Enquiry to be quoted through ABC Procure of e-Procurement portal.

1. Enquiry is floated through E-Procurement system and hence Offer has to be submitted through EPS portal only (https://bhel.abcprocure.com/EPROC).

2. For any technical clarification, please contact Mrs. Ayushi Jindal, Sr. Engr (TBEM); Contact No. 0120-6748459; e-mail: ayushi@bhel.in/skshukla@bhel.in

3. For any commercial clarification, please contact Mr. Prateek Kumar, Dy. Manager (TBMM); Contact No. 0120- 6748480; e-mail: pkp@bhel.in / akchaudhary@bhel.in

4. **Supply Delivery schedule:** as per enclosed activity schedule in NIT. Vendor has to submit signed and stamped copy of activity schedule along with offer.

5. **ETC Delivery schedule:** Bidder to complete work as per NIT scope within Three (03) months from the date of receipt of complete material at site as per Purchase Order or from date of intimation received from BHEL regarding ETC team deputation for starting the work at site, whichever is later. After intimation from BHEL, 15days extra shall be given to bidder one time for mobilizing the resources.

6. **Evaluation Criteria:** There will be combined evaluation for supply as well as services as mentioned in price bid, but Separate purchase order and Work order will be placed as per NIT documents.

7. Project Status: Domestic.

8. Vendor to clearly certify in the unpriced and priced bid that they have quoted as per the specified price format mentioned in the tender, otherwise their offer shall be liable for rejection.

9. Offer acceptance for price bid opening is subject to approval by Customer. Vendor to furnish signed copy of enclosed formats, which is given below for vendor approval. Failing to submit below documents, bidder is liable for rejection.
    - Company Profile
    - List of orders/references
    - Performance certificate issued by SEBs/State utilities/NTPC/PGCIL
    - Type test reports,
    - Purchase orders copy
    - Any other documents desired by customer

10. Payment shall be applicable as per clause no. 3.3 of BHEL/TBG/GTC/2016 REV01 and clause no. 13 of BHEL/TBG/GTC-ETC/2016 REV 01.

11. Technical Requirement as per Technical Specification Doc. No. TB-398-553-033 Rev 00

12. Pre-Qualifying requirement: given in Technical qualifying requirement in Technical Specification.

13. **Clause-5 (Guarantee clause) of GTC:** The equipment / material supplied and services rendered (if applicable) shall be guaranteed to be free from all defects and faults in design & engineering, material, workmanship & manufacture and in full conformity with the Purchase Order / Contract, Technical Specifications & approved drawings / data sheets, if any, for 18 months from the date

of last delivery or 24 months from the date (i.e.31.12.20.) of Operational acceptance of the facilities, whichever is later. However if the facilities cannot be used by reason of such defect and/or making good of such defect, the defect liability period of such facilities, as the case may be, shall be extended by a period equal to the period during which the facilities or such part cannot be used by the customer because of any of the aforesaid reasons. Upon correction of the defects in the facilities or any part thereof by repair/replacement, such repair/replacement shall have the defect liability period extended by a period of 24 months from the time such replacement/repair of facilities or any part thereof. However aggregate defect liability period shall be limited to 36 months from the date of operational acceptance except of latent defect. Other conditions follow as per GTC - BHEL/TBG/GTC/2016 Rev-1.

14. **Clause-7 (PBG validity) of GTC**: Supplier shall arrange to submit Performance BG / Deposit on a non-judicial stamp paper of appropriate value along with first invoice or within 60 days from placement of Purchase Order (PO) whichever is earlier, **in line with one of the applicable options given in enclosed General Terms and Condition** (GTC - BHEL/TBG/GTC/2016 Rev-1). PBG should valid till guarantee period with claim period of 3 months extra over and above guarantee period.

15. **Clause-39 (quantity variation) of GTC:** Please note that overall quantity may vary upto +-30%.

16. **Bidder to submit Govt. of India compliances given time to time as MoP compliance, Border sharing compliance etc.**

17. **LIQUIDATED DAMAGES FOR DELAYED DELIVERY FOR SUPPLY:**
    Clause no. 13 of GTC shall be read as below:
    In case of delay in execution of Purchase Order beyond the contractual delivery time, an amount of 0.5% of the TOTAL PO EX-WORKS VALUE & F & I CHARGES for supply per week of delay or part thereof subject to a maximum of 10% of the TOTAL PO EX-WORKS VALUE & F & I CHARGES shall be deducted as Liquidated Damages (LD) along with applicable GST (if any) on LD.
    However, in case of staggered (lot-wise) contractual delivery schedule, an amount of 0.5% of the total delayed lot of PO EX-WORKS VALUE & F & I CHARGES of for supply per week of delay or part thereof subject to maximum of 10% of the total delayed lot of PO EX-WORKS VALUE & F & I CHARGES shall be deducted as Liquidated Damages (LD) along with applicable GST (if any) on LD.

18. **LIQUIDATED DAMAGES FOR DELAYED DELIVERY FOR ETC WORKS:**
    Clause no. 15 of GTC-ETC shall be read as below:
    In case of delay in execution of Contract beyond the contractual completion time for Erection, Testing & Commissioning at Site, an amount of 0.5% of the total Contract value for ETC except GST at Site per week of delay or part thereof subject to a maximum of 10% of the total Contract value for ETC except GST at Site shall be deducted as Liquidated Damages (LD) along with applicable GST (if any) on LD.
    However, in case of staggered (lot-wise) contractual completion schedule, an amount of 0.5% of the total Contract value for ETC except GST at Site of delayed lot per week of delay or part thereof shall be deducted as liquidated damages, subject to maximum of 10% of the total Contract value for ETC except GST at Site along with applicable GST (if any) on LD.

19. **Arbitration Clause:**

ARBITRATION Clause No. 19 of GTC 2016 shall be read as follows:

(A) <u>CONCILIATION (MODEL CONCILIATION CLAUSE FOR CONDUCTING CONCILIATION PROCEEDINGS UNDER THE BHEL CONCILIATION SCHEME, 2018)</u>

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 (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 GCC (Enclosed).**

The Annexure-A together with it's appendices will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in these GCC."

(B) <u>ARBITRATION (WITH SOLE ARBITRATOR)</u>

1.1. Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to the Sole Arbitrator and such Arbitrator appointed by Head of the BHEL Unit/Region/Division issuing the Contract.

1.2. The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties.

1.3. Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) and amended in 2015 and further amendment passed in 2019 or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be New Delhi. The language of arbitration shall be English and the documents shall be submitted in English.

1.4. The cost of arbitration shall initially be borne equally by the Parties subject to the final apportionment of the cost of the arbitration in the award of the Arbitrator.

1.5. Notwithstanding the existence or any dispute or differences and/or reference for the arbitration, the Contractor shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner except where the Contract has been terminated by either Party in terms of this Contract.

1.6. **<u>SETTLEMENT OF COMMERCIAL DISPUTES BETWEEN CPSES INTER SE AND CPSE(S) AND GOVERNMENT DEPARTMENT(S)/ ORGANISATION(S) – ADMINISTRATIVE MECHANISM FOR RESOLUTION OF CPSES DISPUTES (AMRCD) – REGARDING</u>**

Vide Dept. of Public Enterprises OM No. F. No. 4(1)/2013-DPE(GM)/FTS-1835 dated 22.05.2018 it has been conveyed that *"To make the mechanism more effective and binding on the disputing parties, a new mechanism namely Administrative Mechanism for resolution of CPSEs Disputes (AMRCD) having two level (tier) structure has been evolved in consultation with various stakeholders to replace the existing PMA mechanism which stands wound up from the date of issue of this OM."* Accordingly, the existing Permanent Machinery of Arbitration (PMA) stands wound up with effect from 22.05.2018 and cases relating to disputes or differences relating to the interpretation and application of the provisions of commercial contract(s) between CPSEs / Port Trust / Central or State Government Department / Organizations (excluding disputes concerning Railways, Income Tax, Customs and Excise Departments) shall be taken up by either party for its resolution through Administrative Mechanism for Resolution of CPSEs Disputes (AMRCD).

(C) JURISDICTION AND GOVERNING LAWS

The Courts at New Delhi shall have exclusive jurisdiction over any matter arising out of or in connection with this Contract. This Contract shall be construed as per and be governed by the Laws of India.

20. No Chinese national/company shall be allowed in this this tender enquiry. Offer of Chinese company shall be rejected, if quoted.

21. Reverse Auction (RA): Not applicable as there are limited number of vendors in customer approved vendor list and new quoted vendors are subject to customer vendor approval**.**

22. For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017 & 28.05.2018 and subsequent orders issued by the respective nodal ministry shall be applicable even if issued after issue of this NIT but before finalization of contract/PO/WO against this NIT.

Minimum local content in this tender shall be minimum 100%. Bidder shall provide self-certification regarding local content in the prescribed format.

In the event of any Nodal Ministry prescribing higher or lower percentage of purchase preference and/ or local content in respect of this procurement, same shall be applicable.

Preference to Make in India will be as per the Public Procurement (Preference to Make in India), Order 2017 available in the following link:

http://dipp.nic.in/sites/default/files/publicProcurement_MakeinIndia_15June2017.pdf
http://dipp.nic.in/sites/default/files/Revised-PPP-MII-Order-2017_28052018.pdf

IMPORTANT INSTRUCTION: -

- Preference to Make in India will be as per the Public Procurement (Preference to Make in India), Order 2017
- The Notice Inviting Tender (NIT)/ the tender requirement of BHEL will not be henceforth published in newspapers. All the concerned are hereby notified that tender enquiries of BHEL will be published on BHEL tender website (www.bhel.com) and Government's Central Public Procurement Portal (https://eprocure.gov.in/).
- You are requested to kindly note and refer above website for tender of BHEL.
- Bidder to mention their works address below from where material will be supplied to Site.
- All remaining terms and conditions of GTC which are not mentioned here shall remain unchanged.

Works Address- --

ALL OTHER TERMS AND CONDITIONS SHALL BE AS PER GTC Rev-1.

(Sign and seal of Bidder)