

SPECIAL CONDITIONS OF CONTRACT (SCC)

SPECIAL CONDITIONS OF CONTRACT (SCC) (PART-C)

**“SOFTWARE BASED PROJECT MANAGEMENT
SOLUTION AS PER GIVEN MILESTONES,
DELIVERABLES AND DELIVERY TIMELINES
FOR THE GIVEN SCOPE OF WORK FOR BHEL
CDT/PMG.”**



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1.0	DEFINITION OF TERMS: Throughout the Tender Documents including the Enquiry Letter, the following words shall have the meanings assigned to them herein, unless the subject matter or the context requires otherwise.
1.1	‘Owner’ - - The Owner shall mean M/s Bharat Heavy Electricals Limited (A Govt. of India Undertaking) incorporated under the Companies Act 1956/2013 with its registered office at BHEL House, Siri Fort, New Delhi-110049. The expression shall include its successors and assigns. It may also be referred to as BHEL.
1.2	‘OEM’ -The OEM of the concerned Project Management solution products.
1.3	‘Request for Proposal (RFP)’ - Tender document containing the Specifications, scope, qualification criteria, terms & conditions etc. released by BHEL.
1.4	‘Bid’ - The documents submitted in response to the RFP.
1.5	‘Bidder’ - The Bidder shall mean the Company / Organization registered under the Indian Companies Act 1956 / 2013 entity which quotes against the Tender Enquiry issued by the Owner.
1.6	‘Successful Bidder’ - The bidder who is qualified successful in the bidding process and is given the award of Work.
1.7	‘Vendor’ - Implementation Partner / System Integrator bidding for the Project Management solution implementation.
1.8	‘Project Manager’ – The person responsible for Project Management implementation from Successful Bidder’s team designated as Project Manager.
1.9	‘Project Team’ – The team deployed by the Successful Bidder for implementation of Project Management solution.
1.10	‘Units/Sites’ - Units are BHEL’s manufacturing facilities and Sites are BHEL’s project sites.
1.11	‘Specification’ - The Specification shall mean the specifications contained in the RFP Documents and Annexure, Schedule etc. attached thereto, if any, and includes any subsequent modifications thereof.
1.12	‘Approved’ - The Approved means approved in writing.
1.13	‘Month / Week’ - The Month shall mean calendar month & Week shall mean 7 days.
1.14	‘Day / Days’ - The Day / Days shall mean calendar day / days.
1.15	‘Go-Live Date’ - Date mentioned in the Go-Live certificate issued by the owner.
1.16	GENERAL The words incorporating singular shall include plural and vice-versa, the words incorporating masculine gender shall include feminine gender and vice-versa, and the words incorporating persons shall include bodies, corporate, limited liability companies, partnership and other legal entities.

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2.0	BRIEF SCOPE OF WORK
2.1	a. Project Plan and Resource Mobilization b. Provisioning and Configuration c. Implementation d. User Acceptance Test (UAT) – Post Implementation e. Go-Live certificate by the Owner
2.2	a. Interfacing with Unit's applications b. Training
2.3	a. Roll out for other Projects b. Monitoring and Support c. Transitioning / Exit d. Project Completion Report
	General Scope of work described in clause 3.0 of TCC
3.0	<u>SUB-CONTRACTING</u>
3.1	Order / contract or any part thereof shall not be sub-contracted, assigned or otherwise transferred to any third party without prior written consent of the owner.

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4.0	TAXES & DUTIES
4.1	Price quoted should be inclusive of all applicable Taxes/charges but Excluding GST. The Contractor shall pay all other taxes, fees, royalty, commission etc. which may be levied on the contractor in executing the contract. In case BHEL is forced to pay any of such taxes, it shall be recovered from Contactor's bills or otherwise as deemed fit.
	GST Shall be payable extra as per following :
4.2	Contractor/Vendor has to issue invoice indicating HSN/SAC code, Description, Value, Rate, applicable tax and other particulars in compliance with the provisions of relevant GST Act and Rules made thereunder. With the implementation of e way bill provisions, contractor shall comply with same as applicable.
4.3	Vendor has to submit GST compliant invoice within seven days from the due date of invoice as per GST Law. In case of delay, BHEL reserves the right of denial of GST payment if there occurs any hardship to BHEL in claiming the input thereof. In case of goods, vendor has to provide scan copy of invoice & GR/LR/RR to BHEL before movement of goods starts. Special care should be taken in case of month end transactions.
4.4	GST amount claimed in the invoice shall be released on fulfilment of all the following conditions by the Contractor : - a. Supply of goods and/or services have been received by BHEL. b. Original Tax Invoice has been submitted to BHEL. c. Respective invoice has appeared in BHEL's GSTR - 2A for the month corresponding to the month of invoice. Alternatively, BG of appropriate value may be furnished which shall be valid at least one month beyond the due date of confirmation of relevant payment of GST on GSTN portal or sufficient security is available to adjust the financial impact in case of any default by the contractor.
4.5	TDS under GST laws as applicable shall be deducted.
4.6	Contractor shall be solely responsible for discharging his GST liability according to the provisions of GST Law and BHEL will not entertain any claim of GST/interest/penalty or any other liability on account of failure of contractor in complying the provisions of GST Law or discharging the GST liability in a manner laid down thereunder.
4.7	In case declaration of any invoice is delayed by the vendor in his GST return or any invoice is subsequently amended/alterd/deleted on GSTN portal which results in any adverse financial implication on BHEL, the financial impact thereof including interest/penalty shall be recovered from the Contactor's due payment.

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4.8	Any denial of input credit to BHEL or arising of any tax liability on BHEL due to non-compliance of GST Law by the Contractor in any manner, will be recovered along with liability on account of interest and penalty (if any) from the payments due to the Contactor.
4.9	The admissibility of GST, taxes and duties referred in this chapter or elsewhere in the contract is limited to direct transactions between BHEL & its Contractor. BHEL is not responsible for any liability that may arise due to any transaction beyond the direct transaction between BHEL & its Contractor.
4.10	<u>Variation in Taxes & Duties:</u> Any upward variation in GST shall be considered for reimbursement provided supply of goods and services are made within schedule date stipulated in the contract or approved extended schedule for the reason solely attributable to BHEL. However downward variation shall be subject to adjustment as per actual GST applicability. In case the Government imposes any new levy/tax on the output service/goods after price bid opening, the same shall be reimbursed by BHEL at actual. The reimbursement under this clause is restricted to the direct transaction between BHEL and its contractor only and within the contractual delivery period only. In case any new tax/levy/duty etc. becomes applicable after the date of Bidder's offer but before opening of the price Bid, the Bidder/Contractor must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of price bid. Claim for any such impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.
4.11	<u>Modalities of Tax Incidence on BHEL:</u> Where GST law permits more than one option or methodology for discharging liability of tax / levy/duty, the contractor shall approach BHEL before choosing any option to discharge his tax liability. BHEL shall have the right to direct the contractor to adopt the appropriate option considering the amount of tax liability on BHEL as well as procedural simplicity with regard to assessment of the liability. The option chosen by BHEL shall be binding on the contractor for discharging the obligation of BHEL in respect of the tax liability to the contractor.
5.0	EVALUATION CRITERIA
	Tender will be evaluated based on the Net Cost to BHEL excluding GST taken into consideration loadings, if any. BHEL also reserves the right for not placing the order for any of the item depending upon requirement.

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6.0	PAYMENT TERMS:
6.1	First payment of 10% of the Contract value shall be made after successful completion of Milestone M1 of 'Milestones, Deliverables and Delivery Timelines'.
6.2	Second payment of 15% of the Contract value shall be made after successful completion of Milestone M2 of 'Milestones, Deliverables and Delivery Timelines'.
6.3	Payment of 75% of the Contract value shall be payable as subscription charges.
6.4	Subscription period shall start after completion of Milestone M2. Quarterly subscription charges (after deducting pro-rata cut, for any SLA non-conformance) become payable at the end of each quarter. However, 1st quarter subscription payment will be proportionate as per Subscription Start date. The payment of subscription charges will be made on quarterly basis after completion of each quarter and submission of invoice(s) in duplicate.
6.5	On the basis of satisfactory completion of the relevant services & deliverables, subject to terms and conditions mentioned in clause 4 (Taxes & Duties) as above, the payment will be made through EFT (payable at par) within 30 days of the submission of GST creditable invoices.
7.0	BILLING ADDRESS/CONSIGNEE ADDRESS:
	AGM, PS-PMG BHEL House, Siri Fort, New Delhi - 110049
8.0	PAYING AUTHORITY:
	DGM, Finance, PS-HQ, Noida
9.0	BANK GUARANTEE:
9.1	The total amount of Bank Guarantee to be furnished is 10% of the contract value (excluding taxes). The validity of the Bank Guarantee shall be entire Contract period plus 3 months. The Bank Guarantee needs to be kept valid till the acceptance of Final Bills of the Successful Bidder, by BHEL. The required Bank Guarantee should be submitted within 15 days from the date of award of LOI / PO to the successful bidder. In case of extension, the BG shall be extended for a further period equivalent to the extended period. The BG shall be kept valid till the extended Contract period plus 3 months.
10.0	PENALTY FOR LATE DELIVERY OF MILESTONE M1, M2 OF 'MILESTONE, DELIVERABLES & DELIVERY TIMELINES':
10.1	For the delay in deliverables as per Milestone M1, penalty shall be levied at the rate of 0.5% per week (or part thereof) subject to maximum of 10% of the M1 plus M2 payment i.e., 25% payment. The maximum penalty under this clause shall be 2.5% of total contract value. This penalty will be deducted from the Milestone M1 payment due.

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10.2	For the delay in deliverables as per Milestone M2, penalty shall be levied at the rate of 0.5% per week (or part thereof) subject to maximum of 10% of the M1 plus M2 payment, i.e.25% payment. The maximum penalty under this clause shall be 2.5% of total contract value. This penalty will be deducted from the Milestone M2 payment due.
10.3	In case penalty becomes recoverable, the applicable GST shall also be recoverable from the vendor.
10.4	Service Level Agreement (SLA): Uptime on 24X7 basis for the Project Management Solution. The successful bidder shall ensure that the following SLA parameters are met: ➤ An uptime of 99.5% on 24X7 basis per month.
10.5	Penalty for SLA Non-Conformance: Downtime shall be applicable for the subscription period. It shall become applicable from the “Date of Subscription period start –S”. Downtime for the implemented solution will be calculated on per month basis. At the end of each quarter, deduction will be calculated. The deductions will be made as per the following formula: For 90.0% <= uptime < 99.5% (Penalty at normal rate): Deduction (D) per month = downtime in minutes for a month X subscription charges per minute (r) For uptime < 90.0% (Penalty at double rate): Deduction (D) per month = downtime in minutes for a month X subscription charges per minute (r) X 2
11.0	TENDERER TO INFORM HIMSELF FULLY: It is the responsibility of tenderer to keep himself informed about all taxes & duties applicable on materials/ services as prevailing at the time of tendering. If the rates assumed by tenderer are less than the tariff rates prevailing at the time of tendering, the tenderer will be himself responsible for such under quotations.
12.0	<u>Non-Disclosure Agreement:</u> ➤ The successful bidder shall comply with the Information Security Management System of BHEL and work within the framework of ISMS as applicable in BHEL from time-to-time. ➤ All the material / information sent to the successful bidder shall be treated as confidential and should not be disclosed in any matter to any unauthorized person under any circumstances. The successful bidder has to furnish a Non-Disclosure Agreement (NDA) (as per Annexure-1 of TCC) in line with the Owner’s Information Security Management System (ISMS).