would also be at Carrier's cost. If any diversion of route becomes necessary en-route for operational reasons, no extra mileage will be allowed more than the standard distance as given / approved by BHEL. All risk & cost etc., incurred in this process of diversion / circuitous route taken, shall be wholly be borne by Carrier only.

- h. In case of any unrest in any part of the country / any deviations made by the state/central governments / under any unavoidable circumstances/any disturbances on the given shortest route, alternate routes which ensures the safety of the material may be proposed and the distance covered in the longer/alternate route will be finalized by the user agency and approved by the Head of the User Department (Commercial).

**3.3.16 DIESEL PRICE VARIATION CLAUSE (PVC)**

- a. The Rate is Firm except for rate variation on account of variation in Diesel Price as given below: Price variation will be allowed during the currency of Contract on account of increase / decrease in the Diesel Rates, as indicated by IOCL / BPCL / HPCL. The following diesel price variation clause will be applicable from the date of increase / decrease of diesel price.
- b. The freight rates finalized is subject to increase/decrease at the rate of 0.3 paise per MT per KM for every 10 paise statutory increase/decrease in diesel price (inclusive of Taxes applicable at Bangalore as indicated by IOCL / BPCL / HPCL). The increase/decrease will be proportionate when the increase/decrease is less than 10 Paise per litre.
- c. The diesel PVC clause will be applicable from the date of Technical bid opening (Part-1) of this tender.

**3.3.17 PACKING WOOD & SIDE SUPPORT FOR SAFE TRANSPORTATION:**

Transporters shall bring along with trailer 2.6 to 3 Mtr length – 3 to 4 inch Cross section square wooden supports– minimum 3 pcs for Double axle and 4 for triple axle and one such support for every 10 feet for length ODC trailer. The side supports to prevent falling of consignment such as Pipes, Rod, Flat, etc. is also the scope of Transporter. However, special supports if any over and above shall be provided by BHEL for ODC.

**3.3.18 INSURANCE COVERAGE AND CLAIM**

- a. Insurance: Transit insurance of the consignment under transportation by the Transporter will be responsibility of BHEL/Consignee as the case may be and Transport Carrier shall ensure the insurance coverage and mark in the Lorry Way Bill. However, Transporter will be responsible for any external damages as per Sec. 8 of Carriers Act, 1865.
- b. The Contract as entered into between BHEL and the Transporter(s) shall in no way nullify, reduce, mitigate or absolve the parties of any responsibility, obligation or liability that may devolve upon them under the Carriers Act, 1865 as amended up to date. Position as above shall not absolve the Transporter of his responsibility for safe and proper transportation of the goods to the proper destination or his liability to compensate for the damage/ shortage / loss in respect of the consignments transported by him.
- c. The Transporter's consignment note (LR) shall be acceptable to insurance company. In addition, the Transporter shall get 'LEGAL LIABILITY' from Insurance Company for Insurance Cover.
- d. Damage / Loss: If any remark is made by the Consignee while delivering the consignment with respect to damage / shortage or loss i.e. total or partial, the Transporter after delivery of the consignment shall inform the agency responsible for booking the consignment within a week of



Transport Tender for shipment from Chennai Port

- delivery and the Transporter should submit the Xerox copy of LR with covering letter to the Consignor or Consignee (Supplier or Customer or BHEL Unit, Region or Site as applicable) .
- e. On receipt of this information, BHEL EPD, Commercial will refer this to the concerned Finance department who in turn with mutual consultation will advise in writing, the value of damage /shortage or any other comments to Shipping so that further action will be taken up.
  - f. Open Delivery: In case of any visible damage/ suspected damage in the consignment, the Carrier should arrange delivery of the consignment on "OPEN DELIVERY" and the open delivery certificate should be issued along with the consignment, duly signed by both parties.
  - g. Non-acceptance of insurance claim lodged by BHEL and Carriers responsibility: Commercial /Shipping are ensuring that the vehicle placed is loaded, taking cognizance of the passing weight of the RC book copy presented by the Carrier. However, Carrier has to own responsibility for the RC Book copy presented at the time of loading and also ensure that the loading is done in line with the passing weight of the RC Book of the vehicle. In the event of any accident / damage visibly seen or inflicted to the consignment which could not be seen visibly but that could be found at the site at any point of time, BHEL would take up with underwriters and lodge claim. If the underwriter observes during the course of survey or otherwise that the vehicle was overloaded beyond RC Book capacity, the claim will be out rightly rejected. In such case the Carrier is totally responsible and contractually bound to compensate fully the total damage, cost involved in rectification or the value of the insurance claim lodged as the case may be, within 30days from the date of such communication received from BHEL for compensation. In case Carrier fails to compensate with the above period, BHEL will exercise their right to recover such compensation by deduction from such Carriers pending Bills / SD.
  - h. Accidents: All accidents at any point shall be reported to agency concerned and BHEL, Commercial Shipping in writing or through mail followed by hard copy. Failure to send communication will be viewed seriously resulting in suspension or termination of the Contract as deemed fit over and above the recovery of value of the consignment lost or damaged – total or partial.
  - i. Further, any accident that occurs while the consignment which is booked in transit shall also be brought to the notice of Consignor or consignee and/ or Commercial, Shipping as applicable. Subsequently, the F.I.R. and Survey Report by authorized insurance agency (for the damage or loss of consignment en route) shall also be submitted. BHEL Site officials or concerned Shipping agency shall be informed in writing through Mail, Fax or Letter within 48 hours of incident or accident or loss or damage to enable the agency responsible to lodge and settle the claims with Underwriters.
  - j. The freight payment up to the point of accident, for the consignment met with accident, will be paid only after settlement of insurance claim by the Underwriters. This payment is to be considered only in the case of the Carrier complying with the above two accident clauses.
  - k. Return freight payment for transporting the damaged consignment back to Chennai or to Bangalore (as decided by BHEL). In case of transporting the damaged cargo (due to accident, mishap etc.) back to Chennai or Bangalore after insurance survey and BHEL clearance for returning such consignments to Bangalore, the return freight, as per the applicable rate schedule of BHEL Contract will be paid to the Transporters. In case, the Transporters fail to send communication in respect accident or damage or loss or act on the above lines and insurance claim is not made or compensation obtained by the authorized agency, the recovery will be effected for the value of damage or loss – total or partial of the subject consignment. Suitable action including suspension, de-listing or termination of the Contract as deemed fit will be initiated.

3.3.19 DELIVERY AGAINST CONSIGNEE COPY:

- a. Except dispatches of consignments where payment is through Bank and delivery against Consignee Copy, in all other cases, the booking of the consignment should be essentially on door delivery basis only. The Carrier taking the booking from Supplier, Sub-Contractor, Customer etc., should ensure that the LR shows door delivery. If this is not ensured by Carrier, as it is their responsibility, any



extra expenditure on this wrong booking by the Carrier, will be automatically deducted while passing the bill itself. On account of this wrong booking against the terms of the Contract, the Carrier is not entitled to claim delay penalty and the same will not be allowed.

- b. Weight of the Consignments: Freight payment will be restricted to the passing weight Capacity (Gross Weight – Unladen Weight) mentioned in the RC Book. Hence it is the responsibility of the Transport Carriers to ensure the consignments loaded within the RC Passing weight Capacity of the vehicle. If weight of the consignments loaded is lesser than the RC Book Passing Capacity of the vehicle, then the freight will be paid for the actual weight of the consignments loaded only. If weight of the consignments loaded is higher than the RC Book Passing Capacity of the vehicle, then the freight will be paid and restricted to the RC Book Passing Weight of the vehicle. I.e. at any cost freight will not be paid for more than the passing weight capacity of the vehicle mentioned in the RC Book. For this purpose, the copy of RC book has to be enclosed along with each freight bill to effect freight payment accordingly.
- c. Except for ODC consignments, if the excess weight/height is found enroute by the Statutory Authorities like RTO / COMMERCIAL TAX OFFICIALS, the weigh bridge slip or height receipt must be produced. Penalties levied if any by statutory authorities in such instances after submission of original receipts only will be verified and reimbursed by BHEL only after the sanction by the HOD of the user department.

### 3.3.20 GOODS CONSIGNMENT NOTE/ DESPATCH DOCUMENTS:

- a. GC / LR / LWB: G.C. Note issued should bear printed serial numbers with IBA number allotted to them at the time of approval. Vehicle No. should be indicated in G.C Notes for all Full Lorry Load bookings. Original G.C copy only should be produced with acknowledgement of the consignee for billing. Erasing or over-writing etc. in the G.C Notes should not be done and will not be accepted, if not authenticated by the consignor. G.C Notes should be of good quality paper and in reasonable size to enable necessary details being written. Copies of G.C Notes submitted to BHEL & its customers should be legible.
- b. The Company takes a very serious view of issue of G.Cs. issued to the Suppliers without taking physical possession of materials and if any contravention is noticed, BHEL will have the right to terminate the Contract or take appropriate action. Once GC Note is issued, it is treated as physical acceptance of the consignment by the Carrier and in such cases; it shall be the responsibility of the Carrier for the safe and timely delivery of the consignment. Any dispute between the consignor and the Transport Carrier on this account will not be entertained.
- c. The G.C Notes shall be got countersigned by the Consignor at the time of booking of the consignment. Every consignment in a vehicle should be covered by G.C. Note
- d. More than one delivery/collection at the time destination/point of collection should be accepted, while G.C. is to be prepared separately for each consignment giving cross reference of the G.C. the bill should be submitted for one load only enclosing all the G.C. involved.
- e. The Carrier should feed systematic information viz., GC Note No. & Date, booking stations, delivery date with place of delivery to BHEL/CCC/FB and User Department within time span as per terms of Contract (4 days to 20 days,) failing which BHEL will have the right to stop further loads.
- f. The Carrier shall use the Lorry Way Bill of the approved Carrier only and shall not book in the name of sister concern or any other agency which is not approved. In case the bill is submitted or any dispute arises at the time of delivery, all the expenses incurred will be recovered from the running bill of the Transport Carrier and view the above as the violation of the Contract.
- g. DESPATCH & ENROUTE DOCUMENTS: All the required Dispatch Documents should be carried along with the vehicle.
- h. The documents handed over at the booking points and meant to be handed over to the consignee such as DELIVERY CHALLAN, INVOICE, DUPLICATE/TRANSPORTERS COPY, etc., should be carefully



Transport Tender for shipment from Chennai Port

brought and handed over to the consignee along with the materials. Any loss, delay, additional expenditure due to non-compliance of the above on this account, will be debited to the Carriers.

- i. The Transport Carrier should ensure the collection/availability of awaybill at the time of booking the consignment and suppose the same is not made available, the matter should be brought to the notice of Commercial by the Transport Carrier concerned.
- j. The Carriers at the time of booking of the consignments should mark each and every package with Customer name, LWB number etc., wherever necessary, so that the items are identifiable at the time of transshipment / delivery.
- k. En-route Documents: While accepting the consignments for transportation, the Carriers should ensure, that necessary documents for check post are collected, so that the consignments are not detained en route for want of these documents. Any detention on this account will be the Carriers' responsibility.
- l. If a consignment is detained en route by the check-post authorities due to insufficient documentation or for any other reason and penalty, such as advance tax, compound tax etc. are imposed, such payment will have to be borne by the Carriers and consignment got released and delivered in time. The Carriers should also collect at the time of booking, all the documents required such as forwarding notes/ challans with descriptions of materials and value etc., to ensure safe transportation and easy identification at the time of delivery.

3.3.21 ESCORT FOR CONSIGNMENTS: Where BHEL intends to depute an escort for certain important consignments, they should be allowed to travel in the vehicle to the destination free of cost and communication should be sent on day-to-day basis till the consignment reaches destination.

3.3.22 CONFLICT OF INTEREST: The Carriers awarded Contract against this Tender, if undertakes Contract from the Customer / Supplier/ vendor for transportation of BHEL Materials, then the freight rates chargeable for that work shall be only as per the approved rates, terms and conditions of this tender irrespective of the schedules where he is enlisted or not.

3.3.23 PERFORMANCE MONITORING AND EVALUATION

The performance of the Transport Carrier shall be monitored by the Commercial Department. In the event of performance being not satisfactory even in any one of the categories or location of the dispatches suitable action will be initiated against such Carriers which may lead to stopping of loads/suspension/termination and delisting in accordance with procedure in vogue. Performance Evaluation of the Carriers will be based on the following Factors

- Number of vehicle placed against the number of demands given
- Delivery in time as per Contract
- Volume of business, weight, freight value of consignment transported.
- Transshipment en-route

3.3.24 INDEMNITY:

- a. The Transporter shall have to indemnify BHEL against all claims for injury or damage to any person or property caused by his negligence or negligence of his employees whilst in BHEL premises/sites.
- b. The Transporter shall indemnify the company against all payments by way of compensation or otherwise which the company may be called upon to make under the provisions of the applicable Acts to any workmen as aforesaid, and any cost incurred by the company in connection with any claim preferred by such workmen and or against all actions, claims and demands whatsoever in respect thereof or in respect of any loss, injury or damages whatsoever to any third person arising



out of or occasioned by the negligent, imperfect or improper performance of this Contract by the Transporters, their workmen servants or agents.

- c. The Transporters approved and operating under the transportation rate Contracts shall further indemnify BHEL against the following: -
- Observance of Labour & Industrial Laws.
  - All claims by way of compensation and all other types of unforeseen claims, which may arise in the course of Contract.
  - Documentary compliance relating to freight billing.
  - Indemnity shall cover the entire transit right after loading to the unloading at destination.

### 3.3.25 GPS

The transporters should have the vehicle tracking system i.e., GPS or GLONASS technology which combines the use of automatic vehicle location in individual vehicles with software that collects these fleet data for a comprehensive picture of vehicle locations. The transporters may have tracking system included in their website or a separate GPS system to be made available or Online Tracking System for the consignment.

All the information pertaining to vehicle route, requirement of documents, submission of LR after delivery etc., will be done through GPS. The transporters may directly provide GPS facility to the vehicles deployed at BHEL EPD or they can take the service from service providers available in the market at their risk and cost. The details of the service provider should be mentioned in the tender.

In case of any practical difficulties in operating the consignments with GPS mode, the same will be reviewed and the suitable decision will be taken by the Head of the Commercial Department for further operations so that the transportation of BHEL consignments should not be affected.

Non-availability of GPS in the vehicle will result in imposition of penalty of Rs 1000 per vehicle.

### 3.3.26 CONCILIATION:

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

Notes:

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

The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in Annexure - A to this CC/ Agreement/ Contract /MoU etc. (strike off whichever is inapplicable).

The Annexure-A together with its Formats will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in this GCC/Agreement/Contract/MoU etc., (strike off whichever is inapplicable).



The Purchaser/Contractor/Seller etc. (insert the description of the other party to the Agreement/Contract/MoU etc., - whichever is applicable) agrees that the Purchaser/Contractor/Seller etc. (insert the description of BHEL - whichever is applicable) may make any amendments or modifications to the provisions stipulated in the Annexure – A to this GCC/Agreement/Contract/MoU etc., (strike off whichever is inapplicable) from time to time and confirms that it shall be bound by such amended or modified provisions of the Annexure – A with effect from the date as intimated by BHEL to it.

### 3.3.27 ARBITRATION

- a. All disputes between the Transporter and BHEL arising out of or relating to this contract, shall, after written notice by either party to the contract to the other party, be referred for arbitration to the sole arbitrator to be appointed by the Head of the unit concerned at BHEL, EPD, Bangalore in his sole discretion. There shall be no objection to any such appointment (i) that the arbitrator so appointed is an employee of BHEL, (ii) that he had to deal with the matters to which the contract relates and (iii) that in the course of his duties as BHEL's employee, he had expressed views on all or any of the matters in disputes or difference.
- b. In case, the arbitrator so appointed is transferred or vacates his office or neglects or refuses to act or is unable to act for any reason whatsoever or dies, the Head of unit concerned at BHEL EPD, Bangalore, shall have power to appoint another person to act as arbitrator in his place. Such person shall be entitled in his discretion to proceed with the reference from the stage at which it was left by his predecessor or from any earlier stage considered proper by him. No person other than the one appointed to be arbitrator as aforesaid shall act as arbitrator, and if, for any reason, that is not possible, the matter shall not be referred to arbitration at all. The arbitrator shall have the power to extend time, from time to time, with the consent of the parties, for conducting the arbitration proceedings and making and publishing his award.
- c. The decision of the arbitrator shall be final and binding on both the parties.
- d. The arbitration proceedings will be held at BHEL EPD, Bangalore or at such other place as the arbitrator may direct. Work under the contract shall be continued during the arbitration proceedings unless otherwise directed in writing by BHEL.

3.3.28 JURISDICTION: In case of any suit or other legal proceedings arising under or relating to this Contract, the courts at Bangalore, Karnataka only shall have the Jurisdiction and is only after exhausting the Arbitration Clause as above.

### 3.3.29 RIGHTS:

- a. BHEL may enter into parallel Contract simultaneously other than this tender with any number of Transporters as may be deemed fit at any time during the period of Contract in the Interest of the work for any or all the stations and for any or all the schedules / consignment categories.
- b. In case of breach of any of the terms and conditions of the Contract, BHEL will entrust the work to any other Transporters at the risk and cost of the Transporter and the Transporter shall be liable to pay the extra expenditure, damages, loss suffered on account of the cancellation of the Contract.
- c. All amounts including the losses/damages/penalties/compensations and extra charges of freight, resulting from non-compliance with the terms of Contract, payable by the Transporter to BHEL under the Terms of the Contract will be recovered from the outstanding payments to Transporter either under this Contract or any other Contracts or from Security Deposit or from both. In case this amount is insufficient for such recoveries, the Transporter shall make good the balance amount by actual payment. In addition, BHEL EPD, Bangalore has the right to recover the said amounts through its sister concerns, from the payments due to the Transporter in any of the units of BHEL located in any part of India.



- d. The Transporter is not allowed to pass the responsibilities connected with the transportation to other agencies/Transporters. The Transporter shall not sublet or transfer the Contract or any part thereof, which tantamount to termination of the Contract and thereby attracting the penalty or forfeiture of security deposit. However, hiring of vehicles and services from other agencies/Transporters is permitted.
- e. No Transporter should load his consignment in the vehicle of any other authorized Transporter, carrying consignment of BHEL. In such cases no freight charges shall be paid to either of the Transporters.
- f. The Transporter shall have no right to demand at any time during the currency of this Contract any minimum quantity of load for transportation.
- g. It may be noted that as dispatches are to take place at different locations in India, it is not possible for BHEL to monitor such loadings, check to the fitness of the vehicle placed, to ensure that the vehicle are loaded to their full capacity and also to restrict over loading. Hence it is the responsibility of the Transport Carriers to ensure that the vehicles are loaded to their full capacity as per the RC Book, to ensure that overloading is not done, and also to ensure the vehicles placed is fit enough to suit the dispatch of the materials being dispatched. Non observance of the above by the Transport Carrier, if results in damage / loss to the materials of BHEL, the Transport Carriers should compensate the loss to BHEL in the same way as demanded by BHEL.
- h. BHEL has the right to verify / audit check by surprise visits at its discretion and see whether the above requirements are complied with by the Transporters. In case the above requirements are not complied with, severe actions may be taken by BHEL on such Transport Carriers, as deemed fit.

#### 4.0 TENDER EVALUATION CRITERION

Bidders need to note the following before submitting their bids:

- a. Bidders need to quote single rate for both the sites. Selective quoting is not permissible. If any of the bidder is found not quoting for both sites, their offer will be rejected, even if they are qualified in the techno-commercial stage.
- b. Bidders need to understand and quote most competitive rates. Seasonal fluctuations and other influencing factors for execution of the contract need to be considered and price cannot be the reason for not providing the vehicles when indented. Penalty clause for non-placement of vehicle will be applied in all such cases as per clause 3.3.8.



BHARAT HEAVY ELECTRICALS LIMITED  
Electric & Photovoltaic Division  
Tel: 08022182388, 22182315, 22182251  
COMMERCIAL SHIPPING

Transport Tender for shipment from Chennai Port

BHEL:EPD:COMML:OT:2019:01

### **Terms & Conditions of Reverse Auction**

REVERSE AUCTION: “BHEL RESERVE THE RIGHT TO GO FOR REVERSE AUCTION (RA)

(GUIDELINES AS AVAILABLE ON [www.bhel.com](http://www.bhel.com)) INSTEAD OF OPENING THE SEALED ENVELOP 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 NONCONSIDERATION OF THEIR BIDS, IN CASE BHEL DECIDES TO GO FOR RA. THOSE BIDDERS WHO HAVE GIVEN THEIR ACCEPTANCE TO PARTICIPATE IN RA 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 TEMPERING OF THE TENDER PROCESS AND WILL INVITE ACTION BY BHEL AS PER EXTANT GUIDELINES FOR SUSPENSION OF BUSSINESS DEALINGS

WITH SUPPLIERS/CONTRACTORS (AS AVAILABLE ON [www.bhel.com](http://www.bhel.com)).

THE BIDDERS HAVE TO NECESSARILY SUBMIT ONLINE SEALED BID LESS THAN OR EQUAL TO THEIR ENVELOP SEALED PRICE BID ALREADY SUBMITTED TO BHEL ALONG WITH THE OFFER. THE ENVELOP 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 & ENVELOP 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 L-1 BIDDER HAS QUOTED HIGHER IN ONLINE SEALED BID IN COMPARISON TO ENVELOP SEALED BID FOR ANY ITEM(S), THE VENDOR 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](http://www.bhel.com)).”

AS A REMINDER TO THE BIDDERS, THE SYSTEM WILL FLASH FOLLOWING MESSAGE (IN RED COLOR) DURING THE COURSE OF ‘ONLINE SEALED BID’. “BIDDERS TO SUBMIT ONLINE SEALED BID LESS THAN OR EQUAL TO THEIR ENVELOP SEALED BID ALREADY SUBMITTED TO BHEL”.

Transporters who are new to this Reverse Auction can ask the concerned personnel in the Commercial Department to get training imparted.



*Proforma - I*

**PRICE BID – PART-B: Schedule of Rates**

Category of Vehicle / Consignment	Weight Carrying Capacity	Quoted rates in Rs per Km
<b>40ft Trailer Non ODC</b> Distance Category: 501-1000Km	22.0 MT	

- a. Note: Rates are to be quoted based on **Rs Per KM for 40 ft Trailer (capacity 22MT)**.

**Sign & Seal of the Tenderer**



BHARAT HEAVY ELECTRICALS LIMITED  
Electric & Photovoltaic Division  
Tel: 08022182388, 22182315, 22182251  
COMMERCIAL SHIPPING  
Transport Tender for shipment from Chennai Port

PROFORMA-II

(TO BE PROVIDED ON BIDDER'S LETTER HEAD)

---

REF NO.:

DT:

**AUTHORIZATION LETTER FOR PARTICIPATING IN TENDER OPENING**

We, M/s \_\_\_\_\_

(Name of the Tenderer) hereby authorizing \_\_\_\_\_ (name of the representative) to participate in the Tender opening of BHEL EPD, Bangalore for Tender No. BHEL:EPD:COMML:OT:2019:01 on Date \_\_\_\_\_ in your premises. The representative may please be permitted to witness the tender opening of Techno-Commercial Bid.

The representative's specimen signature is appended below & attested.

(Signature of the representative)

(Authorized Signatory)



(TO BE PROVIDED ON A NON-JUDICIAL STAMP PAPER OF VALUE RS.100/- AND DULY NOTARIZED)

TENDER NO: BHEL:EPD:COMML:OT:2019:01 DT 15.06.2019

**AFFIDAVIT CUM UNDERTAKING**

I / We / M/s. .... do hereby undertake the following: -

01. We have not been presently put on hold, suspended, de-listed, banned or black listed by any of the BHEL units
02. We have not been booked by CBI and/or indicted by a court of law in any criminal case relating to Transportation contract / work during last 5 years.
03. Strike whichever is not applicable
  - (i) One or more partners/directors/proprietors of us **DO HAVE a relation or relations** employed in BHEL, The details are given below:- Name:  
Staff No:  
Unit:  
Designation & Department:  
  
(or)
  - (ii) One or more partners/directors/proprietors of us **DO NOT HAVE a relation or relations** employed in BHEL.
04. The details of our Group Concerns or Affiliates etc., who are also engaged in transportation business is enclosed with this affidavit.
05. The details / particulars of Partners / Proprietors / Directors of bidder / such group Concerns or Affiliates etc., including the details of DIN numbers (in case of Directors) and PAN number (in case of Partners / Proprietors) duly supported by self-attested copies of relevant documents are enclosed with this affidavit.
06. We confirm that our Concern and none of our Group Concerns or Affiliates etc., appear on the list of banned firms / companies by BHEL, nor any of the Director / Partner / Proprietor of our Concern / group Concern or Affiliate etc., are involved with such firm / company.
07. We confirm that other than our Concern, none of our Group Concerns or Affiliates etc., are participating in this tender either directly or indirectly through any other agency under same Proprietor / common partner (s) / common Director(s).
08. All Scope, Terms, Conditions, annexures, technical / operational requirements of BHEL read, fully understood, accepted without any deviation and then submitted offer unconditionally.



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Transport Tender for shipment from Chennai Port

09. BHEL may reject the bid or in case the contract has been awarded, then terminate the contract apart from taking any other suitable action under the contract or applicable legal provisions or BHEL guidelines, including Guidelines for Suspension of Business Dealings, without any liability for any compensation if:
- a. BHEL discovers at any time that any statement made by us in the affidavit cum undertaking is false, fraudulent or
  - b. Any document submitted by us is fake or forged.
  - c. or if BHEL determines in its sole discretion that any statement was aimed at deliberately misleading BHEL with a view to ensure award of the subject contract to the bidder.



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(CONTRACT AGREEMENT)

*proforma – IV*

The contract agreement will include all clauses of the tender and the matter will be given to the finalised transporters before the start of the contract.

Checklist



**CHECKLIST AND SCHEDULE OF GENERAL PARTICULARS**

(Transporter is required to fill-in the details against each column given below and ensure that no column is left blank or incomplete)

Sl.	PARTICULARS	Details	(REFERENCE TO ANNEX. NO. /PAGE NO.)
1	Name and full address of the tenderer & Head office	Yes/No	
2	FAX No./Phone No./ Email address/Mobile No.	Yes/No	
3	Name/Designation & Address of the official of tenderer to whom all the references shall be made	Yes/No	
4	Name and address of Directors/Partners	Yes/No	
5	India Bank Association (IBA) approval No. & documents submission. Validity of approval up to _____	Yes/No	
6	Whether all pages of NIT is signed & stamped as token of acceptance	Yes/No	
7	Validity of offer/rates to be quoted for 90 days from the date of opening of tender	Yes/No	
8	Details about type of the firm as per clause 2.1	Yes/No	
9	Attested copy of Power of Attorney as per clause 2.1	Yes/No	
10	PAN NO	Yes/No	
11	Office establishment, suitable Godown etc. at Bangalore and Chennai; Telephone no of office, Email_____	Yes/No	
12	Authority letter for person authorized if any fully attested by Notary	Yes/No	
13	Part I submitted	Yes/No	
14	Printed Branch List Enclosed	Yes/No	
15	Confirm, you will quote as per the given Proforma II and not for any specific categories.	Yes/No	
16	REVERSE AUCTION: "BHEL RESERVE THE RIGHT TO GO FOR REVERSE AUCTION (RA) (GUIDELINES AS AVAILABLE ON ( <a href="http://www.bhel.com">www.bhel.com</a> ) INSTEAD OF OPENING THE SEALED ENVELOP 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-	Yes/No	



CONSIDERATION OF THEIR BIDS, IN CASE BHEL DECIDES TO GO FOR RA.

THOSE BIDDERS WHO HAVE GIVEN THEIR ACCEPTANCE TO PARTICIPATE IN RA 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 TEMPERING OF THE TENDER PROCESS AND WILL INVITE ACTION BY BHEL AS PER EXTANT GUIDELINES FOR SUSPENSION OF BUSSINESS DEALINGS WITH SUPPLIERS/CONTRACTORS (AS AVAILABLE ON [www.bhel.com](http://www.bhel.com)).

THE BIDDERS HAVE TO NECESSARILY SUBMIT ONLINE SEALED BID LESS THAN OR EQUAL TO THEIR ENVELOP SEALED PRICE BID ALREADY SUBMITTED TO BHEL ALONG WITH THE OFFER. THE ENVELOP 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 & ENVELOP 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 L-1 BIDDER HAS QUOTED HIGHER IN ONLINE SEALED BID IN COMPARISON TO ENVELOP SEALED BID FOR ANY ITEM(S), THE VENDOR 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 UPPLIERS/CONTRACTORS (AS AVAILABLE ON [www.bhel.com](http://www.bhel.com)).”

AS A REMINDER TO THE BIDDERS, THE SYSTEM WILL FLASH FOLLOWING MESSAGE (IN RED COLOR) DURING THE COURSE OF ‘ONLINE SEALED BID’.



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	“BIDDERS TO SUBMIT ONLINE SEALED BID LESS THAN OR EQUAL TO THEIR ENVELOP SEALED BID ALREADY SUBMITTED TO BHEL”.		
17	Any other information	Yes/No	

Note:

1. Copies of all the documents submitted by the bidder should be duly attested by Notary/Gazetted officer/ Registrar of Company as applicable.
2. All the reference & details should be filled in neatly in the above statement.

(Signature of Tenderer)



## Annexure-A

### CONCILIATION:

1. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in **Format 7** hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in **Format-8** hereto.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-9**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-5**.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30 days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.
7. The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
8. Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.
9. In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by



either/both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.

**10.** Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.

**11.** When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.

**12. In case no settlement can be reached between the parties, the IEC shall** by a written declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.

**13.** Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months.

**14.** In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.

**15.** The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.

**16.** Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.

**17.** In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.

**18.** A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party(ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.



**19.** The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.

**20.** Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.

**21.** Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.

**22. The proceedings of Conciliation under this Scheme may be terminated as follows:**

**a. On the date of signing of the Settlement agreement by the Parties; or,**

**b.** By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,

**c.** By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,

**d.** By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,

**d.** On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.

**23. The Conciliator(s) shall be entitled to following fees and facilities:**

<b>Sl No</b>	<b>Particulars</b>	<b>Amount</b>
1	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No. 27 herein below.
2	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5crores. Rs 50,000/- (Sole Conciliator) In cases involving claim and/or counter-claim of exceeding Rs 5 crores but less than Rs 10 crores.