



**PROJECT ENGINEERING
MANAGEMENT**

**GENERAL CONDITIONS OF CONTRACT
(GCC)**

Revision No. 05

Issued on 01-09-2012

VOLUME – I

GENERAL CONDITIONS OF CONTRACTS (GCC)

DEFINITIONS OF TERMS

ABBREVIATIONS

INSTRUCTIONS TO BIDDERS

GENERAL COMMERCIAL TERMS & CONDITIONS

ANNEXURES

**PROJECT ENGINEERING MANAGEMENT
BHARAT HEAVY ELECTRICALS LIMITED**


PPEI BUILDING, HRDI & ESI COMPLEX

PLOT NO. 25, SECTOR – 16A

NOIDA – 201301 (U.P.)

Not for Publication

For Official Use


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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.

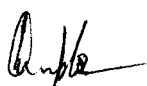
- 1 **Purchaser** shall mean **M/s Bharat Heavy Electricals Limited** (A Govt. of India Undertaking) incorporated under the Companies Act 1956 acting through its **Projects Engineering Management Division (PEM)**, PPEI Building, HRD & ESI Complex, Plot No. 25, Sector – 16A, NOIDA – 201 301 (UP) which expression shall include its successors and assigns. It may also be referred to as **BHEL**.
- 2 **Owner** shall mean the **Customer** or **Client** for whose project the enquiry is issued by Purchaser and shall include its successors and assigns as well as authorised officer(s)/ representative(s).
- 3 **Consultant** shall mean the agency appointed by Owner or Purchaser to provide consultancy services for the project and shall include its successors and assigns as well as authorised officer(s)/ representative(s).
- 4 **Tenderer** shall mean the Firm/ Company/ Organisation which quotes against the Tender Enquiry issued by Purchaser. It may also be referred as **Bidder** or **Vendor**.
- 5 **Order/ Contract** shall mean and include the general conditions, bidding conditions, specific conditions, specifications, schedules, drawings, form of tender, covering letters, schedule of prices and quantities, letter of intent/ award of the Purchaser, Integrity Pact (if applicable), special conditions applicable to the project and subsequent amendments mutually agreed upon. It may also be referred as **Purchase Order**.
- 6 **Seller/ Contractor** shall mean the Firm/ Company/ Organisation with whom the Order/ Contract is made and shall be deemed to include its successors, representatives, heirs, executors, administrators and permitted assigns, as the case may be. It may also be referred as **Supplier**.
- 7 **Sub-Contractor** shall mean the person/ firm/ company/ organisation to whom any part of the work has been sub-contracted by Seller/ Contractor, with the written consent of Purchaser, and shall include sub-contractor's heirs, executors, administrators, representatives and assigns.
- 8 **Engineer** shall mean the authorized officer of Purchaser to act as the engineer on its behalf for the purpose of the Order/ Contract.
- 9 **Site** shall mean and include the land and place on which the power station and related facilities are to be constructed and any adjacent land which may be allocated or used by Owner or Seller/ Contractor in performance of the Order/ Contract.




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- 10 **Tests on completion** shall mean such tests as prescribed in specifications and/ or tests mutually agreed upon by Purchaser and Seller/ Contractor, to be performed by Seller/ Contractor after erection of equipment to establish its satisfactory operation as per specifications.
- 11 **Commissioning** shall mean successful completion of Trial Operation and readiness of the contracted/ ordered plant and materials for commercial use. This will include all consumables and inputs required for pre-commissioning.
- 12 **Initial Operation or Trial Operation or Reliability Run** shall mean continuous integrated operation of the contracted/ ordered plant and materials under varying loads as proof of satisfactory operation for a specified period.
- 13 **Inspection Agency (IA)** shall mean person(s) authorized by Purchaser / Owner to inspect the stores as per Order/ Contract at Contractor's/ Sub-Contractor's works. Vendors to raise inspection call on BHEL – CQS website.
- 14 Month shall mean calendar month and week shall mean 7 days.
- 15 **Consignee** shall mean the official(s)/ person(s) to whom the stores are required to be delivered in the manner indicated in the Order/ Contract.
- 16 **Plant/ Equipment/ Stores** shall mean the goods, machinery, components, parts, spares etc. required to be supplied by Seller/ Contractor as per Order/ Contract.
- 17 **Contract Engineer (CE)** shall mean the official who signs the Order/ Contract on behalf of Purchaser.
- 18 **Site Engineer** shall mean officer of Purchaser/ Owner authorized to receive and verify the in-coming stores, and issue Material Receipt Certificate (MRC)/ Stores Receipt Voucher (SRV).
- 19 **Site Inspection Agency (Site IA)** shall mean person(s) authorized by Purchaser/ Owner to inspect the stores/ works included in Order/ Contract at the Project Site.
- 20 **GENERAL**

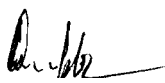
The words incorporating singular shall include plural and vice-versa, the words incorporating masculine gender shall include feminine gender and vice-versa, and the words incorporating persons shall include bodies, corporate, limited liability companies, partnership and other legal entities.




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ABBREVIATIONS

AWB	Airway Bill
BL	Bill of Lading
BOQ	Bill of Quantity
CIF	Cost, Insurance and Freight
CQ	Corporate Quality
CVD	Countervailing Duty
DMS	Document Management System
EMD	Earnest Money Deposit
E&C	Erection and Commissioning
FOB	Free on Board
GR	Goods Receipt
IP	Integrity Pact
IEM	Independent External Monitor
L1 Bidder	Bidder quoting lowest landed cost to BHEL
LC	Letter of Credit
LOI	Letter of Intent
LOA	Letter of Award
LR	Lorry Receipt
MDCC	Material Despatch Clearance Certificate
MRC	Material Receipt Certificate
MSMED	Micro Small and Medium Enterprises Development
NIT	Notice Inviting Tender
O&M	Operation & Maintenance
PBG	Performance Bank Guarantee
P&ID	Process & Instrumentation Diagram
PQR	Pre-Qualification Requirement
PVC	Price Variation Clause
QS	Quality Surveillance
RA	Reverse Auction
RBI	Reserve Bank of India
RFQ	Request for Quotation
RR	Railway Receipt
SAD	Special Additional Duty
SCC	Special Conditions of Contract




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INSTRUCTIONS TO BIDDERS

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1.0 **GENERAL INSTRUCTIONS**

- 1.1 Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with full understanding of the implications thereof. The specifications and terms & conditions shall be deemed to have been accepted unless otherwise specifically commented upon in 'Deviation' sheets by the tenderer in his offer. Non-compliance with any of the requirements and instructions in the Tender Enquiry may result in rejection of the tender.

Integrity Pact (IP) will be applicable for all tenders/ contracts valuing more than a specific value or if specified in NIT/ RFQ. Integrity Pact document shall be issued as part of tender and shall be returned by bidders along with their techno-commercial bids, duly signed by authorized signatories. Only those vendors/ bidders who enter into Integrity Pact with BHEL would be qualified to participate in the bidding process.

- 1.2 All commercial terms and conditions, except prices, should be submitted as part of techno-commercial offer (Part-I) which may be opened first. The price part (Part-II) is to be submitted in a separate sealed cover along with techno-commercial offer. Purchaser reserves the right to open both the Parts at the same time.
- 1.3 A declaration as per Annexure-III must be sent before opening of Price Bids.

2.0 **PROCEDURE FOR SUBMISSION & OPENING OF TENDERS**

- 2.1 Tenders shall be submitted in **Two Parts** as described below, on or before the Due Date and time indicated in the NIT/ RFQ.

PART – I : Techno-Commercial Bid

comprising of Technical Offer, Annexure-I & II, Commercial Terms & Conditions, Unpriced copy of Price Bid, PQR documents (if applicable) in five (5) sets.


PART – II : Price Bid

containing Prices, to be submitted in Two sets (original + one copy) strictly as per Price Schedule of BHEL for complete scope of Tender Enquiry.

NOTE: Offers are liable to be rejected for changes made by vendors in the Price Schedule, except those specified in the unpriced bid and accepted by Purchaser.

- 2.1.1 PART-I (Techno-Commercial bid) may be opened on Due Date and time specified in the NIT/ RFQ, or extension thereof, in presence of tenderers who may like to attend. Incomplete offers are liable to be rejected. Purchaser reserves the right to open both Part-I and Part-II together.



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2.1.2 PART-II containing prices shall be submitted along with Part-I but in a separate sealed cover. Corrections/ amendments shall be properly authenticated, else the offer is liable to be rejected.

2.1.3 In case it becomes necessary for the tenderer to make changes to the original price bid (Part-II) on account of technical/ commercial confirmations/ clarifications, against queries raised by Purchaser, to bring the offer in line with requirement of the specifications, the impact of such changes on the prices shall be submitted. Revised price bid, only if requested by the Purchaser, shall be submitted, in a separate sealed cover. Price Impact/ discount/ revised price bid shall be duly superscribed as:

“Price Impact / Discount / Revised Price Bid (Part-II) (delete whichever is not applicable), Revision No. ____ against Tender Enquiry No. _____ dated ____”

2.1.4 No price change (increase/ decrease) is acceptable within validity of the offer, except on account of technical/ commercial changes necessitated during evaluation by BHEL.

2.2 After technical & commercial examination of the offers received and clarifications obtained (if required), Part-II (Revised Price Bid/ Original Price Bid along with Price Impact and Discount, if any) shall be opened, for which the date and time shall be intimated to technically and commercially acceptable bidders in case of public opening. BHEL may opt to finalise the prices through Reverse Auction amongst technically and commercially acceptable bidders. BHEL reserves the right to open the earlier price bids, if any, submitted by the bidder(s), if required.

2.3 No correspondence shall be entertained from the tenderers after opening of Part-II (Price bid), except clarifications (if any) asked by BHEL in writing.

2.4 Not more than two representatives of a bidder will be permitted to be present for tender opening. The representatives to be present for tender opening should have proper authentication/ identification certificate which needs to be produced on demand by BHEL.


2.5 Purchaser may negotiate the tender with L1 bidder after RA/ price bid opening, if the quoted rates/ terms are found to be unreasonable or unacceptable.

2.6 MARKING ON ENVELOPES

2.6.1 Following shall be superscribed on the envelopes which shall be addressed by name and designation to the official inviting tender:

- PART-I :
1. TENDER ENQUIRY NO. AND ITEM DESCRIPTION
 2. DUE DATE FOR OPENING
 3. "TECHNO-COMMERCIAL BID".



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- PART-II :
1. TENDER ENQUIRY NO AND ITEM DESCRIPTION
 2. DUE DATE FOR OPENING
 3. "PRICE BID".

2.6.1a Price Impact/ Discount through e-mail or letter without proper superscription on the envelope is not acceptable.

2.6.2 Both Parts - I & II shall be submitted in separate sealed covers duly superscribed as indicated above and shall be enclosed further in a main cover duly sealed and superscribed as:

"TENDER FOR _____ AGAINST TENDER ENQUIRY NO. _____
DUE ON _____ CONTAINING PART-I & PART-II BIDS"

2.6.3 Envelope not marked with tender enquiry number is liable to be ignored and may not be opened.

2.7 BID SUBMISSION

2.7.1 Tenders shall be addressed to BHEL officials by name & designation and sent to the following address:

Bharat Heavy Electricals Ltd.
Project Engineering Management
PPEI Building, HRD & ESI Complex,
Plot No. 25, Sector – 16A,
NOIDA – 201 301 (U.P.)

Attention: 1) Mr.

2) Mr.

2.7.2 Tenders can either be delivered in person or sent by Courier/ Registered or Speed Post to the officials inviting the tender at the above mentioned address. It shall be bidders' responsibility to ensure that tenders are delivered in time to the concerned BHEL officials.


2.8 Tenders received after the Due Date and Time of submission shall be rejected.

2.9 Unsolicited tenders will not be entertained.

3.0 PART-I (TECHNO-COMMERCIAL BID) – CONTENTS & CHECKLIST

3.1 Tender shall be submitted in specified number of copies in separate sections for main equipment, recommended spares etc. as per scope defined.



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3.2 Technical offer shall contain:


- a) Technical specifications/ write-up.
- b) Scope of supply and bill of material.
- c) Catalogue, literature, drawings/ datasheets and P&ID with terminals marked up.
- d) Schedule of commissioning spares and mandatory spares (to be given separately) giving description of each item & quantity, as per given format (if any).
- e) Optional items as per BHEL price schedule.
- f) Recommended list of spare parts for three years operation, as applicable.
- g) Schedule of supervision for erection & commissioning services, if required.
- h) Schedule of maintenance/ erection tools and tackles covered in the scope of supply as per BHEL price schedule.
- i) Guarantee offered for the capacity of the system/ equipment, auxiliary power consumption and consumables like chemicals etc., as applicable.
- j) List of technical deviations (if any).
- k) List of exceptions & assumptions.
- l) Services and materials to be provided by Purchaser.
- m) Names and addresses of main sub-vendors/ contractors.
- n) Quality Plan.
- o) Other details/ documents as listed in tender documents.

3.3 Commercial offer shall contain:

- a) Agreed terms & conditions (Annexure-II).
- b) List of commercial deviations (if any) w.r.t. GCC & SCC.
- c) Unpriced copy of Price Bid (Part-II), indicating BOQ as per Tech. Specifications.
- d) Delivery schedule
- e) Validity of offer

4.0 PART-II (PRICE BID) – CONTENTS & CHECKLIST

- 4.1 Best offer with Firm prices (or with PVC as specified in NIT) in the given Price Schedule Format shall be submitted in specified number of copies in separate sections for Main equipment, Commissioning Spares, Mandatory Spares, O&M Spares and supervision of erection & commissioning, as per scope defined.
- 4.2 If bidder insists for price variation clause (PVC) where NIT specifies Firm price, the offer should contain:-

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- a) PVC Formula
- b) Ceiling for PVC
- c) Base date and applicable indices for the base date.

Open ended PVC formula is not acceptable. Indices shall be based on Government of India/ RBI publications/ IEEMA/ LME etc. However, BHEL reserves the right to accept/ reject the offer with PVC.

- 4.3 Price Bid for Main Equipment shall cover basic equipment price including packing, excise duty, sales tax/ VAT, freight etc.
- 4.4 Price Bid for Spares shall cover Item-wise Ex-works price including packing and total value, excise duty, sales tax/ VAT, freight, etc.
- 4.5 Offer for E&C / supervision of erection & commissioning shall cover the following:
 - a) Scope of work.
 - b) Schedule of tools & plants, civil work, consumables, control & instrumentation, manpower requirement (to be provided by Purchaser in case of supervision offer).
 - c) Supervision charges on per man-day basis and total period in man-months of supervision required, services and facilities to be provided by the tenderer.

OR


Erection and commissioning lump sum charges/ unit-wise charges for elements of Main equipment as applicable.

- 4.6 Total erection & commissioning charges should be minimum 10% of the total quoted price of the package, failing which the break-up of prices shall be adjusted accordingly for ordering.
- 4.7 **Authority of the person signing the tender on behalf of the tenderer:**

A person signing the tender or any other document in respect of Order/ Contract on behalf of the tenderer, without disclosing his authority to do so shall be deemed to warrant that he has the authority to bind the tenderer. If it is discovered at any time that the person so signing had no authority to do so, the Purchaser may, without prejudice to any other right or remedy, cancel the Order/ Contract and make or authorise the purchase of the stores at the risk and cost of such tenderer and hold such tenderer liable to Purchaser for all costs and damages arising from cancellation of the Order/ Contract including any loss which Purchaser may sustain on account of such purchase.

Notes:

- a) Bids of Indian origin shall be in Indian Rupee only.

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b) Bids of foreign suppliers shall preferably be in currency of the country of origin and on FOB basis.

c) An authorized representative/ agent can represent only one bidder for the given package.

5.0 CLARIFICATIONS REQUIRED BY BIDDERS

Technical and commercial clarifications required before submission of the tender should be addressed to the official(s) inviting the tender.

6.0 DEVIATIONS - LISTING

6.1 Tenders shall be submitted strictly in accordance with the requirements of tender documents. Deviations (Technical and Commercial), if any, shall be listed out separately. Technical deviations and Commercial deviations shall be furnished in separate sheets under headings "TECHNICAL DEVIATIONS" and "COMMERCIAL DEVIATIONS" respectively, along with reasons for taking such deviations. Deviations mentioned elsewhere but not included in the Schedule of Deviations as above shall not be accepted.

6.2 Deviations from specifications will not ordinarily be allowed. In case the tenderer offers an alternative/ nearest equivalent equipment/ specifications, the alternate offer shall be submitted by the tenderer in a separate sealed cover. The tenderer shall guarantee and ensure performance of the store(s) for the same conditions as specified in technical specifications.


7.0 ASSUMPTIONS - LISTING

Assumptions made by tenderer while making the technical offer shall be listed separately under the heading "ASSUMPTIONS".

8.0 VALIDITY OF OFFER

Vendors' offers shall be submitted with the following validity periods:

- i) Original offer shall be valid for six months from Part-I opening.
- ii) If revised price bid/ price impact is asked by BHEL, the validity of the same shall be two months from the date of revised price bid/ price impact or six months from Part-I opening, whichever is later.
- iii) Valid till successful completion of the contract for Recommended Spares, O&M Spares and Mandatory Spares (wherever these are Optional items).
- iv) Unit prices for scope addition/ deletion shall be valid till successful completion of the contract.
- v) Offers with shorter validity are liable to be rejected.

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9.0 DELIVERY / COMPLETION SCHEDULE

- 9.1 **Zero Date:** The date of LOI/ Order/ Contract, whichever is earlier, shall be treated as the Zero Date for contractual purpose.
- 9.2 **Delivery Period:**
- 9.2.1 Delivery of Plant/ Equipment/ Stores shall be quoted by bidders as per NIT/ RFQ.
- 9.2.2 For E&C packages, completion of Erection & Commissioning including successful completion of Performance Guarantee (PG) / Demonstration Test(s), if applicable, shall be quoted by bidders as per NIT/ RFQ.


10.0 LANGUAGE & CORRECTIONS

- a) Tenderer shall quote the rates in Hindi/ English language and international numerals only. Rates shall be entered in figures as well as in words. For the purpose of tender, metric system of units shall be used.
- b) All entries in the tender shall either be typed or written legibly in ink. Cancellations, insertions, erasement, over-writing (if unavoidable) shall be authenticated with signature and seal by the bidder.
- c) Tenderer's offer, remarks and deviations shall be with reference to sections and clause numbers given in the tender documents.

11.0 PRICE DISCREPANCY

Following shall be considered for evaluation and ordering for non-conformities/ errors/ discrepancies in price bid:

- (a) If, in the price structure quoted for the required goods/ services/ works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.
- (b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected.
- (c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject of (a) and (b) above.
- (d) If there is such discrepancy in an offer, the same shall be conveyed to the bidder with target date upto which the bidder has to send his acceptance on the above lines and if the bidder does not agree to the decision of the Purchaser, the bid is liable to be ignored.
- (e) Taxes and duties if not specified clearly as extra shall be considered as included in the basic price and, therefore, shall not be reimbursed.

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12.0 TENDERER TO INFORM HIMSELF FULLY

- 12.1 Tenderer shall closely peruse all clauses, specifications & drawings etc. indicated in tender documents before quoting. In case of any doubt about meaning of any portion of tender specifications or discrepancies or omissions in drawings/ tender document or clarifications regarding scope of work etc., tenderer shall contact the official(s) inviting the tender for clarifications, before submitting the offer.
- 12.2 Tenderer shall make independent enquiries as to conditions and circumstances affecting cost estimates, and possibility of executing supplies/ works as described. Tenderer shall be deemed to have inspected and examined the site and its surroundings and to have satisfied himself as to the form and nature of the site, the quantities and materials necessary for completion of the work and means of transport and access to the site, the accommodation required, general labour position at site and to have quoted prices taking into consideration the risks, contingencies and other circumstances which may influence or affect execution of the Order/ Contract.
- 12.3 It is the responsibility of tenderer to keep himself informed about correct rates of customs and other duties & taxes leviable for 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.

13.0 CHANGE OF TERMS & CONDITIONS / PRICE

- 13.1 Any revision or change in quoted prices and/ or conditions of offer made after tender opening, which will give benefit to the tenderer over others, may result in rejection of the offer.
- 13.2 Under no circumstances, tenderer shall alter the quoted prices/ rates during the validity period after tenders have been opened. Any tenderer doing so, resulting in re-tendering or additional expenditure to Purchaser, shall risk punitive action by Purchaser as deemed fit, who also reserves the right to recover damages resulting therefrom.


14.0 INTEGRITY PACT

Vendors shall have to enter into Integrity Pact with BHEL if specified in NIT/ RFQ, failing which vendor's offer will be rejected (Refer Annexure-IX).

15.0 REVERSE AUCTION

BHEL/ PEM reserves the right to go for Reverse Auction, through BHEL appointed service provider, instead of opening sealed price bids submitted along with Part-I. This would be decided after techno-commercial evaluation.



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16.0 REJECTION OF TENDER AND OTHER CONDITIONS

- 16.1 BHEL/ PEM reserves the right to reject any bidder if the past performance is found to be unsatisfactory.
- 16.2 Acceptance of tender will rest with Purchaser and does not bind him to accept the lowest or any tender and reserves to itself full rights for the following without assigning any reasons whatsoever:
- To reject any or all the tenders.
 - To split the work amongst two or more tenderers (where E&C is not in tenderer's scope).
 - To award the work in part. (where E&C is not in tenderer's scope).
 - To increase or decrease the quantities.
 - To reject any commercial or technical deviation given in offer.
- 16.3 Standard pre-printed conditions of tenderer attached to offer will not be accepted and only those mentioned in the body of offer will be considered.
- 16.4 Purchaser will not be bound by any power of attorney granted by tenderer or by changes in composition of the firm made subsequent to award of Order/ Contract. Purchaser may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Seller/ Contractor concerned.
- 16.5 If tenderer deliberately gives wrong information, Purchaser reserves the right to reject such an offer at any stage or cancel the Order/ Contract, if awarded, and forfeit the security deposit and bank guarantee.

17.0 LOADING FOR DEVIATIONS

- 17.1 Deviations (Commercial as well as Technical) from Tender Specifications are generally not acceptable. However, if any deviation is considered by Purchaser, the same may be loaded for comparison while evaluating the offers.
- 17.2 Loading/ loading criteria in respect of deviation(s) shall be as specified in Annexure–VIII of this GCC. If a bidder unconditionally withdraws any deviation before Price Bid opening, the same shall not be loaded.
- 17.3 Interest Rate for loading will be taken as double the Base Rate of State Bank of India (prevailing on date of Part-I opening) plus 2% for Administrative Charges.
- 17.4 In case of deviations from BHEL/ PEM's General Conditions of Contract (GCC), the tenderer shall separately quote the price for withdrawal of such deviations in Sealed Cover.



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18.0 DISCOUNT

Discount offered by any bidder in the original price bid, against the present Tender Enquiry, which is also indicated to be applicable to any other Enquiry, shall be considered against the present Tender Enquiry only. In case only percentage discount is indicated, the same shall be applicable to optional prices also.

Discount offered shall be for full duration of validity. Offers with discount for shorter duration are liable to be rejected.

Any conditional discount shall not be considered for evaluation.

19.0 EVALUATION CRITERIA

19.1 Though Foreign bidders are required to quote FOB prices, Price evaluation and comparison will be made on the basis of Free Delivery at the Project site.

19.2 Tenders will be evaluated on the basis of delivered cost, i.e. total cost to the Purchaser, taking into consideration loadings, if any, and all available financial advantages, including those available from Owner, taxation authorities etc.

19.3 For evaluation, exchange rate (TT selling rate of State Bank of India) as on scheduled date of tender opening (Part-I bid in case of two part bid) shall be considered.

19.4 In case of foreign bidders, the quoted FOB price shall be loaded by following factors to arrive at total FOR Site price:

a) Marine freight and insurance – @ 3% of FOB value for despatches from Europe/ Asia/ Australia/ African continent and 5% of FOB value for despatches from USA/ American continent.

b) Custom Duty (including CVD & SAD) as per Special Conditions of Contract – as prevailing on date of price bid opening.

c) Port handling/ clearing charges – @ 1% of CIF value.

d) Inland freight and LC charges – @ 1% of CIF value.


20.0 FOREIGN SUPPLIERS & INDIAN AGENTS OF FOREIGN SUPPLIERS

Please refer our website www.bhelpem.com for details.

21.0 MICRO, SMALL & MEDIUM ENTERPRISES

Extant regulations of Govt. of India will be applicable.




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GENERAL COMMERCIAL TERMS & CONDITIONS


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1.0 ACCEPTANCE OF ORDER

Seller/ Contractor should acknowledge and accept the LOI/ Purchase Order issued by BHEL within 7 days of its receipt. Seller/ Contractor should examine the LOI/ Purchase Order immediately upon receipt and bring to the notice of BHEL, within 7 days of receipt, any discrepancy with regard to scope of work, rates, taxes & duties, agreed terms & conditions etc. for due rectification. If the Seller/ Contractor fails to give such intimation within seven days, the Seller/ Contractor shall be deemed to have agreed to supply the stores as per LOI/ Purchase Order.

2.0 CONTRACT

Contract between Purchaser and Seller/ Contractor is merely a contract and shall not be treated as partnership between the parties to the contract.

3.0 PRICES

Prices shall be for the entire scope of work in line with all instructions, specifications and terms & conditions specified in the tender documents.

4.0 TAXES AND DUTIES

4.1 EXCISE DUTY

4.1.1 Seller/ Contractor is required to ensure that excise duty including surcharge, if any, is quoted as per the existing tariff on the date of the offer and all benefits as per existing rules have been considered.

4.1.2 Excise duty actually incurred by Seller/ Contractor on self-manufactured items alone shall be reimbursed against documentary evidence.

No excise duty shall be payable by Purchaser on inputs, bought out items, raw materials and components consigned directly to site from sources other than Seller/ Contractor's factory/ works.


4.1.3 If excise duty is paid under protest or dispute, it shall not be reimbursed till the dispute is settled. If the Seller/ Contractor claims/ obtains any refund of the excise duty paid, the same shall be refunded to the Purchaser immediately

4.1.4 Invoice cum Excise duty gate pass (Excise Invoice) should contain the name of the ultimate consignee as per Order/ Contract/ Special Conditions of Contract.

4.1.5 If required by Purchaser, the Seller / Contractor will provide a certificate stating that CENVAT benefit has been availed of on the inputs and the same has been passed on to the Purchaser.

4.1.6 Excise duty shall be paid at actuals against documentary evidence but restricted to the amount and percentage indicated in the Order/ Contract.

4.1.7 No statutory variations shall be payable beyond contractual delivery/ completion period or any extension thereof.

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4.2 SALES TAX / VALUE ADDED TAX (VAT)

4.2.1 Central Sales Tax / Value Added Tax shall be reimbursed only if the same is paid by the Seller / Contractor to the respective Govt. authorities meeting all statutory requirements and availing all exemptions/ concessions under the respective Central Sales Tax / Value Added Tax Acts. The offer should clearly indicate CST/ VAT percentage and the total amount along with concessional form(s), if any.

4.2.2 Purchaser is registered in NOIDA, U.P. vide following Registration Numbers:

Central Sales Tax Registration No. : ND – 5341151 w.e.f. 01-07-2006.

UP Trade Tax Registration No. : ND – 0345307 w.e.f. 01-07-2006.

UP TIN No. : 09765702874

4.2.3 Central Sales Tax/ Value Added Tax on direct sales by the Seller/ Contractor to the Purchaser shall be reimbursed, as per tariff applicable on the approved items, but restricted to the percentage and amount shown in the Order/ Contract. If it is shown as included in the quoted price/ not applicable, it will not be reimbursed by the Purchaser.

4.2.4 Purchaser proposes to make sale-in-transit under section 6 (2) (b) of Central Sales Tax Act where goods movement is inter-state. Form-C shall be issued and exchanged against Form-E1/E2 based on quarterly transactions. Seller/Contractor is required to submit his request in the format enclosed at Annexure-VI within 30 days from end of the Quarter, giving State-wise invoice details.

4.2.5 VAT invoices, in format prescribed by the respective State Sales Tax Act, have to be submitted in the name of Nodal Agency specified in Special Conditions of Contract.

4.2.6 No statutory variations shall be payable beyond contractual delivery/ completion period or any extension thereof.


4.3 SERVICE TAX

4.3.1 Service Tax paid by the Seller/ Contractor to the Government authorities directly shall only be reimbursed at actuals but restricted to the rate and amount mentioned in the Order/ Contract. The offer should clearly indicate the percentage and the total amount.

4.3.2 No statutory variations shall be payable beyond contractual delivery/ completion period or any extension thereof.

4.4 OTHER TAXES & LEVIES

All taxes and levies other than Excise Duty, Sales Tax/ VAT, Service Tax shall be deemed to be included in the Ex-Works prices unless specified otherwise by the bidder in the price bid. No variation in other taxes and duties shall be payable by Purchaser. However, statutory variation in Entry Tax/ Octroi will be payable extra.

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4.5 CUSTOMS DUTY

- 4.5.1 Customs Duty element for imported items as per Special Conditions of Contract shall be included in the Ex-Works prices. No variation in customs duty and exchange rate for imported items shall be payable by Purchaser.
- 4.5.2 Seller/ Contractor shall arrange for his own import license, if required, since Purchaser will not provide any import license. Therefore, Seller/ Contractor alone shall be responsible for any delay in getting import license or non-availability of the same or completion of other related formalities. Purchaser shall not be responsible for any financial liability, whatsoever, on this account.
- 4.5.3 Essentiality Certificate or Project Authority Certificate (PAC) as per Import Policy, if required to avail concessional customs duty, shall be clearly specified in the offer. Import content (CIF value in rupees) with list of items, quantity, foreign currency, country of origin etc., shall be submitted by the bidder as part of Price bid.


4.6 DIRECT TAX

- 4.6.1 Purchaser shall not be liable towards income tax of whatever nature including variations thereof, arising out of this Order/ Contract, as well as tax liability of the Seller/ Contractor and his personnel.
- 4.6.2 Deductions of Tax at source at the prevailing rates shall be effected by the Purchaser before release of payment, as a statutory obligation, if applicable. TDS certificate will be issued by the Purchaser as per provisions of the Govt. rules.

5.0 STATUTORY VARIATION

- 5.1 If the rates for taxes and duties in respect of the quoted materials and/ or services assumed by the Seller/ Contractor are less than the tariff prevailing at the time of tendering, Seller/ Contractor will be responsible for such under quotations. However, if the rates assumed are higher than the correct rates prevailing at the time of tendering, the difference will be to the credit of the Purchaser.
- 5.2 Statutory Variations in Excise Duty, Service Tax and Central Sales Tax/ Value Added Tax only on self manufactured items/ services rendered by vendor himself on the rates prevailing at the time of delivery/ completion in comparison to the date of offer, will be to the account of the Purchaser. No other variations such as on customs duty, exchange rate, minimum wages, prices of controlled commodities, any other input etc. shall be payable by the Purchaser.
- 5.3 Notwithstanding the above, where the actual completion of the supply occurs beyond the period stipulated in the Order/ Contract or any extension thereof, variations referred to above, will be limited to the rates prevailing on the dates of such agreed completion periods only. For variations after the agreed completion periods, the Seller/ Contractor alone shall bear the impact for the upward revisions



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and for downward revisions, purchaser shall be given the benefit of reduction in taxes/ duties. This will be without prejudice to the levy of penalty for delay in delivery/ completion schedule.

- 5.4 Any new tax structure (like Goods & Services Tax) as and when implemented by the Government shall become applicable in addition to or in lieu of existing tax structure.

6.0 VARIATION OF CONTRACT VALUE

Prices shall remain Firm (or with PVC as specified in NIT) for any increase or decrease in the Order/ Contract value upto plus or minus 30% unless specified otherwise in technical specification/ price format. The Purchaser shall have the right to increase or decrease quantities and scope upto the above extent of value and Seller/ Contractor shall be bound to accept the same at the contracted prices without any escalation.

7.0 ENGINEERING DOCUMENTS SUBMISSION

All engineering document submission by vendors after award of contract shall be online, using BHEL-PEM's Document Management System (DMS). Comments would also be conveyed to vendors through DMS. This would ensure enhanced engineering coordination and speedy approval of documents.

For facilitating submission of documents online, vendors shall submit details to concerned Project Manager in PG/ MM Dept. of BHEL-PEM for creation of login account in PEM's DMS.


Requirements to access BHEL-PEM's DMS are:

- Internet explorer version – minimum Internet Explorer 7
- Internet speed – 2 mbps
- Pop up from PEM's external DMS IP (110.234.221.12) should not be blocked.
- Vendor's internal proxy setting should not block DMS application's link <http://110.234.221.12/wrenchwebaccess/login.aspx>.

Procedure for uploading comments, viewing comments etc. is available at <http://bhelpem.com/DMSManuals/DMSManuals.html>.

8.0 TRANSPORTATION & FREIGHT CHARGES

- 8.1 All dispatches shall be through road carriers approved by Purchaser/ Bank on freight pre-paid basis.
- 8.2 Road permit/ entry permit, if required as per law of the State, shall be arranged by Purchaser.
- 8.3 Freight charges (including Service Tax) shall be payable after delivery of the goods at the project site, on receipt of MRC or receipted LR on pro-rata basis.

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9.0 TERMS OF PAYMENT

9.1 SUPPLY PACKAGES

9.1.1 Ninety percent (90%) of basic price of materials supplied, as per approved billing schedule, along with applicable 100% taxes and duties, shall be paid against dispatch documents on pro-rata basis.

9.1.2 Ten percent (10%) of basic price of materials supplied will be released on pro-rata basis after receipt of Material Receipt Certificate (MRC) from project site engineer of Owner/ Purchaser, submission of all final documents for the packages as detailed below, duly certified by Engg. Dept. of Purchaser, and submission of Form E1/ E2 against Form-C.

Negative PVC impact, where applicable, will be checked at the time of this payment.


In extreme case of vendors not agreeing to submission of Form E1/ E2 against Form-C as above, their prices will be loaded as per Annexure-VIII.

Table for packages requiring final documents:

Sl. No.	List of Packages	As-Built Drgs.	O&M Manual	PG Test
1	Low Voltage Switchgear & NGR	No	Yes	No
2	Generator Circuit Breaker	No	Yes	No
3	Battery Charger	No	Yes	No
4	Battery	No	Yes	No
5	LT Service Transformers (Oil – filled)	No	Yes	No
6	Lighting System	Yes	Yes	No
7	PA System	No	Yes	No
8	Cathodic Protection	Yes	Yes	Yes
9	Chemical Dosing & OT	No	Yes	No
10	Chemical Lab. Eqpt	No	Yes	No
11	Single Girder Cranes	No	Yes	No
12	Electric Hoists	No	Yes	No
13	Chain Pulley Block	No	Yes	No
14	Mobile Equipment	No	Yes	No
15	Workshop Equipments	No	Yes	No
16	Lube-oil Pumps	No	Yes	No
17	Fire tender	No	Yes	No
18	Portable Fire Extinguishers	No	Yes	No
19	Miscellaneous Pumps - Vertical	No	Yes	No
20	Miscellaneous Pumps - Horizontal	No	Yes	No
21	APRDS	No	Yes	No
22	Submersible Pumps	No	Yes	No
23	Control Valves	No	Yes	No
24	PLCs for MAX Packages (wherever applicable)	Configuration Drawing, Internal/ External GA drawing, Serial Link Data and O&M manuals		

OR

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- 9.1.3 **For Order/ Contract value upto Rs. 25 Lacs** (excluding Taxes, Duties & Freight), Vendors may opt for Hundred percent (**100%**) payment along with freight charges against clean receipted LR in original (as proof of delivery of material at site)/ confirmation from BHEL Site regarding receipt of material, and submission of all final documents [as above].

Note: In case Form E1/ E2 is not submitted within 30 days of receipt of photocopy of Form-C, BHEL reserves the right to withhold the payment due to the vendor equivalent to liability on BHEL.

9.2 **SUPPLY PACKAGES WITH PERFORMANCE GUARANTEE / DEMONSTRATION TEST AT SITE IN VENDOR'S SCOPE**

- 9.2.1 Eighty Five percent (**85%**) of basic price of materials supplied, as per approved billing schedule, along with applicable 100% taxes and duties, shall be paid against dispatch documents on pro-rata basis.
- 9.2.2 Ten percent (**10%**) of basic price of materials supplied will be released on pro-rata basis after receipt of Material Receipt Certificate (MRC) from project site engineer of Owner/ Purchaser and submission of Form E1/ E2 against Form-C.
- 9.2.3 Five percent (**5%**) of the total basic price of materials and PG/ Demonstration test charges shall be released after submission of all final documents as per Technical Specifications and successful completion of the Performance Guarantee (PG)/ Demonstration Test at site.


Note: If the Performance Guarantee/ Demonstration Test is not conducted up to 24 months from supply completion for reasons not attributable to the vendor, then last 5% payment will be released against Bank Guarantee of an equivalent amount, valid for 12 months. This bank guarantee will be in addition to Contract Performance Bank Guarantee for 10% of the contract value (excluding taxes, duties and freight).

9.3 **SUPPLY PAYMENT FOR TURNKEY PACKAGES (E&C IN VENDOR'S SCOPE)**

- 9.3.1 Eighty Five percent (**85%**) of basic price of materials supplied, as per approved billing schedule, along with applicable 100% taxes and duties, shall be paid against dispatch documents on pro-rata basis.

OR

- i) Five percent (**5%**) lump sum payment of total basic price (excluding taxes, duties & freight) against approval of design documents and quality plan as certified by Engineering. Design documents and quality plan shall be as defined in the Technical Specifications.
- ii) Eighty percent (**80%**) of basic price of materials supplied, as per approved billing schedule, along with applicable 100% taxes and duties, shall be paid against dispatch documents on pro-rata basis.

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- 9.3.2 Five percent (5%) of basic price of materials supplied along with freight will be released on pro-rata basis after submission of Material Receipt Certificate (MRC) from project site engineer of Owner/ Purchaser and submission of Form E1/ E2 against Form-C.

Collection of Material Receipt Certificate from Site/ Owner and its submission for claiming the payment shall be the responsibility of the Seller/ Contractor.

- 9.3.3 Ten percent (10%) of the total basic price shall be released after i) submission of all final documents as per Technical Specifications and ii) successful completion of Performance Guarantee (PG)/ Demonstration Test and handing over of the system/ package, if applicable, as per Order/ Contract.

9.4 **ERECTION & COMMISSIONING PAYMENT FOR TURNKEY PACKAGES**

- 9.4.1 Eighty percent (80%) payment on pro-rata basis for the work completed, as per approved billing schedule, shall be released by Site authorities/ Region on submission of protocols, duly signed by BHEL Site/ Owner.
- 9.4.2 Ten percent (10%) of the total value shall be released by Site authorities/ Region on successful commissioning of the complete system/ package.
- 9.4.3 Ten percent (10%) of the total value shall be released by Site authorities/ Region on successful completion of PG/ Demonstration test(s) and handing over system/ package to the Owner, as applicable.

9.5 **SUPERVISION OF ERECTION / COMMISSIONING**

100% payment shall be released after successful completion of the activity, on Site certification.


- 9.6 **Vendors shall submit documents for payment directly to BHEL. Payment will be released within 90 days after receipt of complete documents as per order/ contract (45 days for vendors qualified and registered as Micro or Small as per MSMED Act).**

To be eligible for payment as Micro and Small category, vendors shall submit annual certification for validation from designated authority under MSMED Act or Chartered Accountant within first quarter of every financial year.

For indigenous suppliers, if the documents are routed through Bank, then all bank charges will be to vendor's account.

9.7 **PAYMENT TO FOREIGN VENDORS**

100% payment on dispatch (less Agency commission, if applicable) through irrevocable Letter of Credit/ sight draft or documents submitted directly to BHEL/ PEM for supply portion. For E&C portion, payment shall be as per clause no. 9.4 and 9.5 above.

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LC opening/ negotiation charges will be to respective accounts. LC confirmation charges will be to vendor's account.

For evaluation purpose, prices of foreign bidders will be loaded on account of payment through LC, equal to loading specified against 'Payment through Bank' in Annexure-VIII. No loading will be done if foreign vendors agree for 90 days usance LC or submit the documents on collection basis for payment within 90 days of submission of complete documents.

9.8 **DOCUMENTS TO BE SUBMITTED BY VENDOR**

9.8.1 **For Recognition of Dispatch**

Copy of the following documents by e-mail/ fax immediately on despatch:

- Invoice
- LR along with Delivery Order
- Packing List
- Insurance Intimation
- Dispatch Clearance

9.8.2 **For Claiming Dispatch Payment**

3 sets consisting of the following documents:-

- Invoice – Original + 2 copies
- LR / receipted LR (signed & stamped) along with copy of Delivery Order.
- Packing List - clearly showing number of packages, gross weight and net weight.
- MDCC from BHEL/ Customer – as per SCC
- Guarantee Certificate – Original + 2 copies
- Insurance Intimation copy
- CQIR / Inspection Reports
- PVC Calculation and copy of all applicable indices, if PVC applicable.
- Duty drawback documents (original excise invoice, original disclaimer certificate, original certificate from excise authority for payment of excise duty), if applicable.


9.8.3 **For Claiming Freight Payment**

- Invoice – Original + 2 copies
- Proof of delivery of goods at the project site.
- Transporter's document indicating the freight amount. Original money receipt to be submitted if required as per SCC.

9.8.4 **For Claiming MRC Payment**

- Invoice – Original + 2 copies
- Copy of MRC



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9.9 **LOADING DETAILS IN CASE OF DEVIATIONS:-**

Loading details in respect to deviations in Payment Terms, LD, PVC and Form-E1/E2 indicated in Annexure – VIII.

9.10 **BHEL'S BANKERS**

Please refer PEM website www.bhelpem.com for details.

9.11 **MODE OF PAYMENT**

Payments shall be made directly to the Seller/ Contractor by E-transfer. Seller/ Contractor to provide necessary information for the same as per Annexure – VII.

- 9.12 No interest shall be payable by the Purchaser on the security amount, bank guarantee amount or balance payment or any money which may become due owing to difference or misunderstanding or any dispute between the Purchaser and the Contractor, or any delay on the part of Purchaser in making periodical or final payment or any other aspects incidental thereto.

10.0 **RECOVERY OF OUTSTANDING AMOUNT**


In event of any amount of money being outstanding at any point of time against the Seller/ Contractor due to excess payment or any other reason whatsoever, in the present order/ contract or any other order/ contract from any BHEL Unit, the outstanding amount shall be recovered from the payments due to the Seller/ Contractor or at any other appropriate time and manner/ mode as deemed fit by the Purchaser at its sole discretion.


11.0 **CONTRACT PERFORMANCE BANK GUARANTEE**

- 11.1 No Bank Guarantee is required where original Order/ Contract value is up to Rs. 25 Lakhs (excluding taxes, duties and freight).
- 11.2 For contract values above Rs. 25 Lakhs (excluding taxes, duties and freight), the vendor shall submit Contract Performance Bank Guarantee (as per Annexure-IV) for 10% of Order/ Contract value (excluding taxes, duties & freight) before first submission of documents for payment to cover the due performance of Order/ Contract and to fulfill the guarantee conditions stipulated in the Order/ Contract.

Foreign vendors seeking payment through Letter of Credit (LC) should submit the Bank Guarantee before LC opening.

- 11.3 Value of the Bank Guarantee (at the time of submission) shall remain unchanged for any subsequent variations in order/ contract value up to 20%. Beyond this, the Seller/ Contractor shall arrange to enhance or reduce the value of the Bank Guarantee accordingly.




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- 11.4 Validity of the Bank Guarantee shall be for the entire Guarantee period. Initially, it should be at least 18 months, later extended to cover the entire guarantee period, two months before its expiry.
- 11.5 Purchaser reserves the right to encash the bank guarantee and forfeit the amount in the event of any default, failure or neglect on part of the Seller/ Contractor in fulfillment of performance of the Order/ Contract.
- 11.6 Equivalent amount shall be recovered from payment due to the Seller/ Contractor, before releasing any payment, in absence of a valid bank guarantee.
- 11.7 Bank Guarantees shall be from Consortium Bank as per list and directives on www.bhelpem.com. In case of bank guarantee from any other bank, BHEL shall get confirmation from the consortium bank, for which the confirmation charges will be borne by the vendor. Bank guarantees from cooperative banks/ non-scheduled banks are not acceptable.
- 11.8 In case of private sector banks, a clause to be incorporated in the text of bank guarantee that it can be enforced by being presented at any branch of the bank.

12.0 GUARANTEE FOR PLANT/ EQUIPMENT/ STORES

- 12.1 Seller/ Contractor shall warrant that the stores supplied shall be free from all defects and faults in design & engineering, material, workmanship & manufacture and shall be of the highest grade and consistent with the established and generally accepted standards and in full conformity with the Order/ Contract specifications, drawing or samples, if any.
- 12.2 a) Guarantee period for **Supply** packages shall be eighteen (18) months from the date of last dispatch or as per SCC, whichever is later.
- b) Guarantee period for **Turnkey** packages shall be as stipulated in Special Conditions of Contract; otherwise, 18 calendar months from the date of completion of supplies or 12 calendar months from the date of satisfactory commissioning of the package, whichever is later. Seller/ Contractor's liability in respect of any complaints, defects and claims shall not be limited to supply and installation of replaced parts free of charge, or repair of defective parts to the extent that such replacements are attributable to or arise from faulty workmanship, material or design, in the manufacture, of the stores but at the option of the Purchaser, to the payment of the value, expenditure and damages as mentioned hereafter, provided defects on being discovered are brought to the notice of the Seller/ Contractor within a period of three (3) months from the date of expiry of the guarantee period.
- 12.3 All replacements and repairs during the guarantee period shall be delivered and completed promptly and satisfactorily within a period of three months from the time of reporting the defect/ loss/ rejection etc. If the Seller/ Contractor so desires and the Purchaser agrees, subject to import control regulations, the replaced parts can be

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taken over by Seller/ Contractor or his representative or can be dispatched at Seller/ Contractor's cost. No claim, whatsoever shall be entertained by Purchaser on account of such replaced parts.

- 12.4 All the replaced and replenished stores shall also be guaranteed as per above clauses.
- 12.5 Decision of Purchaser with regard to Seller/ Contractor's liability and the amount involved, if any, payable by Seller/ Contractor under the guarantee shall be final, conclusive and binding. However, vendor's maximum liability will be limited to the total contract value including taxes, duties and freight.

13.0 DELIVERY / COMPLETION SCHEDULE

- 13.1 Seller/ Contractor shall perform the order/ contract so as to complete it as per stipulated delivery/ completion schedule.
- 13.2 Supply of plant/ equipment/ stores shall not be considered complete until they have been inspected and accepted at the place and destination specified for delivery by the time stipulated under the terms & conditions of the Order/ Contract. Mere payment by itself shall not constitute acceptance of the goods or materials in any manner, whatsoever.
- 13.3 LR/ GR/ RR date for indigenous supplies and AWB/ BL date for FOB contracts shall be treated as the date of dispatch for levying LD as per Clause 16.
- 13.4 Terms of delivery shall be FOR despatch station for indigenous supplies.

14.0 INSPECTION AND TESTING AT CONTRACTOR'S PREMISES


- 14.1 Purchaser's nominated Inspection Agency shall have at all reasonable times access to Seller/ Contractor's premises or works and shall have the power at all reasonable times to inspect drawings of any portion of the work or examine the materials and workmanship of the stores during their manufacture, and if part of the stores is manufactured at other premises, the Seller/ Contractor shall arrange for inspection, examination and testing by the Inspection Agency as if the store is manufactured on the Seller/ Contractor's premises.

Inspection calls should be raised by the Seller/ Contractor on BHEL CQS Website.

Such inspection, examination and testing by itself shall not relieve the Seller/ Contractor from any obligation under the Order/ Contract.

Non-conformance from the contract specifications shall be reported by the Seller/ Contractor as per Part – I of Annexure – V.

- 14.2 Seller/ Contractor shall give Inspection Agency reasonable notice of any material being ready for testing and the Inspection Agency shall (unless the inspection of tests is voluntarily waived) attend at the Seller/ Contractor's premises within fifteen

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(15) days of the date on which the material is notified as being ready. All standard shop tests, physical and chemical tests required by the standards or as may be prescribed or approved as per Order/ Contract shall be conducted by the Seller/ Contractor. Purchaser/ Inspection Agency reserves the right to waive any of the above tests requirements and to prescribe new tests, if found necessary, to complete the work so as to conform to the best practices. Seller/ Contractor shall forthwith forward to the Inspection Agency, duly certified copies of the test certificates in quadruplicate, for approval. Further copies of the shop test certificates shall be bound with the instruction manuals referred to in "Seller/ Contractor's documents, drawings and instruction manuals".

14.3 Where the Order/ Contract provides for tests/ inspections at the premises or works of the Seller/ Contractor or any sub-contractor, the Seller/ Contractor, except specified otherwise, shall provide free of charge such assistance, labour, materials, electricity, fuel, water, stores, apparatus, measuring instruments and test equipment including any other facilities as may be reasonably required to carry out such tests efficiently.

14.4 INSPECTION MEASURING AND TEST EQUIPMENTS


14.4.1 Inspection Measuring and Test Equipments (IMTE) whether used by the Seller/ Contractor or sub-contractor shall be calibrated, maintained and controlled. Calibration shall be valid and IMTE maintained in sound condition during usage.

14.4.2 In addition to above, Seller/ Contractor shall ensure the following :

- Measurement uncertainty is known and consistent with required measurement capability of the IMTE.
- Selection of IMTEs is compatible with the necessary accuracy and precision of required measurement.
- IMTEs are calibrated at the required intervals against certified equipments having known valid relationship to nationally recognised standards, at recognised calibration labs.
- Calibration records are available and traceable to the particular IMTE.
- In case, during recalibration, the IMTE is found out of calibration, report on action taken to validate the previous results along with both calibration records of the IMTE to be furnished to Inspection Agency.
- IMTEs are stored, handled and preserved such that accuracy and fitness are maintained and safeguarded from adjustments.

NOTE: Purchaser's decision on acceptability of the product in such cases shall be binding.

14.4.3 Responsibility of usage of valid and calibrated IMTEs by his sub-contractor(s) shall be of the Seller/ Contractor.

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14.4.4 In case, calibration records are required by purchaser, copies of the same shall be furnished.

14.5 Seller/ Contractor shall be fully responsible for the Quality of products supplied by sub-contractors.

15.0 MATERIAL DESPATCH CLEARANCE CERTIFICATE (MDCC)

15.1 When the tests have been satisfactorily completed at Seller/ Contractor's works, the Inspection Agency shall issue a certificate to that effect within fifteen (15) days after completion of the tests, but if the tests were not witnessed by the Inspection Agency or his representative, the certificate would be issued within fifteen (15) days after receipt of the test certificates by the Purchaser.

15.2 Purchaser/ Owner will issue MDCC to the Seller/ Contractor based on inspection report/ test certificates.

15.3 **Seller/ Contractor shall not dispatch any material before issue of MDCC by Purchaser/ Owner.**

15.4 Satisfactory completion of tests or issue of MDCC shall not bind the Purchaser/ Owner to accept the supply/ equipment should it, on further tests after erection, be found not to comply with the contract provisions.


16.0 DELIVERY FAILURE AND TERMINATION / LIQUIDATED DAMAGES

16.1 Timely dispatch/ delivery and completion of other schedules as stipulated in Order/ Contract shall be the essence of Order/ Contract. If the Seller/ Contractor fails to complete the dispatch/ delivery and other schedules within the time period stipulated in Order/ Contract, or within any extension of time granted by Purchaser, it shall be lawful for Purchaser to recover damages for breach of Order/ Contract without prejudice to any other rights and/ or remedies provided for, in the Order/ Contract and hereunder. For any delay not attributable to the Seller/ Contractor, the Seller/ Contractor must report the same to Purchaser immediately.

16.2 DELAYED DELIVERY

16.2.1 Purchaser reserves the right to recover from the Seller/ Contractor, as agreed liquidated damages and not by way of penalty, a sum equivalent to half ($\frac{1}{2}$) percent of the total contract price per week or part thereof, subject to a maximum of ten (10) percent of the total contract price excluding elements of taxes, duties and freight, if the Seller/ Contractor fails to deliver any part of the ordered stores within the period stipulated in the Order/ Contract.

NOTE: For Supply packages, if Order/ Contract involves supply for two or more Units/ Sets/ Lots, then Liquidated Damages shall be for order/ contract value of the delayed Unit/ Set/ Lot, provided delivery stipulated in the Order/ Contract is Unit/ Set/ Lot wise.

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For Turnkey packages (Supply and E&C in vendor's scope), Liquidated Damages shall be levied on the total contract value of both Supply and E&C orders (excluding taxes, duties and freight) if E&C completion of the package is delayed beyond the contractual completion date or extension thereof. Liquidated Damages will not be withheld from supply payment.

16.2.2 Purchaser reserves the right to purchase from elsewhere on account of and at the risk and cost of Seller/ Contractor, with notice to Seller/ Contractor, the stores due for delivery but not so delivered, or their equivalent without cancelling the Order/ Contract in respect of stores not yet due for delivery. The manner and method of such purchase shall be at the discretion of the Purchaser.

16.2.3 Purchaser reserves the right to cancel the Order/ Contract or a portion thereof for the stores not so delivered at the risk and cost of the Seller/ Contractor and the Seller/ Contractor shall be liable to the Purchaser for any excess cost thereof.

16.2.4 Seller/ Contractor shall continue performance of the Order/ Contract, under all circumstances, to the extent not cancelled.

17.0 INSURANCE

17.1 Insurance shall be arranged by BHEL.

17.2 Vendors shall inform the Underwriters, appointed/ nominated by BHEL/ Purchaser, the details of despatches under intimation to BHEL such as LR No. and date, Truck No., P.O. No., project and value.

17.3 Insurance as applicable for field work such as third party liability, workmen compensation, Seller/ Contractor's own Tools & Plants and automobile shall be arranged by the Seller/ Contractor.


18.0 INTER-CHANGEABILITY AND CHANGES

18.1 All similar components or parts of similar equipment supplied by Seller/ Contractor shall be interchangeable with one another.

18.2 Even though all the work and materials necessary for satisfactory completion of the works may not be detailed in the specifications and schedules, the cost will be considered to be within the contract price and no extra charges shall be payable. However, if there are substantial changes in the specifications of the stores/ plant, consequential changes in prices shall be mutually agreed between Purchaser and Seller/ Contractor.

19.0 PACKING

19.1 Packing shall be in conformity with specifications and shall be such as to ensure prevention of damages, corrosion, deterioration, shortages, pilferage and loss in transit or storage.

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19.2 In case of shipment by sea, the packing shall be sea-worthy and of international standards.

19.3 Packing List shall be submitted as per standard format along with advance set of documents for claiming payment which shall also indicate:-

- a) Packing size.
- b) Gross weight and net weight of each package.
- c) Contents of the package with quantity of each item separately.

19.4 **PACKING FOR SPARES**

Different types of spares i.e. start-up/ commissioning spares and initial spares (Mandatory spares and recommended O&M spares) are to be packed separately. Mandatory and Recommended Spares shall not be packed with main equipment but shall be packed separately.

Packing of Mandatory Spares should have a Red colour band all around the box/ package and words "MANDATORY SPARES" written in red colour. Project, Package description, BHEL's PO No. and date should also be clearly mentioned on the box.

19.5 **COLOUR CODING OF TAGS/ MARKING/ STICKERS**

19.5.1 Aluminium stickers are required to be attached to large components but plastic sheet tags should be tied with small components, giving details like purchase order, description of the component, quantity etc.

19.5.2 Tags should be of the colour as mentioned below:

- Main equipment : Yellow or White tag
- Mandatory spares : Pink or Red tag
- Start-up/ Commissioning spares : Blue tag
- O&M spares : Green tag

19.5.3 Similar colour scheme to be followed wherever stickers are pasted on components.


20.0 **STORAGE INSTRUCTIONS**

Successful tenderer shall be required to submit detailed instructions for storage of supplies within three months of date of issue of LOA/ Order/ Contract.

21.0 **MATERIAL RECEIPT CERTIFICATE**

Seller/ Contractor shall arrange Material Receipt Certificate from the project site, duly signed by Purchaser/ Owner Site Engineer after receipt & physical verification of the material at site, wherever E&C is in the scope of Seller/ Contractor.

For Supply packages, Material Receipt Certificate shall be arranged by BHEL. Vendor to provide copy of receipted LRs to enable BHEL to obtain MRC from site.

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22.0 CONSIGNEE'S RIGHT OF REJECTION

- 22.1 Notwithstanding any approval of Purchaser or Engineer in respect of stores or materials or other particulars or work or workmanship involved in performance of order/ contract (with or without any test carried out by Seller/ Contractor or Inspection Agency or under direction of Contract Engineer), and notwithstanding delivery of the stores where so provided to the consignee, it shall be lawful for the consignee, on behalf of the Purchaser, to reject the stores or any part/ portion of consignment thereof, within 30 days after actual delivery at the stipulated place or destination, if such stores or part/ portion of consignment thereof is not in conformity with terms and conditions of order/ contract whether on account of any loss, storage, deterioration or damage before despatch or otherwise, whatsoever.
- 22.2 Rejected goods or materials shall be removed by Seller/ Contractor within a period of 15 days from the date of receipt of notice of such rejection. The expenses to be incurred in respect thereof shall be borne entirely by the Seller/ Contractor.

23.0 RISK IN STORES (FOR E&C CONTRACTS)

Seller/ Contractor shall perform the order/ contract in all respects in accordance with terms and conditions thereof. Stores and every constituent part thereof, whether in possession or control of the Seller/ Contractor, his agents or servants, or a carrier, or in joint possession of Seller/ Contractor, his agent or servants and Purchaser, his agents or servants, shall remain in every respect at the risk of Seller/ Contractor until their actual delivery to consignee at the stipulated place or destination or where so provided in acceptance of offer, until their delivery to a person specified by Purchaser as interim consignee for the purpose of despatch to the consignee. Seller/ Contractor shall be solely responsible for all losses, destructions, damages or deterioration to the stores from any cause whatsoever, while the stores await dispatch after approval by the Inspection Agency.


24.0 SHORTAGES / DAMAGES

24.1 FOR SUPPLY PACKAGES

- Shortages in sound cases shall be replenished free of cost by the vendor, as early as possible.
- For shortages/ damages during transit/ handling at site, vendor shall supply replacements, as early as possible, at the old contractual rates upon intimation to vendor within 3 months of receipted LR.

24.2 FOR E&C PACKAGES

Any shortages or damages during unloading and handling at site, including at the time of erection and commissioning, shall be made good by the Seller/ Contractor at his risk and cost, to meet the project schedule. In case of faults/ discrepancies in any material, component, sub-assembly, assembly, etc., the same shall be supplied/ replenished free of cost to enable the equipment to be put to service.

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25.0 CONFIDENTIALITY


Seller/ Contractor shall, at all times, undertake to maintain complete confidentiality of all data, information, software, drawings & documents, etc. belonging to the Purchaser and also of systems, procedures, reports, input documents, manuals, results and any other company documents discussed and/ or finalised during the course of execution of order/ contract.

26.0 DEFAULT/ BREACH OF CONTRACT, INSOLVENCY AND RISK PURCHASE

26.1 If Seller/ Contractor fails to deliver goods or materials or any instalment thereof within the period(s) fixed for such delivery or delivers goods or materials not of the contracted quality and failing to adhere to the contract specifications or at any time repudiates or otherwise abandons the contract before expiry of such period or refuses or is unable to supply goods or materials covered by the Order/ Contract either in whole or in part or otherwise fails to perform the Order/Contract or commits any breach of Order/ Contract not herein specifically provided for or in the event of the death or insanity or if the Seller/ Contractor being an individual or if a firm on a partnership thereof, shall at any time, be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any assignment of the Order/ Contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm is dissolved under the Partnership Act or if the Seller/ Contractor being a company is wound up voluntarily or by order of a Court or a Receiver, Liquidator or Manager on behalf of the debenture holders and creditors is appointed or circumstances shall have arisen which entitles the Court of debenture holder and creditors to appoint a receiver, liquidator or manager, the purchaser without prejudice to his right to recover any expenses, losses or damages to which the Purchaser may be put to incur or sustain by reason of Seller/ Contractor's default or breach of Order/ Contract, Purchaser shall be entitled to cancel the Order/ Contract either in whole or portion thereof without compensation to Seller/ Contractor and if the Purchaser so desires, may procure upon such terms and in such manner as deemed appropriate, stores not so delivered or others of similar description where stores exactly complying with particulars are not, in the opinion of the Purchaser, which shall be final, readily procurable, at the risk and cost of the Seller/ Contractor and the Seller/ Contractor shall be liable to the Purchaser for any excess costs provided that the Seller/ Contractor shall continue the performance of the Order/ Contract to the extent not cancelled under the provisions of this clause. The Seller/ Contractor shall on no account be entitled to any gain on such repurchases.

Except for Clause 26.2, vendor's maximum liability will be limited to the total contract value including taxes, duties and freight.

26.2 Cost of the purchases made by Purchaser at the risk and cost of Seller/ Contractor shall be worked out as follows:

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“Excess cost (difference in total values of new PO and old PO) plus 30% overheads as Departmental charges on the ex-works value of new PO”.

27.0 TERMINATION OF CONTRACT

- 27.1 Purchaser shall have the right to cancel Order/ Contract, wholly or in part, in case they are obliged to do so on account of any decline, diminution, curtailment or stoppage of their business and in that event, the Seller/ Contractor compensation claim shall be settled mutually.
- 27.2 Purchaser shall have the right to cancel order/ contract at the risk and cost of Seller/ Contractor in case either the Seller/ Contractor himself or any of his representative or agent is found to have been a previous employee of the Purchaser immediately before retirement and has within a period of two years of such retirement accepted the employment of the Seller/ Contractor either as a Seller/ Contractor or as an employee without having obtained prior permission of Purchaser.
- 27.3 In case of cancellation of main supply order/ contract, all other associated orders/ contracts like mandatory spares/ recommended spares/ E&C/ supervision of E&C would also get cancelled.

28.0 TRANSFER, SUB-LETTING/ ASSIGNMENT/ SUB-CONTRACTING

- 28.1 Seller/ Contractor shall not sublet, transfer or assign order/ contract or any part thereof or interest therein or benefit or advantage thereof save with the prior consent in writing of Purchaser. In the event of Seller/ Contractor sub-letting, transferring or assigning order/ contract or any part thereof or interest therein or benefit or advantage thereof without such permission, the Purchaser shall be entitled to cancel the Order/ Contract and to purchase the stores from elsewhere at risk and costs of Seller/ Contractor and the Seller/ Contractor shall be liable for any loss or damage which Purchaser may sustain in consequence of or arising out of such risk purchase.
- 28.2 If Seller/ Contractor is an individual or proprietary concern and the individual or the proprietor dies or the partnership is dissolved or substantially affected, then unless the Purchaser is satisfied that legal representative of individual seller/ contractor or proprietor of proprietary concern and surviving partners of partnership firm are capable of carrying out and completing the order/ contract, the Purchaser shall be entitled to cancel the order/ contract as to its incomplete portion and without being in any way liable to payment of any compensation to estate of seller/ contractor and/ or to surviving partners of seller's/ contractor's firm on account of cancellation of the order/ contract.
- 28.3 Decision of Purchaser that legal representatives of deceased seller/ contractor or surviving partners of the seller's/ contractor's firm can not carry out and complete the order/ contract shall be final and binding on the parties hereto.
- 28.4 Terms and Conditions shall not get affected in case of merger/ amalgamation/ takeover/ re-arrangement etc.

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29.0 FORCE MAJEURE

- 29.1 Notwithstanding anything contained in Clause 13.0, if at any time during the continuance of the Order/ Contract, the performance in whole or in part by either party of any obligations under the Order/ Contract shall be prevented or delayed by reason of any war hostilities, acts of the public enemy, restrictions by Govt. of India, civil commotion, sabotage, fires, floods, explosion, epidemics, quarantine restrictions, strike, lock-outs, or acts of God (hereinafter referred to as 'event'), then, provided notice of the happening of such event is given by either party to the other within fifteen (15) days from the date of occurrence thereof, neither party shall by reason of such event be entitled to terminate the Order/ Contract nor shall have any claim for damages against each other in respect of such non-performance and delay in performance. Performance under the Order/ Contract shall be resumed immediately after such event has come to an end or ceased to exist and decision of Purchaser as to whether the deliveries have to be resumed or not shall be final, conclusive and binding on the parties hereto.
- 29.2 In the event of the parties hereto not able to agree that a force majeure event has occurred, the parties shall submit the disputes for resolution pursuant to the provisions hereunder, provided that the burden of proof as to whether a force majeure event has occurred shall be upon the party claiming such an event.
- 29.3 Notwithstanding the above provisions, Purchaser shall reserve the right to cancel the Order/ Contract, wholly or partly, in order to meet the overall project schedule and make alternative arrangements for completion of delivery and other schedules.


30.0 INDEMNIFICATION

Seller/ Contractor shall fully indemnify and keep indemnified the Purchaser against all claims of whatsoever nature arising during the course and out of the execution of this Order/ Contract.

31.0 SETTLEMENT OF DISPUTES

- 31.1 Except as otherwise specifically provided in the Order/ Contract, all disputes concerning questions of the facts arising under the Order/ Contract, shall be decided by Purchaser, subject to written appeal by the Seller/ Contractor to the Purchaser, whose decision shall be final.
- 31.2 Any dispute or difference shall be, to the extent possible, settled amicably between the parties hereto, failing which the disputed issues shall be settled through arbitration.
- 31.3 Seller/ Contractor shall continue to perform the order/ contract, pending settlement of dispute(s).



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32.0 ARBITRATION

- 32.1 In the event of any dispute or difference arising out of execution of order/ contract or the respective rights and liabilities of the parties or in relation to interpretation of any provision by Seller/ Contractor in any manner touching upon order/ contract, such dispute or difference shall (except as to any matters, the decision of which is specifically provided for therein) be referred to the arbitration of the person appointed by the competent authority of Purchaser.

Subject as aforesaid, the provisions of Arbitration and Conciliation Act, 1996 (India) or statutory modifications or reenactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The venue of arbitration shall be at New Delhi.

- 32.2 In case of Order/ Contract on Public Sector Enterprises (PSE) or a Govt. Deptt., the extant guidelines of Govt. of India shall be followed.
- 32.3 The cost of arbitration shall be borne equally by the parties.

33.0 LAWS GOVERNING THE CONTRACT

Contract, including all matters connected with contract, shall be governed by the Indian Law, both substantive and procedural, for the time being in force including modification thereto, and shall be subject to the exclusive jurisdiction of the Indian courts at Delhi/ New Delhi.

34.0 JURISDICTION OF COURT

Courts at Delhi/ New Delhi shall have exclusive jurisdiction to decide the dispute, if any, arising out of or in respect of the contract(s) to which these conditions are applicable.

35.0 ORDER OF PRECEDENCE


The order of precedence shall be NIT/ RFQ, Special Conditions of Contract (SCC), General Conditions of Contract (GCC)/ Region's GCC (if applicable).


36.0 SUPPLIER PERFORMANCE MONITORING AND RATING SYSTEM

Seller/ Contractor's performance will be evaluated as per Supplier Performance Monitoring and Rating System of BHEL. Please refer BHEL website www.bhel.com for details.

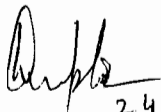
37.0 DEALING WITH BANNED SUPPLIERS/ CONTRACTORS IN BHEL


Offers of the bidders who are on the banned list, as also the offers of the bidders who engage the services of the banned firms, shall be rejected. The list of banned firms is available on BHEL website www.bhel.com.



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ANNEXURE No.	DESCRIPTION
I	OFFER SUBMISSION AS PER NIT
II	AGREED TERMS & CONDITIONS
III	DECLARATION
IV	CONTRACT PERFORMANCE BANK GUARANTEE
V	NON-CONFORMANCE REQUEST (NCR)
VI	REQUEST FOR ISSUE OF FORM-C
VII	NEFT DETAILS
VIII	LOADING CRITERIA
IX	INTEGRITY PACT


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ANNEXURE – I

(To be filled up by the Bidder)

Ref. No. :

Date :

M/s Bharat Heavy Electricals Ltd.,
 Project Engineering Management,
 PPEI Building, HRD & ESI Complex,
 Plot No. 25, Sector – 16A,
 NOIDA – 201 301 (U.P.)

Attention : Shri

Dear Sir,

- 1 Having examined the tender documents against your tender Enquiry No. _____ dated _____ and having understood the provisions of the said tender documents and having thoroughly studied the requirements of BHEL related to the work tendered for, in connection with _____
 (name of work & project site), we hereby submit our offer for the proposed work in accordance with terms and conditions mentioned in the tender documents, at the prices quoted by us in your price schedule format and as per the indicated delivery schedule.
2. If the work or any part thereof is awarded to us, we undertake to submit security-cum-contract performance bank guarantee as per your requirement.
3. We have annexed to this tender the following documents:-

Part-I (Techno Commercial Bid) - in a properly sealed cover.

- i) Complete Techno-Commercial Offer (in five sets).
- ii) Agreed Terms and Conditions (Annexure-II).
- iii) Schedule of Commercial Deviations giving clause references.
- iv) Schedule of Technical Deviations giving clause references.
- v) Unpriced copy of Price Schedule using format given by BHEL.
- vi) Any other documents (please specify).


Part-II (Price Bid) - in a separate, properly sealed cover, in duplicate in the format given by BHEL.

Thanking you,

Yours faithfully,

(Signature of the bidder with Name, Designation and Company's Seal)


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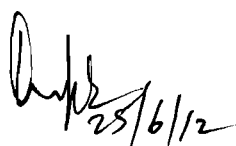
ANNEXURE – II


AGREED TERMS AND CONDITIONS

(This format duly filled in, signed and stamped must form part of the techno-commercial (Part-I) bid. Clauses confirmed hereunder need not be repeated in the bid.)

Sl. No.	Description	Bidder's confirmation (Yes/ No/ NA)
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- 1(a) Acceptance of Technical Specifications (Vol. IIB), Schedules and Data Sheets (Vol. III) and scope of supply as per Tender Enquiry.
- 1(b) In case of deviations, the same have been highlighted separately giving clause references under the heading "TECHNICAL DEVIATIONS".
- 2 (a) Acceptance of Terms and Conditions included in the Enquiry letter and Vol. I General Conditions of Contract (Part-A: Instructions to Bidders, Part-B: General Commercial Terms & Conditions) and Special Conditions of Contract, if applicable.
- 2 (b) In case of deviations, the same have been highlighted separately giving clause references under the heading "COMMERCIAL DEVIATIONS".
- 3 (a) **PRICES:** Quoted prices shall remain FIRM / with PVC (if indicated in NIT) till complete execution of the Order/ Contract.
- 3 (b) Prices have been filled up in the Price Schedule format attached with the tender documents.
- 3 (c) Rates of excise duty, central sales tax / VAT & service tax and requirement of concessional forms, have been indicated in the unpriced copy of price bid, enclosed.
- 4 **Payment Terms:** Acceptance of relevant terms of payment as specified in the Tender Documents.
- 5 **Bank Guarantee:** Security-cum-Performance Bank Guarantee shall be furnished as specified in the Tender Documents.
- 6 **Delivery:** Indicate the shortest delivery period, which shall not exceed the delivery requirement as per this Tender Enquiry. LR/ RR/ AWB/ BL date shall be considered as date of delivery.
- 7 **Liquidated Damages:** In case of delay in delivery/ completion schedule, LD clause as per tender documents is acceptable.


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ANNEXURE – II (contd.)

Sl. No.	Description	Bidder's confirmation (Yes/ No/ NA)
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- | | | |
|---|--|--|
| 8 | Part order will be acceptable (not applicable for turnkey packages). | |
| 9 | Validity of Offer as per Clause No. 11.0 of "Instructions to Bidders" is acceptable. | |

(Signature of Bidder with Name, Designation and Company's Seal)


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ANNEXURE – III

DECLARATION

It is hereby declared that the original/ revised* price bids for _____
 _____ (Name of Package) for _____ project
 is complete in all respects and contains prices for complete scope of supply, including
 tests etc., as per BHEL's requirement. If in the original/ revised* price bids where
 itemised price is not available for any part of scope of supply, including tests etc. for
 completion of the package, the same should be treated to have been included in our
 original/ revised* price bid.

It is also agreed that no further chance for seeking clarification/ confirmation to any
 missing point will be necessary.

Absence of itemised prices against some items does not mean that they are not
 included. Even though itemised prices are given for major items, those items which are
 not specially shown, are also included to meet the entire system as per BHEL
 requirements.

Signature of authorised Representative

Name and Designation :

Name & Address of the Bidder

Date

Forwarded to:

M/s Bharat Heavy Electricals Limited


Project Engineering Management


PPEI Building, HRD & ESI Complex

Plot No. 25, Sector – 16 A

NOIDA – 201 301 (U.P)

* (Please delete whichever is not applicable)


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ANNEXURE – IV

CONTRACT PERFORMANCE BANK GUARANTEE

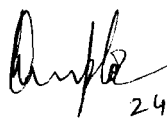
In consideration of **Bharat Heavy Electricals Limited, Project Engineering Management Division** (hereinafter called the "**Company**") having agreed from M/s _____ (hereinafter called the said **Contractor** which term includes supplier for the purpose of the bond) to accept the demand under the terms and conditions of the Agreement No. _____ dated _____ made between _____ and _____ (hereinafter called the said **agreement**) of Security Deposit for the due fulfillment by the said contractor of the terms and conditions contained in the said Agreement, on production of a Bank Guarantee for Rs. _____ (Rupees _____ only) we, _____ (indicate the name of the Bank) (hereinafter referred to as the **Bank**) at the request of _____ [Contractor(s)] do hereby undertake to pay to the Company an amount not exceeding Rs. _____ against any loss or damage caused to or suffered by or would be caused to or suffered by the Company by reasons of any breach by the said Contractor(s) of any of the terms and conditions contained in the said Agreement.


2) We, _____ (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Company stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the company by reasons of breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement or by reasons of the Contractor(s) failure to perform the said Agreement. Any such demand made on the bank, shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. _____.

3) We undertake to pay to the Company any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s) in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal.

The payment to so made by us under this bond shall be a valid discharge of our liability for payment thereunder and the Contractor(s) shall have no claim against us for making such payment.

4) We, _____ (indicate the name of the Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said Agreement have been fully paid and its claim satisfied or discharged or till _____ office/ Department/ Division of Bharat Heavy Electricals Limited certifies that the


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terms and conditions of the said Agreement have been fully and properly carried out by the said contractor(s) and also including the satisfactory performance of the equipment during guarantee period and accordingly discharge this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the _____*, we shall be discharged from all the liability under this guarantee thereafter.

5) We, _____ (indicate the name of the Bank) further agree with the Company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the company against the said contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by any reason of any such variation or extension being granted to the said contractor(s) or for any forbearance, act or omission on the part of the company or any indulgence by the company to the said contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

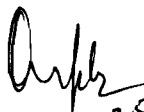
6) This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).


7) We, _____ (indicate the name of the Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Company in writing.

Date _____ Day of
for _____ (indicate name of the Bank)

(Signature of Authorised
signatory)

* This date to be indicated should not be earlier than 60 days after the date contemplated under the contract.


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ANNEXURE – V (contd.)

NON-CONFORMANCE REQUEST (NCR) <small>(GRANTING OF NCR DOES NOT ENTITLE ANY INCREASE IN PRICE OR EXTENTION OF SCHEDULE, TO VENDOR)</small>
PART – II (TO BE FILLED BY IA OR SITE IA)

<input type="checkbox"/> NCR RECOMMENDED <input type="checkbox"/> NCR RECOMMENDED AS PER REMARKS BELOW <input type="checkbox"/> NCR NOT RECOMMENDED		
REMARKS:		
ACTION	<input type="checkbox"/> Returned to Vendor <input type="checkbox"/> Forwarded to CE (PEM) (2 Copies)	
NAME	SIGNATURE	DATE
PART-III (TO BE FILLED IN BY PROJECT ENGINEER (PEM))		
<input type="checkbox"/> NCR APPROVED <input type="checkbox"/> NCR APPROVED AS PER REMARKS <input type="checkbox"/> NCR NOT APPROVED		
REMARKS: (A) WITHOUT INCREASE IN CONTRACT PRICE (B) WITH REDUCTION IN CONTRACT PRICE (DETAILS ENCLOSED) (C) WITHOUT AFFECTING PROJECT SCHEDULE		
ACTION	<input type="checkbox"/> Returned to Vendor (in case NCR not approved) <input type="checkbox"/> Forwarded to MM/ PG on _____ (For issue of PO amendment)	
NAME	SIGNATURE	DATE
NOTE: Project Engineer (PEM) shall approve the NCR after obtaining consent/ approval of affected departments/ agencies and also of SH and DH.		
PART- IV (TO BE FILLED BY CONTRACT ENGINEER (PEM))		
PO No.	PO Date	PO Amendment No. PO Amendment Date
DISTRIBUTION: <input type="checkbox"/> VENDOR (1COPY EACH) <input type="checkbox"/> SITE IA <input type="checkbox"/> IA <input type="checkbox"/> PEM-ENGG.		
NAME	SIGNATURE	<input type="checkbox"/> DATE

[Signature]
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ANNEXURE – V (contd.)


INSTRUCTIONS FOR VENDOR REGARDING NON-CONFORMANCE REQUEST (NCR)


- 1) Photo-copies of the NCR Form can be used by the Vendor, whenever required.
- 2) Non-conformances, due to the following and/ or other reasons, shall be raised by the Vendor, in this form, in order to obtain BHEL decision on the same.
 - a) Changes from Bid Specification and Deviations agreed during negotiations.

OR

Changes from Contract Specification required as a result of detailed design and preparation of drawings by the Vendor.

 - b) Changes in Contract Drawings and Documents approved by BHEL.
 - c) Inaccurate workmanship, procedure or practice.
 - d) Use of material other than the size, type of grade as called for in the specification/ drawing.
- 3) Vendor shall send two copies of the NCR to :
 - a) Contract Engineer (CE) of BHEL/ PEM for non-conformances required as a result of detailed design and preparation of drawings by the Vendor etc.
 - b) Inspection Agency (IA) for all non-conformances during manufacture/ fabrication, assembly etc.
 - c) Site Inspection Agency (Site IA) for all non-conformances during site fabrication, erection and commissioning.
- 4) Vendor shall mark copies of NCRs and all correspondence, in this respect, to Contract Engineer (CE) of BHEL/ PEM.
- 5) Names and addresses of Inspection Agency and Site Inspection Agency are given in the Letter of Intent/ Purchase Order.
- 6) Non-conformances raised in this form only, will be entertained by BHEL.
- 7) NCRs shall be kept to a minimum.
- 8) A summary of non-conformances granted, if any, shall be included by the Vendor in the Quality Assurance Document Package to be forwarded to BHEL & Customer, on satisfactory completion of inspection and tests.
- 9) Granting of NCR by BHEL does not entitle the Vendor to any increase in price or extension of schedule.

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ANNEXURE- VI

Request for Issue of Form-C

FINANCIAL YEAR

Supplier Name:	
Quarter-wise details of invoices for issuance of 'C' forms for a Financial Year	


Quarter	Financial Year	Invoice No.	Invoice Date	Taxable value of invoice	CST Amount	Total Invoice Amount (Excluding Freight)	P.O. No.	Project Name	LR No.
Q- 1									
Total									

Quarter	Financial Year	Invoice No.	Invoice Date	Taxable value of invoice	CST Amount	Total Invoice Amount (Excluding Freight)	P.O. No.	Project Name	LR No.
Q- 2									
Total									

Quarter	Financial Year	Invoice No.	Invoice Date	Taxable value of invoice	CST Amount	Total Invoice Amount (Excluding Freight)	P.O. No.	Project Name	LR No.
Q- 3									
Total									

Quarter	Financial Year	Invoice No.	Invoice Date	Taxable value of invoice	CST Amount	Total Invoice Amount (Excluding Freight)	P.O. No.	Project Name	LR No.
Q- 4									
Total									

Amrta
24/7/12

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ANNEXURE- VII

NEFT Application Form

Name of the Vendor

Name of the Bank

Address of the Bank

Vendor's A/c no

Type of A/c

IFSC Code

RTSG Code


Vendor's e-mail address


Authorised Signatory Seal

ABOVE DETAILS ARE TO BE SUBMITTED ON COMPANY'S LETTERHEAD.

THE DETAILS MAY EITHER BE ATTESTED BY VENDOR'S BANKERS OR ACCOMPANIED BY A CANCELLED CHEQUE LEAF WITH IFSC CODE & A/C NO. PRINTED ON IT.

UNDERTAKING TO REPORT IMMEDIATELY ANY CHANGES IN THE ABOVE TO BE SUBMITTED ON COMPANY'S LETTERHEAD.

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ANNEXURE- VIII

LOADING CRITERIA

No deviations in GCC terms and conditions are generally acceptable, and bids with deviations are liable to be rejected. However, in exceptional circumstances, BHEL may accept deviations with Loading as given below:

A) PAYMENT TERMS

Payment will be released within 90 days after receipt of complete documents as per order/ contract (45 days for vendors qualified and registered as Micro or Small as per MSMED Act).

Loading will be done for vendors seeking earlier payment w.r.t. above, for the value and the period of deviation, as per Clause 18.3 of 'Instructions to Bidders'.

Time periods assumed by BHEL/ PEM for a few activities are as follows:

Payment through Bank	– 30 days from receipt of invoice+documents.
Receipted LR	– 30 days from despatch.
Material Receipt Certificate (MRC)	– 120 days from despatch.

B) BANK GUARANTEE

Non submission of Bank Guarantee – No deviation is permitted.

C) LIQUIDATED DAMAGES

If maximum limit asked for is 10% or 5% of Undelivered Portion – 10% value of the total quoted price excluding taxes, duties & freight.

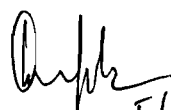
If maximum limit asked is 5% of contract value instead of 10% – 5% value of the total quoted price excluding taxes, duties & freight.


D) PRICE VARIATION CLAUSE (PVC)

PVC Instead of Firm Price – Maximum ceiling of PVC as demanded by vendor.

E) DEVIATION TO SUBMISSION OF FORM-E1/ E2 BEFORE CLAIMING 10% PAYMENT

10% of Ex-Works supply value.


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ANNEXURE- IX

INTEGRITY PACT

Between

Bharat Heavy Electricals Ltd. (BHEL), a company registered under the Companies Act 1956 and having its registered office at "BHEL House", Siri Fort, New Delhi – 110049 (India) hereinafter referred to as "The Principal", which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

and

_____, (description of the party along with address), hereinafter referred to as "The Bidder/ Contractor" which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for

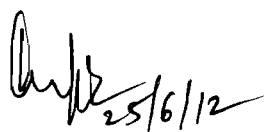
_____. The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).


In order to achieve these goals, the Principal will appoint Independent External Monitor(s), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.


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1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the process all known prejudiced persons.

1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

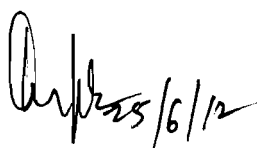
Section 2 – Commitments of the Bidder(s)/ Contractor(s)


2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for

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purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

2.1.4 The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.


Section 3 – Disqualification from tender process & exclusion from future contracts


If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/ Contractor(s) from the tender process or take action as per the separate "Guidelines on Banning of Business dealings with Suppliers/ Contractors". framed by the Principal.

Section 4 – Compensation for Damages

4.1 If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent Earnest Money Deposit/Bid Security.

4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.


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Section 5 – Previous Transgression

5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

Section 6 – Equal treatment of all Bidders/ Contractors/ Sub-contractors

6.1 The Bidder(s)/ Contractor(s) undertake(s) to obtain from all subcontractors a commitment consistent with this Integrity Pact and report Compliance to the Principal. This commitment shall be taken only from those sub-contractors whose contract value is more than 20 % of Bidder's/ Contractor's contract value with the Principal. The Bidder(s)/ Contractor(s) shall continue to remain responsible for any default by his Sub-contractor(s).

6.2 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.


6.3 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.


Section 7 – Criminal Charges against violating Bidders / Contractors / Sub-contractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

Section 8 –Independent External Monitor(s)

8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

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8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.

8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality.

8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

8.5 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or heal the situation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.


8.6 The Monitor will submit a written report to the CMD, BHEL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.


8.7 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.

8.8 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant IPC / PC Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

8.9 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.

8.10 The word 'Monitor' would include both singular and plural.


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Section 9 – Pact Duration

9.1 This Pact begins and shall be binding on and from the submission of bid(s) by bidder(s). It expires for the Contractor 12 months after the last payment under the respective contract and for all other Bidders 6 months after the contract has been awarded.

9.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified as above, unless it is discharged/ determined by the CMD, BHEL.

Section 10 – Other Provisions

10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.

10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

10.5 Only those bidders/ contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

 For & On behalf of the Principal
 (Office Seal)


 For & On behalf of the Bidder/ Contractor
 (Office Seal)

Place_____

Date_____

Witness: _____
 (Name & Address) _____

Witness: _____
 (Name & Address) _____


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