SPECIAL COMMERCIAL TERMS & CONDITIONS - ENQ NO: K6A1T33619

S No	BHEL Standard Terms	BHEL COMMENTS	Supplier Confirmation
1	**Terms of Delivery: for Indigenous Vendors & Foreign Vendors :** **Indigenous Vendors:** Price shall be quoted on F.O.R, Site basis. FOR-Site means "FOR- NTPC SAIL POWER CO. LTD. (NSPCL) BHILAI, DURG (DIST.), Bhilai (East) - 490021, Chhattisgarh state, India Packing & Forwarding, Freight & Insurance are in Supplier's scope i.e. included in the quoted prices. If Extra, indicate in %. Unloading at BHEL Site would be to the account of BHEL only. **Import Vendors:** Foreign Vendors can quote on CIP Chennai basis. Further loading will be done for overseas insurance, customs duty, inland freight and insurance as per BHEL norms specified in ITB Rev08.	Please indicate the terms clearly. If any deviation is taken, loading will be done suitably. Comparison will be done on FOR-NSPCL BHILAI 2X250MW basis only	
2	**Delivery Period:** To mention clearly the exact delivery period as it attracts contractual penalty on delays. To be indicated in days from date of receipt of Purchase Order.	Please indicate clearly	
3	**Payment Terms:**		
3(a)	**Terms of payment for Indigenous Suppliers - Alternative I:** 90% of Main Supply payment will be made directly through EFT within 45 days for MSME Vendors and 90 days for Non-MSME vendors from the date of receipt and acceptance of materials at BHEL Site against submission of Performance Bank Guarantee (PBG). Balance 10% and 100% of supervision of Erection and Commissioning charges will be paid within 45 days for MSME / 90 days for non-MSME on completion of Erection and Commissioning, based on site certification. If the site is not ready for 2 years from the date of supply, then this 10% payment for the Main supply portion is to be released with the equivalent value of BG, valid for another 2 years or until completion of E&C, whichever is earlier. However, 100% of supervision of E&C is to be made only after completion of E&C. 100% payment against Mandatory spares shall be made directly through EFT within 45 days for MSME Vendors and 90 days for Non-MSME vendors from the date of receipt and acceptance of materials at destination.	Pls accept payment terms. Indigenous vendors claiming LC payment / advance will be liable for rejection. No loading shall be done on those vendors who opt these payment terms.	
3(b)	**Terms of payment for Foreign Suppliers - Alternative I:** 90% of Main Supply payment will be made through irrevocable & unconfirmed LC payable in 90 days from the date of dispatch (less Agency Commission, if any) valid up to the PO delivery period and 15 days thereafter for negotiation with submission of Performance Bank Guarantee (PBG). LC shall be established in 2-3 months prior to shipment. B/L date shall be considered for calculation of LD. Balance 10% of Main Supply and 100% of Supervision for Erection and Commissioning will be made based on proforma, through irrevocable & unconfirmed LC payable in 45 days after completion of Erection and Commissioning based on site certification. If the site is not ready for 2 years from the date of supply, then this 10% payment for the supply portion to be released with the equivalent value of BG, valid for another 2 years or until completion of E&C, whichever is earlier. However, 100% of supervision of E&C is to be made only after completion of E&C. 100% payment against Mandatory spares shall be made directly through irrevocable & unconfirmed LC payable in 90 days from the date of dispatch (less Agency Commission, if any) valid up to the PO delivery period and 15 days thereafter for negotiation. LC shall be established in 2-3 months prior to shipment. B/L date shall be considered for calculation of LD.	Pls accept payment terms. Indigenous vendors claiming LC payment / advance will be liable for rejection. No loading shall be done on those vendors who opt these payment terms.	
3(c)	**Terms of payment for Indigenous Suppliers - Alternative II:** 10% progress/stage/milestone payment of Main Supply payment against approval of Drawings in CAT–II and submission of Advance Bank Guarantee (ABG) for equal amount valid till the receipt and acceptance of materials at site. This payment to be released within 90 days (45 days in case of MSME) of submission of claim. 80% of Main Supply payment against receipt and acceptance of materials within 90 (45 days in case of MSME) days from the date of receipt and acceptance of materials at site and submission of Performance Bank Guarantee (PBG). 10% of Main Supply + 100% of supervision of E&C, wherever applicable, to be made within 90days (45days for MSME) after completion of Erection & commissioning of this item. If the site is not ready for 2 years from the date of supply, then this 10% payment for the supply portion to be released with the equivalent value of BG, valid for another 2 years or until completion of E&C, whichever is earlier. However, 100% of supervision of E&C is to be made only after completion of E&C. 100% payment against Mandatory spares shall be made directly through EFT within 45 days for MSME Vendors and 90 days for Non-MSME vendors from the date of receipt and acceptance of materials at destination. Deviation if any, loading shall be done with 18% interest per annum to the extent of deviation as specified in ITB Rev08.	Pls accept payment terms. Indigenous vendors claiming LC payment / advance will be liable for rejection. Vendors, those who opt for these payment terms, Loading shall be applicable (i.e. 18% interest per annum on 10% of Main supply value. 10% payment made prior to supply, assuming one year advance (9 months for supply + 3 months for payment period).	

3(d)	**Terms of payment for Foreign Suppliers - Alternative II:** 10% progress/stage/milestone payment of Main supply payment against approval of Drawings in CAT-II and submission of Advance Bank Guarantee (ABG) for equal amount valid till the receipt and acceptance of materials at site. This payment to be released in 90 days of submission of claim through irrevocable & unconfirmed LC. 80% through irrevocable & unconfirmed LC against delivery of materials in 90 days from the date of dispatch /shipment (less Agency Commission, if any) valid up to the PO delivery period and 15 days thereafter for negotiation & submission of Invoice and Performance Bank Guarantee (PBG). LC shall be established 2- 3 months prior to shipment. B/L date shall be considered for calculation of LD. 10% of supply + 100% of supervision of E&C, wherever applicable, to be made in 90days through irrevocable & unconfirmed LC, after completion of Erection & commissioning of this item. If the site is not ready for 2 years from the date of supply, then this 10% payment for the supply portion to be released with the equivalent value of BG, valid for another 2 years or until completion of E&C, whichever is earlier. However, 100% of supervision of E&C is to be made only after completion of E&C. 100% payment against Mandatory spares shall be made directly through irrevocable & unconfirmed LC payable in 90 days from the date of dispatch (less Agency Commission, if any) valid up to the PO delivery period and 15 days thereafter for negotiation. LC shall be established in 2-3 months prior to shipment. B/L date shall be considered for calculation of LD. Deviation if any, loading shall be done with 18% interest per annum to the extent of deviation as specified in ITB Rev08.	Pls accept payment terms. Indigenous vendors claiming LC payment / advance will be liable for rejection. Vendors, those who opt for these payment terms, Loading shall be applicable (i.e. 18% interest per annum on 10% of Main supply value. 10% payment made prior to supply, assuming one year advance (9 months for supply + 3 months for payment period).	
3(e)	Deduction of Income Tax: (i) TDS shall be deducted, as applicable, for the supervision of Erection & Commissioning Charges.(ii) TDS return shall be filed and TDS certificates shall be issued by BHEL.		
4	**Indian Agent:** Whenever there is an Indian Agent to represent a Foreign Supplier, it is mandatory to give the details of services to be rendered by Indian Agent and/or the details of agreement between Supplier and Agent.Supplier to indicate the Agency Commission payable. Indian Agency Commission will be paid only in Indian Rupees, calculated at the rate of exchange prevailing on the date of price bid opening.This is payable on satisfactory completion of the contract. Agency agreement copy shall be submitted without fail. Note: In order to maintain sanctity of the tender system, it is mandatory that one Agent cannot represent two Suppliers or quote on their behalf in a particular tender enquiry. If any Agent represents more than one Suppliers all such offers will be rejected.	Please indicate, if applicable	
5	**Offer Validity:** offer shall be valid for a period of 90 days from the date of bid opening or 60 days from the date of the Reverse Auction/Price bid opening date, whichever is later.	Pls confirm	
6	**Contract Execution Bank Guarantee (CEBG):** The Supplier shall submit a BG for 2% of the contract value valid for the agreed delivery period + 3 Months and shall be extended from time to time for such period as may be desired by BHEL. Attached CEBG Format is to be signed and submitted along with this Special Commercial Terms & Conditions as a token of acceptance. **Note**: Suppliers who are all already registered with BHEL and having a vendor performance rating of A or A+ grade would be exempted from submission of CEBG.	Pls accept, otherwise offer is liable for rejection.	
7	**Clientele List:** Supplier to submit detailed Clientele list with their full address including detail of contact person with phone no., fax no. & e-mail ID (if any) to whom the same / similar items are supplied in the past two years. The date of supply may also be indicated, against each client.	Pls furnish	
8	**Reverse Auction (RA):** Supplier confirmation required as per clause 2.D of ITB Rev08. RA guidelines enclosed with this document for your reference.	Pls confirm	
9	**Taxes : GST in % (for Indigenous supplier):** Please indicate the exact percentage of GST/SGST/UTGST/IGST (whichever is applicable) is quoted as per the existing tariff on the date of the offer and all benefits as per existing laws have been considered. It is the responsibility of the seller to issue the Tax Invoice strictly as per the format prescribed under the relevant applicable GST law (CGST Act/SGST Act/UTGST Act/IGST Act). Vendor to indicate the proper GSTN Registration/ HSN code.		
10	**Test Certificate:** To be submitted. With Chemical and Mechanical properties and dimensions as per Standards and our Technical Delivery Conditions.	Pls confirm	
11	**Guarantee:** Guarantee shall be as per clause 18, page 56 of Technical Specification No: BA89016 Rev00 i.e. BIDDER TO GUARANTEE POWER CONSUMPTION LESS THAN or EQUAL TO 350 KW FOR ENTIRE WET BALL MILLING SYSTEM. Offers with more than 350 KW guaranteed power consumption shall be liable for rejection and also note that no advantage shall be passed on to the bidders who quote lesser than or equal to 350 KW.	Pls confirm.	
12	**PERFORMANCE BANK GUARANTEE (10% OF ORDER VALUE):** The performance guarantee for 10% of Order value is to be submitted, valid for 24 months from the date of receipt and acceptance of materials at Site.	Pls confirm. If not agreed, offer is liable for rejection.	
13	**Inspection before despatch:** Inspection before despatch at supplier's works by BHEL/authorised agency for indigenous supplies at BHEL cost and the inspection charges at actuals incurred by BHEL will be loaded to compare with foreign suppliers. In case of foreign supplies, vendor shall engage and appoint any internationally reputed third party inspection agencies at their cost and send the inspection report for BHEL/customer's review and clearance/acceptance. List of inspection agencies will be informed later by BHEL.	Pls refer Annexure -Q and confirm	

14	**Penalty / LD on delayed supply:** In the event of delay in supply of goods, penalty of 0.5% per week or part there of shall be levied on the undelivered portion subject to a maximum of 10% of the order value. Penalty amount so determined along with applicable GST thereon shall be recovered. Delivery being the essence of BHEL's contract requirements, in the event that a Supplier does not accept the above LD condition, the offer would be loaded to the extent of the shortfall with respect to upper limit specified above. Date of material receipt at our site will be reckoned as the 'Delivery date as mentioned in purchase order.	Pls confirm acceptance. Loading is applicable for deivation, if any	
15	**Liquidated Damages on Power Consumption / Performance Guarantee:** As per Cl.19 of Technical Specification BA89016 Rev00, if the actual shaft Power Consumption during prove out (or) PG Test operating at the duty point exceeds the value guaranteed by the bidder, liquidated damages for shortfall in performance shall be deducted from contract price (Main supply) as per the formula given.		
16	Offer of a supplier for further consideration such as price bid opening / RA shall be subject to Customer approval only.	For information	
17	Risk Purchase Clause (as per clause-53 of ITB Rev08) (Supplier Confirmation Required)	Pls accept the terms. Otherwise, liable for rejection	
18	Firm Price: Prices shall be kept firm till completion of supplies.	Offers with firm price only will be considered.	
19	All the prospective new bidders those who are not in the approved/registered vendor list of the BHEL Hyderabad, Pulverisers Division, will have to apply online by filling-up the Vendor Registration Format that is available on the BHEL Website **(www.bhel.com)** along with all the required attachments. All the foreign vendors shall submit a report from a reputed third party business rating agency like Dun & Bradstreet, Creditreform etc. or third party business rating agency empanelled by BHEL.	Reqd for new vendors	
20	MSE / Non MSE Status with proof MSE Proof to be submitted. Otherwise, it will be treated as Non- MSE.	Please furnish	
21	For this procurement, public procurement (preference to make in India), order 2017 dt 15.06.2017 & 28.05.2018 and subsequent order issued by the restrictive nodal ministry shall be applicable even if issued after issue of this NIT but before finalization of contract/PO/WO against this NIT. In the event of any nodal ministry prescribing higher or lowerpercentage of purchase preference and/ or local content in respect of this procurement, same shall be applicable.	Please confirm	
22	Minimum Local content shall be 50%. Please furnish details of location where this value addition has been done (………….)	Please indicate the details.	
23	Margin of purchase preference to make in India shall be 20%	For information	
24	False declaration will be in breach of the code of integrity under Rule 175 (i)(h) of the General Finance Rule for which abidder or its successors can be debarred for up to two years as per Rule 151(iii) of the General Finance Rules along with such other actions as may be permissible under Law.	For information	
25	**Offer of a supplier for further consideration such as price bid opening / RA shall be subject to Customer approval only.**	For information	
26	**For Foreign Offers:**		
	(i) Manufacturers' Name and address:	Pls furnish	
	(ii) Country of Origin:	Pls furnish	
	(iii) Agency Agreement	Pls furnish	
	(iv) Approximate weight and cubage of the consignment.	Pls furnish	
27	Acceptance to our Instructions to Bidders (ITB Rev08)	Pls furnish	
28	Signed copy of Annexure Q (Quality Requirements) to be submitted	Pls furnish	
28 (a)	**Applicability of Integrity Pact:** The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory) along with techno-commercial bid (Part-I, in case of two/three part bid). Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification. Please refer Section-8 of IP for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to the IEM(s). All correspondence with the IEMs shall be done through email only. IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. A panel of Independent External Monitors (IEMs) on the present panel have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHEL. Following IEMs have been appointed by BHEL: 1. Shri Arun Chandra Verma, IPS (Retd.) Email Id: acverma1@gmail.com 2. Shri Virendra Bahadur Singh, IPS (Retd.) Email Id: vbsinghips@gmail.com	Pls furnish with Offer & Signed copy of integrity pact to be submitted. Original in Bond shall be given in the event of ordering.	
28 (b)	No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department's officials whose contact details are provided below: For all clarifications/ issues related to the tender, please contact: Name: (1) ……………………… (2) ……………………… Dep't: ………………………… Address: …………………… …………………………………….. Phone:(Landline/Mobile) (1) ……………………… (2) ………………………. Email: Fax: Integrity Pact are applicable for all the BHEL enquiries whose estimated value is equal to or more than Rupees 05 Crores. Copy of Integrity Pact with applicable nominated IEM is attached along with the tender documents for ready reference of Suppliers.	For information	

29	**<u>Post-order submission of documents for approval:</u>** In the event of the release of Letter of Intent (LoI) / Purchase order/s (PO) against this tender, Bidders have to submit the applicable documents as called for in the tender / LoI / PO/s, such as drawings, data sheets, design calculations etc. These documents for approval have to be submitted within the agreed timelines between BHEL and Bidder. Normally the time period for submission for approval is 15 days from the date of receipt of the LoI / PO by the supplier. The actual time period within which the documents have to be submitted for approval would be specified in the LoI / PO. Such documents would be subjected to evaluation and approval by BHEL and / or by BHEL's customer / Consultant / Customer's Consultant. Bidders have to give their specific acceptance for this. List containing indicative vendor list and the pool of items is not exhaustive but only indicative. Items / vendors many be included of deleted by BHEL/Customer at any point during documents review. After approval of such documents and after getting clearance from BHEL, only the items ordered can be taken up for manufacture. Any changes required by BHEL / Customer etc. in the documents submitted for approval shall be incorporated by the Bidder and no extra cost would be payable by BHEL for such changes. In the event that the Bidder does not carry out the required corrections, then the LoI / PO would be liable for cancellation by BHEL and BHEL would resort to alternate purchase action at the risk and cost of the Bidder under the Risk Purchase Condition of the Purchase Order. **<u>Note</u>**: After receiving the LoI / PO, supplier shall also forward the acknowledgement / acceptance of the LoI / PO by signing and returning the second copy of the LoI / PO as the token of acceptance.	Please indicate the details.	
30	If any Supplier attempts to bribe, or pay commission, gift or any advantage or bring in undue influence either by himself or on his behalf any one including a stranger to the tender, in addition to instituting legal proceedings as per the extant laws prevailing, will disqualify the supplier from this tender and all future tenders of BHEL. Decision of the Purchaser would be final in this matter	For information	
31	The laws governing this transaction shall be the laws in India	For information	
32	Wherever not specified, Inco terms 2010 shall be used to interpret the Commercial terms and conditions	For information	
33	In the event of an order, Supplier shall agree to settlement of disputes or differences, if any, by way of arbitration, in accordance with the "Rule of Arbitration" of the Indian Council of Arbitration	For information	
34	**<u>Conditions for rejection of offers</u>**: BHEL reserve the right to reject one or all offers without assigning any reason. The decision of BHEL will be final in this regard.		
	1. If the offer fails to meet the technical requirements/specifications of the tendered item/s.	For information & Confirmation	
	2. If the offer does not meet the commercial terms & conditions, such as but not limited to delivery period specified in the tender, Delivery terms, payment terms, Liquidated damages, Risk Purchase, cancellation clause etc., including the load factors specified in the tender.	For information & Confirmation	
	3. If the bidder fails to respond to clarification sought, within a reasonable period. In case of doubts / lack of clarity on the technical and commercial offer of the bidder, BHEL will seek clarifications.	For information & Confirmation	
	4. Failure to sign & accept the Integrity Pact (where applicable). Bidders are hereby informed that the contents of the Integrity Pact are firm and fixed and cannot be changed.	For information & Confirmation	
	5. If any of the conditions listed below are applicable to the bidder, the offer is liable to be rejected: a. Debt recovery / Winding up Proceedings are initiated against the Company in Courts / Debt Recovery Tribunals (DRTs), b. Proceedings are there against the Company in National Company Law Tribunal (NCLT) with respect to Insolvency and Bankruptcy Code (IBC) or otherwise, Any proceedings are there against the Company under the "Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, c Any restructuring proceedings are underway for the Company under Corporate Debt Restructuring (CDR), Strategic Debt Restructuring (SDR) or otherwise, Divestment / demerger proceedings are underway for the Company under the Companies Act. d If action under guidelines of suspension of business dealings (Ref AA/MM/SB/01 Rev 02 dt 22.07.2016) and its latest revisions has been initiated against the company/bidder.	For information & Confirmation	