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Digital Transformation Group (DTG), HEEP, BHEL, Haridwar		
Pre-Qualification Criteria (PQC)		
S.No	Description	Supporting Documents/Evidences Required
1	The bidder should be a registered company in India under Indian Companies Act 1956 / 2013.	Copy of the Certificate of Incorporation & Commencement of Business.
2	<p>The Bidders/ Firms who fulfil the following requirements shall be eligible to apply. Joint ventures are not accepted.</p> <p>A) The bidder should have Average Annual Turnover of ₹36.77 Lacs for last three consecutive financial years i.e. FY 2022-23, 2023-24 & 2024-25.</p> <p>B) The bidder should have positive net worth for the last 3 consecutive financial years i.e. FY 2022-23, 2023-24 & 2024-25.</p>	<p>i) Audited Profit & Loss Account and Balance Sheet must be submitted as proof of Average Annual Turnover. The Financial statements must be signed by the owner and the auditor. Auditors seal, Name, Membership No., Firm Registration No. & firm name (if applicable), UDIN and the capacity in which he is signing (Proprietor/Partner), date and place of signing must be mentioned on the Profit & Loss A/c and Balance Sheet.</p> <p>ii) In case of proprietorship and partnership firms where Audited Profit & Loss A/c and Balance Sheet is not available, CA certificate certifying turnover for the required financial years must be submitted. CA certificate must be on his letter head mentioning his/her name, Membership No., Firm Registration No. & firm name (if applicable), UDIN, capacity in which he is signing (Proprietor/Partner), date and place of signing.</p> <p>iii) If Audited of Accounts are not available due to Audit is not required as per Law than ITRs of last three consecutive Financial years i.e. FY 2022-23, 2023-24 & 2024-25 is required along with 26AS and CA certificate certifying turnover& Net worth of these FY years.</p>
3	<p>The bidder's prior experience of having executed, similar work in India, during last 7 years ending on last day of the month previous to the tender inviting date, should be either of the following:</p> <p>a) One Order having minimum contract value of ₹98.05 Lakhs each, excluding GST. OR</p> <p>b) Two Orders having minimum contract value of ₹61.28 Lakhs each, excluding GST. OR</p> <p>c) Three Orders having minimum contract value of ₹49.03 Lakhs, excluding GST.</p> <p>*Similar work means any work, which includes Order for Supply and Installation of Air Conditioning Systems such as Precision Air Conditioners (PAC)/Industrial Air Conditioners (IAC) for a Data Center.</p> <p>Note: In case of ongoing contracts atleast one year of AMC/Lease contract period should have been completed. In these cases value will only be considered for the executed portion on pro rata basis.</p>	PO Copy and its Successful Work Completion Certificates from Customer (Contact details including email and phone no of the customer) in original/photo copy duly attested by authorized representative on the letter head of the organization for which work has been done.
4	<p>The bidder shall be Original Equipment Manufacturer (OEM) / OEM's Joint Venture Company / OEM's Subsidiary / OEM's authorized partner or System Integrator (SI) of OEMs.</p> <p>For this tender, definition of OEM means manufacturer of equipment that is to be supplied under this tender - PAC, IAC & CAC.</p> <p>Bidders other than OEMs must obtain and submit authorization letter (Refer Annexure-IC for format) from OEM specifically for this tender mentioning BHEL's tender reference number.</p>	<p>Documentary evidence for OEM / OEM's Joint Venture Company / OEM's Subsidiary / OEM's authorized partner or system integrator.</p> <p>or</p> <p>Authorization letter from OEM, in case bidder is not OEM.</p>
5	OEMs of equipment must have registered offices and service centres in India.	The bidder should provide a signed undertaking from the OEM on OEM's letter head to this effect with complete address and contact details.
6	The Bidder should have a registered office in India.	Documentary proof to be submitted.
<p>Note:</p> <p>i) Consortium bids are not allowed.</p> <p>ii) All data shall be verifiable by BHEL.</p> <p>iii) For this tender, definition of OEM means Original Equipment Manufacturer.</p> <p>iv) In case where audited results for the last preceding financial year are not available, certification of financial statements from a practicing Chartered Accountant shall be considered acceptable.</p> <p>v) BHEL reserves the right to visit bidder's facilities like registered office, Service / Support Centres, etc. or talk to customers/clients to ascertain the capability of the bidder or the veracity of the testimonies at any time during evaluation of the bid.</p> <p>vi) Insolvency:</p> <p>a) If "Insolvency Resolution Process" has been initiated against the bidder and is pending, or the bidder is under insolvency, the bidder shall not be eligible to bid for this tender.</p> <p>b) Even during the processing period of tender till declaration of L1 if "Insolvency Resolution Process" is initiated against the bidder, or where the liquidation commencement date has occurred or a liquidation order has been passed or liquidation has been initiated in relation to the bidder, such bidder shall be disqualified from the process and BHEL will proceed further with tendering process without considering such bids.</p> <p>The bidder should provide an undertaking on its letter head to this effect signed by its authorised signatory.</p> <p>vii) In case of any discrepancy, the decision of BHEL will be final.</p>		

Bill of Material (BOM) & Technical Specifications
List of Items

Annexure-II

Sl. No.	Item Code	Item	Unit	Quantity	Specification/Details	Back to Back OEM support Required
1	PAC	PRECISION AC (PAC), 15 TR	Set	3	<u>Annexure-II A</u>	Yes
2	IAC	INDUSTRIAL AC (IAC), 3.5 TR	Set	2	<u>Annexure-II B</u>	Yes
3	CAC	COMMERCIAL AC (CAC), 2 TR	Set	7	<u>Annexure-II C</u>	Yes

Note: Technical specifications and other details of all above itmes are mentioned in Annexure-II A to Annexure-II C

Item Name		PRECISION AC (PAC), 15 TR		
Item Code		PAC		
S.No.	Parameters / Feature	Detailed Specifications	Bidder's Compliance (Yes / No)	Bidder's Remarks (if any)
1	Make			
2	Model			
3	Quantity (Set)	3		
4	Type	Direct expansion, Air-cooled, Down flow		
5	Total Capacity	Min 15 TR		
6	Operating Ambient Temp	High, Sustain up to 0°C to 55°C outdoor temperature		
7	Refrigerant circuit	Refrigerant R-407C / R-410A, Double circuit with 2 compressors		
8	Refrigerant piping	Each refrigerant circuit shall be suitable for operation on R410a and shall include the following items: Expansion valve with pressure equalization; Removable liquid line drier / filter; Liquid line sight glass with moisture indicator; Hand shut off valves.		
9	Compressor Technology	Variable-speed drive digital scroll compressors.		
10	Fan Type	corrosion resistant in floor EC fans, Variable fan speed		
11	Condenser with auto fan speed controller for power saving	Yes		
12	Airflow m3 /h	Min 500 CFM / TR		
13	Air Flow Direction	Bottom discharge-top return		
14	Air inlet Temp & RH	Set point ± 1°C (DB) & Set point ± 5% (Return Air)		
15	Relative Humidity	20~85% (non-condensing)		
16	Precise temperature and humidity control	accuracy up to ±1°C, ±5%RH		
17	Power input through dedicated Changeover Switch panel for each PAC	3-phase + N + E, 380-415 V, 50 Hz; Each Precision AC unit should be provided with in-built electrical panel		
18	Communication Port	RS-485 x 1, USB port, Dry contact Necessary interface card for BMS integration Shall be compatible with existing BMS System		
19	User Interface	It should display, temperature and relative humidity set points and actual, operating status.		
20	Filter	The filter chamber shall be an integral part of the system. Filtration shall be capable of filtering air to 95% (down to 5 micron) efficiency and shall be replaceable.		
21	Floor Stand	Vendor shall provide floor stand, that seamlessly fit in the existing setup, are durable and support the weight of the unit independently if existing frames are not suitable.		
22	Humidifier	Ultrasonic/ Infrared or any latest technology based. It should be suitable for any water quality and pre-piped, ready for field connection to water supply.		
23	Insulation	Drain piping & refrigerant piping within the unit shall be insulated with at least 9 mm thick closed cell elastomeric insulation in tubing form.		
24	Event Log	Unit memory shall hold atleast 400 most recent events with id number, time and date stamp for each event Unit memory shall hold atleast 200 most recent alarms with time and date-stamp for each alarm		
25	Unit return air temperature	Unit Shall be Compulsory capable of taking 37 Deg C As return Air temp		
26	Dirty filter alarm	Yes		
27	Evaporator DX Cooling Coil	Yes		
28	Inbuilt Sequence controller	Yes		
29	Audible Noise (at one meter)	< 62 dBA The unit outlet quiet operation with all moving parts mounted on anti-vibration mounting and carefully balanced to ensure minimum vibration.		
30	Safety	CE, RCM, IS : 659 – 1964 (RA-1991), IS : 732 – 1989		
31	Emergency Power Off	Local and remote		
32	Integration with existing BMS	Required		
33	Quality and environmental management	ISO 9001 and ISO 14001		

Item Name		INDUSTRIAL AC (IAC), 3.5 TR		
Item Code		IAC		
S.No.	Parameters / Feature	Detailed Specifications	Bidder's Compliance (Yes / No)	Bidder's Remarks (if any)
1	Make			
2	Model			
3	Quantity (Set)	2		
4	Type	Industrial Split Air Conditioner (Wall mounted indoor + outdoor unit)		
5	Total Capacity	Min 3.5 TR (42,000 BTU/hr)		
6	Operating Ambient Temperature range °C	0°C to 55°C		
7	Refrigerant Type	R-410A, Supply and filling Refrigerant in bidder's scope		
8	Compressor	The outdoor unit Shall consist of a scroll compressor with high-efficiency ratio. It Should use an environment-friendly refrigerant (R410A) and features low vibration, low noise, and high reliability.		
9	Condenser Type	Air cooled. It Should use an environment-friendly refrigerant (R410A) and features low vibration, low noise, and high reliability.		
10	Condenser Fan Type	Axial		
11	Condenser Coil	The unit Should be equipped with a uniquely designed hydrophilic fin-tube heat exchanger (condenser) with a wavy fin on the surface, which facilitate high heat transfer rate. The condenser also has an easy cleaning feature thereby enabling easy maintenance of the outdoor unit.		
12	Air Filter	Minimum of G4		
13	Inbuilt Sequence Controller	Yes		
14	Evaporator Coil	Evaporator is a hydrophilic coated fin-tube heat exchanger with a high sensible heat factor (>0.9). The distributor Should be designed and verified to ensure that the refrigerant latest green gas compulsory (R410A) is distributed evenly in each loop, improving the efficiency of the heat exchanger to a great extent.		
15	Evaporator Fan	EC (Minimum 2 Fans)		
16	Controller	Microprocessor-based controller with corded remote		
17	ADVANCED CONTROLLER	a) Sequencing up to 6 units b) Monitoring & alarm generation c) Auto-startup on power failure d) Remote monitoring feature e) Authorized access control		
18	Unit Power Supply	3-phase + N + E, 380-415 V, 50 Hz; (for 3.5 Tr DC)		
19	Cooling Operation Temp Range	16°C to 26°C		
20	User Interface	It should display, temperature and relative humidity set points and actual, operating status.		
21	Sensible Heat Ratio (SHR)	>0.9		
22	CFM	550 -600		
23	Communication Port	RS-485 x 1, USB port,		
24	Expansion Valve	Thermostatic Expansion Valve		
25	Emergency Power Off	Local and remote		
26	Integration with existing BMS	Required		
27	Quality and Environmental Management	ISO 9001 and ISO 14001		

Annexure-II C				
Item Name		COMMERCIA AC (CAC), 2 TR		
Item Code		CAC		
S.No.	Parameters / Feature	Detailed Specifications	Bidder's Compliance (Yes / No)	Bidder's Remarks (if any)
1	Make			
2	Model			
3	Quantity (Set)	7		
4	Type	Inverter Split AC (Wall mounted indoor + outdoor unit)		
5	Total Capacity	Min 2 TR		
6	Ambient Temperature	Cooling 52°C		
7	Refrigerant Gas	R32 - Environmental Friendly - No Ozone Depletion Potential		
8	Coil Material	Copper		
9	Auto Air Swing	Yes		
10	Energy Efficiency	5 star		
11	Cooling Power	more than 6.5 Kilowatts		
12	Noise Level	45 to 55 dB		
13	Installation Type	Split System		
14	Form Factor	Split System		
15	Colour	White		
16	Control Console	Remote Control		
17	Voltage	230 Volts		
18	Wattage	Below 2000 Watts		
19	Certification	Energy Star		
20	Material	Plastic		
21	Included Components	IDU, ODU, Remote , Battery , Manuals , Installation Kit , Connecting Copper Pipe		
22	Special Features	Anti Bacterial Filter, Silent Mode, Dehumidifier, Auto ice Clean , Fast Cooling, Min 24m Long air throw, SmartView Display, Anti Dust, Anti-Corrosive Coating, LED Display, Self Diagnosis, Sleep Mode, Turbo, Remote Lock, Low Gas Diagnosis, Auto Restart, Anti Fungal		



SCOPE OF WORK & SPECIAL TERMS AND CONDITIONS

Annexure-III

1. SCOPE OF WORK

The scope of work includes the supply, installation, commissioning, testing, integration, and comprehensive maintenance of the following Data Center Air Conditioning Systems — Precision Air-conditioning (PAC), Industrial Air-conditioning (IAC), and Commercial Air-conditioning (CAC) — for Data Center Sites at BHEL, Haridwar, under five-year Financial Lease Model. It also covers the dismantling and relocation of existing air conditioning units, ensuring uninterrupted Data Center operations during the relocation process. Furthermore, the work entails seamless integration of the new units with the existing infrastructure and Building Management Systems (BMS) for effective monitoring, control, and alerting of temperature, humidity, alarms, and fault notifications. The vendor needs take due safety considerations at each and every phase of the project to ensure safety of the manpower as well as the equipment. Detailed technical specifications, quantities, and requirements are provided in Annexure-II (Bill of Material (BOM) & Technical Specification).

2. SUPPLY OF EQUIPMENT

2.1. Supply of all required Data Center Air Conditioning Systems, including:

- Precision Air-Conditioning (PAC) Equipment
- Industrial Air-Conditioning (IAC) Equipment
- Commercial Air-Conditioning (CAC) Equipment

2.2. Equipment shall conform to the specifications, quantities, and requirements detailed in Annexure-II (Bill of Material (BOM) & Technical Specification).

2.3. All supplied equipment shall be brand new, energy efficient, and covered under comprehensive maintenance.

3. INSTALLATION AND COMMISSIONING

3.1. Installation and commissioning of all systems shall be carried out only through the OEM or OEM-authorized personnel.

3.2. The vendor shall deploy competent OEM- authorized manpower onsite during installation, testing, and commissioning activities.

3.3. An Installation plan covering timeline, sequence of activities, required shutdowns or downtime (if any), and risk mitigation measures shall be submitted to BHEL for approval prior to commencement of installation.

3.4. Installation shall be executed in a phased manner to ensure minimum downtime and uninterrupted functioning of the live Data Center.

3.5. Any activity impacting Data Center operations shall be undertaken only after prior intimation and consent of the concerned BHEL authorities.

4. RELOCATION AND DISMANTLING ACTIVITIES

4.1. The vendor shall ensure safe dismantling, removal, and relocation of existing Air Conditioning Units from their current locations to new designated areas, as instructed by BHEL.

4.2. Proper handling, lifting, and transportation to avoid any physical damage.

4.3. Safe disposal of obsolete/unusable equipment and materials as per environmental norms and BHEL guidelines.

4.4. Necessary coordination with BHEL and facility management teams during shifting and relocation work.



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5. INTEGRATION WITH EXISTING INFRASTRUCTURE

- 5.1. Integration of new Air Conditioning systems with existing Building Management Systems (BMS) and control panels.
- 5.2. Configuration for effective real-time monitoring, control, and alerting of parameters such as temperature, humidity, and fault alarms.
- 5.3. Validation of sensor data and control loops to ensure smooth interoperability with the existing system.

6. TESTING AND COMMISSIONING

- 6.1. Comprehensive functional testing of all systems post-installation to ensure performance as per OEM standards and BHEL's requirement.
- 6.2. Measurement and recording of temperature, humidity, and air flow parameters to confirm compliance.
- 6.3. Submission of detailed test reports and commissioning certificates duly signed by OEM representatives.

7. COMPREHENSIVE MAINTENANCE SUPPORT FOR ENTIRE SOLUTION

- 7.1. Provision of Comprehensive Maintenance Services (AMC) for a period of five (5) years from the date of successful commissioning.
- 7.2. The AMC shall include Back to Back (B2B) OEM support covering all consumables also. In case some parts/components/items are not covered in OEM offered B2B support then they shall be covered by the vendor in the provided AMC.
- 7.3. It shall cover all equipment and parts, even if they are not listed, unless explicitly excluded in the scope. It includes preventive and corrective maintenance to ensure optimal functionality and uptime of the supplied Air Conditioning equipment. Comprehensive maintenance shall include but not limited to the following:
 - i. Preventive Maintenance
 - ii. Repair / Replacement of faulty equipment/parts
 - iii. Consumables
 - iv. Installation/Labour charges
 - v. Site inspection charges
 - vi. Cost of Maintenance Engineers
 - vii. Lease tax/right to use tax / any other statutory levies
 - viii. Keeping sufficient spares to maintain the specified uptime.
 - ix. Testing of equipment as per mutually agreed plan with BHEL.
 - x. Shifting and installation of equipment from one location to another from one site to other site within BHEL campus without any other extra cost to BHEL
- 7.4. Any item, component, or activity not explicitly listed in the scope/annexure but necessary for the upkeep and optimal functioning of the data center and its equipment shall be deemed included in the scope of this contract.
- 7.5. Preventive maintenance, wherever required, should be carried out periodically to keep the equipment in good working condition. Maintenance shall also include, but not limited to, all plastic and/or rubber parts, adapters, consumables etc.
- 7.6. Preventive and corrective maintenance activities to be undertaken by trained OEM-authorized personnel.
- 7.7. The vendor shall keep the sufficient spares to keep the equipment downtime at minimum.



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7.8. Replacement of Faulty Parts:

- Any component requiring replacement shall be replaced with an identical or similar part of the same brand and model wherever available.
- If an identical part is unavailable, a replacement of equivalent or higher configuration shall be provided. The replacement must be fully compatible with the existing setup and shall not degrade the performance of the equipment in any manner.

7.9. Endorsement of Replacements:

- An endorsement letter from the OEM shall be obtained on the OEM’s letterhead, and it must be endorsed by the vendor.
- The endorsement letter shall explicitly mention:
 - a. The details of original part being replaced and the new part being provided.
 - b. Confirmation that the replacement part is fully compatible with the existing setup and shall not degrade performance in any manner.
 - c. Assurance that the lifespan of the replaced part is similar to that of the original part and that it shall be covered under the AMC contract.

7.10. Periodic review meetings shall be organized between BHEL, Vendor and OEM to review performance or any issues related to the solution during the contract period. It shall be the responsibility of the vendor to co-ordinate with the OEM when such meetings called on.

7.11. The successful bidder should fulfil all statutory and safety requirements for personnel engaged while executing the contract. If BHEL has to incur any expenditure due to non-compliance of the applicable statutory provisions, the same will be compensated by the vendor.

8. SAFETY AND PRECAUTIONARY MEASURES (LIVE DATA CENTER ENVIRONMENT)

- 8.1.** All works are to be executed in a live Data Center environment with utmost care to ensure no disruption to critical operations.
- 8.2.** Strict adherence to BHEL’s safety and security protocols, including EHS norms and Data Center access policies.
- 8.3.** Use of anti-static tools, insulated equipment, and protective measures to prevent any electrical, thermal, or physical hazards.
- 8.4.** Proper coordination with BHEL’s IT, Facilities, and Operations teams before performing any activity affecting the Data Center environment.
- 8.5.** Emergency preparedness plan to be in place for immediate response in case of system faults or accidental outages.

9. DOCUMENTATION AND HANDOVER

9.1. Submission of all relevant documentation, including:

- i. Details solution document along with schematic diagram.
- ii. Details of inventory including hardware and software along with serial number, product ID, licenses, part code etc.
- iii. Installation & commissioning certificates of all equipment’s/software supplied.
- iv. Installation, configuration and integration settings of all the equipment.
- v. OEM Warranty/Back to Back support documents.



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- vi. Original licenses wherever applicable.
- vii. Integration and Configuration Details with BMS
- viii. User Manuals, Administrator Manual and datasheets, wherever applicable.
- ix. Certificate of Newness and Future support

9.2. Final acceptance of the system shall be based on successful commissioning, integration, and demonstration of all functionalities.

10. USER ACCEPTANCE TESTING

10.1. After the vendor finishes the Supply, Installation, Configuration & Commissioning of devices as per BOM as per Annexure-II given in the "Scope of Work" clause of this RFP, it will be thoroughly tested by a BHEL representative. After the satisfactory completion of final testing of the devices individually, meeting BHEL requirements, Final Acceptance Certificate will be issued to the vendor. The date of acceptance will be taken as start date for 5 years contract period.

10.2. UAT (User acceptance test) shall include (but not be limited to) demonstration of the following by the vendor:

- Demonstration of functioning and features of all the equipment.
- Demonstration of the failover/sequencing, parameters, log, alerts.
- Demonstration of the BMS Integration and Auto sequencing.

10.3. If any equipment fails during the acceptance test for three times, shall be replaced by the vendor and the acceptance test on the replaced equipment shall be performed afresh.

10.4. Final approval/ user acceptance of the deployed solution shall be given by BHEL official after successful implementation, testing and receipt of documents. It is the responsibility of the vendor to submit test reports and obtain the UAT approval from the BHEL official.

10.5. COMMISSIONING (GO-LIVE)

Only after the acceptance of UAT and installation reports of all equipments, the items/systems shall be deemed to have been commissioned. After the successful UAT of the project, the system shall be declared as Go-Live and commissioning/acceptance certificate shall be issued.

11. INSTRUCTION AND GUIDELINES TO BIDDERS

11.1. INTRODUCTION

M/s Bharat Heavy Electricals Limited (A Govt. of India Undertaking) incorporated under the Companies Act 1956 having registered office at BHEL House, Siri Fort, New Delhi-110 049 through its office at New Delhi (hereinafter referred to as "BHEL", which expression shall include its successors and assigns), invites offer to enter into a lease contract for Supply, Installation, Commissioning, Testing, Relocation, Integration and Comprehensive Maintenance Upkeep and Maintenance of on premises Air Conditioning i.e. Precision Air-conditioning, Industrial Air-conditioning and Commercial Air-conditioning at two Data Center Sites at BHEL, Haridwar, for a period of Five (05) Years., as per requirements, Specifications, Scope of Work and Terms and Conditions detailed in various sections of the tender documents.

11.2. The Total Price shall be for the complete scope as per technical specifications, inclusive of comprehensive on-site maintenance including repair/replacement of parts during the contract period. Vendor shall be responsible for comprehensive on-site maintenance of the supplied equipment & services during the entire contract period.

11.3. PRE-BID MEETING



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- i. The bidders are expected to carefully go through this Tender Document and understand all the requirements thoroughly before submitting their offer. Any pre-Bid clarification and query pertaining to this tender enquiry must be submitted in writing and addressed to the official inviting the offers. All these queries will be clarified in the Pre-Bid Meeting. BHEL will not be liable to entertain or respond to bidders' queries received after the Pre-Bid Meeting.
 - ii. Pre-Bid meeting of the Bidders shall be convened at the designated date, time, mode and venue. A maximum of 2 representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
 - iii. During the course of Pre-Bid meeting, the Bidders will be free to seek clarifications and make suggestions for consideration. BHEL shall endeavour to provide clarifications and such further information as it may, in its sole discretion, considered appropriate for facilitating a fair, transparent and competitive Bidding Process.
 - iv. Any submission of tender by the bidder shall be deemed to have been done after careful study and examination of the tender documents and with the full understanding of the implications thereof. Post bid clarifications sought after opening Techno Commercial Bid but before opening price bid should be without price implications.
 - v. Bidders may visit the Data Center sites to understand the requirement and layout.
- 11.4.** Successful bidder shall sign the, Indemnity bond and enter into contract agreement with BHEL on non-judicial stamp paper of required value as per extant rules, at their own cost.
- 11.5.** Rates shall be quoted in figures as well as in words and Bidder must put his signature & Seal on each page of the tender documents / undertakings, while submitting his offer, failing of which tender may be liable for rejection.
- 11.6.** The Successful bidder shall not employ any worker or manpower less than 18 years of age during execution of his work.
- 11.7.** The work shall be governed by the specifications, general terms & conditions of BHEL contract, special conditions, tender terms, environment related conditions, safety clause and any other relevant conditions applicable time to time.
- 12. DEVIATIONS**
Bids shall be submitted strictly in accordance with the technical specifications and terms & conditions of the Tender Enquiry and any subsequent corrigenda issued by BHEL. Hence bidders have to submit a "No Deviation Certificate" for both technical specifications and terms and conditions as given in (Annexure-IV).
- 13. DATE OF ACCEPTANCE / START OF CONTRACT**
The date of User Acceptance Testing will be taken as start date for 5 years contract period.
- 14. PRICE AND VALIDITY**
- 14.1.** Vendor has to quote as per the instructions mentioned in the Price Bid Sheet in Annexure-V.
- 14.2.** Prices quoted should be valid for a period of 120 days from the date of techno-commercial bid opening.
- 14.3.** Prices quoted shall remain firm and binding (without any escalation whatsoever) for a period of five year.



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15. PAYMENT TERMS

- 15.1. Payment will start only after successful installation and commissioning of all equipment as per the requirement and the issue of the commissioning certificate by BHEL.
- 15.2. The CONTRACT will be for the period of five years from contract start date. No escalation of cost, due to any reason, will be admissible during contract period. Price Variation clause is not applicable to this tender.
- 15.3. The payment will be made to the vendor on quarterly basis, at the end of the quarter.
- 15.4. No interest whatsoever shall be payable by BHEL on any amount due to the vendor.
- 15.5. BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.
- 15.6. Applicable Liquidated Damages (LD) as per Clause No..22 and Downtime Penalty as per Clause No.23: SERVICE LEVEL AGREEMENT & DOWNTIME PENALTY of this document (Annexure-III Scope of Work and Special Terms & Conditions), shall be verified by Engineer in-charge and same shall be recovered from corresponding running bill, if applicable.
- 15.7. GST & other taxes shall be applicable as per rules and regulations. Applicable GST shall be paid by BHEL on actual GST rate, on submission of GST complied invoice under Goods and Service Tax Law and after being appeared/shown on GST portal.
- 15.8. Contractor to ensure compliance of GST Law and Rules applicable on works being carried out against this Contract and in the event of non-compliance / non-reflection of GST credit on portal to BHEL, the implication if any on BHEL will be on account of Contractor.
- 15.9. Vendor shall submit the quarterly bill along with all supporting documents by 15th of the subsequent quarter in hard copy and upload the same on BHEL SUVIDHA portal at <https://suvidha.bhel.in/suvidha/>.
- 15.10. All payment under the contract are subject to applicable deduction on account of Taxes or any other amount recoverable by company from the vendor under this contract or under any other contract.
- 15.11. Payment will be released within the following days from the submission of bills complete in all respects after due verification subject to other terms & conditions as mentioned in clause of Taxes & Duties along with following document.
- Invoice in triplicate
 - Insurance copy with the first invoice copy and subsequently yearly to be provided.
 - SLA reports for the quarter (certified by BHEL)
 - Tax payment proof

Type of Bidder	Payment Terms (Number of days)
* Micro & Small Enterprises (MSEs)	45 days
* Medium Enterprises	60 days
Non MSME	90 days
Wherever ILC Payment Terms are being given in Tenders Floated outside GeM	120 days

* MSE/MEDIUM benefit as per above will not be applicable for Traders/Distributor/Sole agent/Works Contract.



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- 15.12. No mobilization advance payment etc. will be given to the vendor.
- 15.13. Prices shall remain firm till entire contract period inclusive of extensions (if any). (If PVC clause is not applicable in NIT).
- 15.14. TDS shall be deducted as per applicable income tax provisions.
- 15.15. GST & other taxes shall be applicable as per rules and regulations. Applicable GST shall be reimbursed by BHEL as per prevailing GST rate, on submission of GST complied invoice under Goods and Service Tax Law and after same being appeared/shown on GST portal.
- 15.16. Adherence to the above time schedule of payment is contingent upon Vendor complying with GST Rules w.r.t availment of Input Tax Credit by BHEL.
- 15.17. In case GST credit is delayed / denied to BHEL, due to non / delayed receipt of goods and / or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reason not attributable to BHEL, GST amount shall be recoverable from Vendor along with interest levied / leviable on BHEL.

16. TAXES & DUTIES

- 16.1. Price bid shall clearly indicate GST % included in the bid. The Contractor shall pay all other taxes, fees, royalty, commission etc. which may be levied on the contractor in executing the contract. In case BHEL is forced to pay any of such taxes, it shall be recovered from Contactor's bills or otherwise as deemed fit.
- 16.2. TDS under GST law as applicable shall be deducted.
- 16.3. In case of any recovery including LD/SLA, the applicable GST shall also be recoverable from the Contractor.
- 16.4. To enable BHEL to avail GST input tax credit, Vendor shall submit GST compliant invoice containing all the particulars as stipulated under Invoice Rules of GST Law. Payment shall be made to the Vendor only after submission of GST complaint invoice. The successful bidder shall raise GST compliant invoice affixing GSTIN of BHEL's unit availing the services. Vendor to ensure that details of such invoice is furnished by him in his GSTR-1 return and the same is appearing in GSTR-2B of BHEL.
- 16.5. BHEL reserves the right to protect its interest against any loss on account of non-availability of GST credit.
- 16.6. GSTIN of BHEL will be provided to the Vendor along with the work order.
- 16.7. Any new/change in statutory levy as and when made applicable by the Government shall become applicable against documentary evidence.
- 16.8. Statutory variation for GST is payable to the Seller during validity of the contract. However, for period beyond the contract validity, BHEL may reimburse the actual applicable increased tax, in exceptional circumstances, in case BHEL is able to take the input tax credit. However, the decision of BHEL in this regard will be final and binding on the seller/ contractor otherwise vendor/ contractor has to bear the differential upward increase in tax.
- 16.9. Payment to the Vendor will be subjected to TDS as per rules in force from time to time. The Tax Deduction at Source (TDS) shall be done as per the provisions of Income Tax Act & GST, as amended from time to time and a certificate to this effect shall be provided to the Vendor by BHEL.
- 16.10. Applicable GST shall also be recoverable from the Vendor in case of LD recovery/penalty on account of breach of terms of contract.
- 16.11. Invoice submitted should be in the format as specified under GST Laws viz. all details as mentioned in Invoice Rules like GSTIN registration number, invoice number, quantity, rate, value, taxes with nomenclature – CGST, SGST, IGST mentioned separately, HSN (Harmonized System of Nomenclature) Code / SAC (Services Accounting Code) etc.



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16.12. The Vendor has to give an undertaking that GST as mentioned in the invoice has been / will be paid and also file return as per respective extant rule.

17. **EARNEST MONEY DEPOSIT**
Earnest Money Deposit is Applicable.

18. **TENDER EVALUATION**

18.1. The evaluation will be on the basis of delivered cost i.e. "total cost to BHEL".

18.2. Vendor has to quote as per the instructions mentioned in the Price Bid Sheet in Annexure-V. The evaluation will be done in totality of all items, and there will be no item wise splitting of order.

18.3. Prices of optional item, if any, shall not be considered for Price evaluation and Ordering, unless specifically called for in the enquiry and built into the price bid.

19. **ACCEPTANCE OF LOI/ORDER**

Letter of vendor's acceptance for the Letter of Intent (LOI)/Order from BHEL is to be submitted within one week of issue date of LOI/Order.

20. **DELIVERY CUM COMMISSIONING PERIOD**

20.1. Delivery & commissioning (i.e. Supply and installation) period shall start from the date of placement of order. "Delivery cum Commissioning Period" shall be as detailed below and it will be counted from the date of Order:

Item	Delivery cum Commissioning Period
All items	20 Weeks

20.2. Vendor to provide complete bill of materials with OEM part numbers which will be required to identify proper delivery.

20.3. Vendor shall supply and install the items at the Primary and Secondary DR Sites of BHEL Haridwar as per BOM given in Annexure-II.

21. **TERMINATION /FORE-CLOSURE OF THE CONTRACT & ITS CONSEQUENCES**

21.1. BHEL reserves the right to foreclose the contract before expiry of the contract period. BHEL shall give two months' notice to vendor in this regard. In case of fore-closure of the contract agreement by BHEL for no fault of the Lessor, pro-rata compensation will be payable. Compensation will be equivalent to the percentage of outright purchase cost (Hardware Charges on outright basis) proportionately linked to balance contract period, plus a nominal charge of ₹1.00 per order as terminal payment for transfer of the ownership of all the equipment against that order to BHEL.

21.2. If the Contractor fails to fulfil its contractual obligations:

- i. BHEL will issue a written notice of non-compliance to the Contractor. In case the Contractor fails to take the remedial action within a rectification period of One month, BHEL reserves the right to terminate the contract in full or part and BHEL shall recover 10% of the contract value. The recovery shall be done from security instruments like performance bank guarantee available with BHEL for this contract, the balance amount shall be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, etc. with BHEL) or legal remedies be pursued.



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- ii. The Bidder shall continue to perform the contract, or the relevant portions thereof, under all circumstances, except for those parts that have been expressly cancelled by BHEL.

22. LIQUIDATED DAMAGES (LD)

The vendor hereto agree that timely delivery of Services is the essence of the order/contract. If the vendor fails to start the contract within the time period stipulated in the order/contract or within any extension of time granted by the BHEL, BHEL shall be under no obligation to accept the services. However, if accepted, Liquidated Damages at the rate of half percent (0.5%) per week of delay or part thereof shall be levied limited to ten percent (10%) of the total order/contract value excluding elements of taxes and duties, without prejudice to any other relief or compensation due to the purchaser under any other condition of the order/contract.

23. SERVICE LEVEL AGREEMENT & DOWNTIME PENALTY

- 23.1. The vendor shall be responsible for optimum uptime of 98% for the offered equipment on quarterly basis. At the end of each quarter downtime will be calculated for each device. Downtime will be calculated on quarterly basis for each item. The following Multiplication Factors shall be applied for downtime Penalty calculation based on the type of the equipment and the duration of downtime.

Sl.	Item	Component	Multiplication Factor (M) Table against Downtime (D) in %				
			<2%	<2 % to 5%	<5 % to 10%	<10% to 25%	Above 25%
1	PAC	Individual	0	1	1.5	2	4
2	IAC	Individual	0	1	1.25	1.5	2
3	CAC	Individual	0	1	1	1.5	2

- 23.2. If part is faulty however the device is functioning as per desired requirement a redundancy factor (R) of 0.5 shall be applied for calculation of the downtime, if the issue is resolved within 90 days. However, in case the issue of faulty part persists for more than 90 days this factor shall be equal to 1.
- 23.3. For calculation of downtime the following weightage shall be considered for each unit of the equipment that are down.

Sl. No.	Item	Item weightage (per unit) [W]
1	PRECISION AC (PAC)	23.03%
2	INDUSTRIAL AC (IAC)	8.42%
3	COMMERCIAL AC (CAC)	2.01%

23.4. Working calculation for SLA deduction:

For calculation of the downtime penalty the downtime penalty for each of the equipment shall be calculated and added together. Downtime shall be calculate as shown below:

Let downtime in a quarter = A days
Downtime percentage (D) = $A \times (100 / \text{No of Days in Quarter})$
Item Weightage (from Table in Cl. 23.3) = W
Multiplication factor (from Table in Cl. 23.1) = M
Redundancy factor (from Cl. 23.2) = R



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Quarterly lease charges = Q Rupees
Downtime Penalty for Individual Items (in INR) P_i = $Q*W*M*R*D$
Total Downtime Penalty Amount $\sum P_i$ = Sum of Downtime Penalty for All Item

For example, if following equipment are down in the Oct-Dec Quarter which has 92 days the calculation shall be as shown below:

- PAC 1 numbers: 1 of the compressors is down 7 days but the PAC is working as per requirement due to redundancy of the compressor.
- CAC 2 numbers: Two CACs, CAC-1 and CAC-2 are not working for 1 and 15 days respectively.

Parameter	PAC	CAC-1	CAC-2
Downtime in Quarter (A)	7	1	10
Downtime percentage (D = A/Days in Quarter)	7.61%	1.09%	10.87%
Item Weightage (W) from Table in Cl. 23.3	23.03%	2.01%	2.01%
Multiplication factor (M) from Table in Cl. 23.1	1.5	0	1.5
Redundancy factor (R) from Cl. 23.2	0.5	1	1
Quarterly lease charges (Q), Assumed to be ₹100	₹ 100.00	₹ 100.00	₹ 100.00
Penalty ($P_i = Q*W*M*R*D$)	₹ 1.31	₹ 0.00	₹ 0.33
TOTAL Deduction ($\sum P_i$ = Sum of Penalty for All Downtimes)	₹ 1.64		

23.5. The downtime charges (SLA non-conformance) will be deducted from the Quarterly Lease Charges. In case, deductions due to SLA non-conformance exceed the lease charges in a quarter, the balance amount shall be deducted from the subsequent quarters' lease charges.

Further, following points need to be complied with:

- For scheduled maintenance time BHEL should be informed at least 48 hours in advance and subsequent approval / acceptance should be taken from BHEL. Any downtime due to mutually agreed scheduled maintenance of equipment or due to power outage from utility or an equipment not supplied by the vendor, shall not be to vendor's account.
- In addition to deduction of downtime, in case of delay beyond 90 days in rectification/replacement of the faulty part/equipment, BHEL may procure the item from open market to ensure the equipment/services are fully functional. The expenditure incurred in this process will be debited from the quarterly bill of the vendor.
- Downtime shall include any breakdown of the AC units or its associated components (Non-consumable or consumable compressor like fan, controller, sensors, cooling coils, PCBs, connectors etc.). Parts will be considered as faulty if they have stopped working or not working as desired or they have been deemed to be replaced by the OEM.
- Cases not covered above but where services may be affected and the responsibility lies with vendor for resolution, will be considered for downtime calculation.

24. PATENTS & TRADEMARKS

24.1. Vendor shall at all times fully indemnify and keep indemnified the purchaser (BHEL) against all claims which may be made in respect of systems / goods / software supplied by the vendor, for infringement of any right protected by patent, registration of designs or trademarks and legality of usage of software. In



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the event of any such claims being made against the purchaser (BHEL), purchaser (BHEL) will inform the vendor who shall at his own cost either settle any such dispute or conduct any litigation that may arise there from.

- 24.2. However, vendor will have no obligation for any claim or infringement arising from third party products not supplied in the order, modifications and technical information / instructions advised by purchaser and use of products prohibited by product manuals.
- 24.3. All such claims will be settled as per Indian laws.

25. CONFIDENTIALITY

Vendor shall, at all times, undertake to maintain complete confidentiality and integrity of all data, information, software, drawings & documents, etc. belonging to the purchaser (BHEL) and also of the Systems, procedures, reports, input documents, manuals, results and any other company documents discussed and/or finalized during the course of execution of the order/contract.

26. CLAIMS

All the claims etc. lodged with the underwriters, if any, shall be dealt with by the vendor directly.

27. JURISDICTION

All disputes or differences arising out of, under or in connection with this contract shall be subject to the exclusive jurisdiction of the courts having jurisdiction over BHEL, Haridwar.

28. GOVERNING LAW

This contract shall be governed in all respects by Indian law.

29. INDEMNITY

29.1. Bidder shall fully indemnify and keep indemnified the BHEL against all claims which may be made in respect of the use of System/Software/Item(s)/services supplied/rendered by the Bidder, for infringement of any rights protected by patent, registration of designs or trademarks and legality of the Software. However, the Bidder will have no obligation for any claim of infringement arising from third party products not supplied in the order, modifications and technical information/ instructions advised by BHEL and use of products prohibited by product manuals.

29.2. All such claims in this regard will be settled as per Indian Laws.

29.3. In the event of any such claims being made against the BHEL, BHEL will inform in writing to the Bidder who shall at his own risk and cost either settle any such dispute or defend BHEL in any litigation that may arise there from. In case Bidder fails to effectively defend BHEL in any litigation then BHEL shall defend such proceedings at Risk and Cost of Bidder. Bidder shall be responsible for penal consequences of any nature whatsoever arising out of such proceedings without any implication to BHEL.

30. INSURANCE

The insurance (transit & during contract life) shall be in the scope of the vendor / bidder. Comprehensive insurance for the complete Systems/Goods shall be arranged by the Bidder at his own risk and cost during



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transit, movement, storage and throughout the period of contract. BHEL, under any circumstances, will not be responsible for any loss/damage/theft of any Systems/goods, due to any reasons, whatsoever. Claim(s) etc., if any, will be dealt with the underwriters directly by the Bidder. Evidence of insurance policy shall be submitted to BHEL. If the bidder fails to renew the policy before the expiry, BHEL may renew the insurance and recover from the lease rental.

31. NON-DISCLOSURE AGREEMENT

- 31.1. The successful bidder shall comply with the Information Security Management System of BHEL and work within the framework of ISMS as applicable in BHEL from time-to-time.
- 31.2. All the material / information sent to the successful bidder shall be treated as confidential and should not be disclosed in any matter to any unauthorized person under any circumstances. The successful bidder has to furnish a Non-Disclosure Agreement (NDA) (as per Annexure-VI) in line with the Owner's Information Security Management System (ISMS).

32. SUB-CONTRACTING

Bidder Order/contract or any part thereof shall not be sub-contracted, assigned or otherwise transferred to any other party without prior written consent of BHEL. As an exception, Sub- contracting of manpower / Sourcing of manpower from business partner can be done after acceptance by BHEL. All the statutory requirements are to be fulfilled by the bidder/sub-contractor/business partner. The invoices shall be raised by the bidder only and all payments/deductions will be done against the bidder bills only. In no whatsoever way shall BHEL be liable to make any payments to the subcontractor.

33. SETTLEMENT OF DISPUTE

- 33.1. 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 the BHEL, subject to written appeal by the Bidder to the BHEL, whose decision shall be final to the parties hereto.
- 33.2. Any disputes or differences shall be to the extent possible settled amicably between the parties hereto, failing which the disputed issues shall be settled through arbitration.
- 33.3. However, the Bidder shall continue to perform the Order/Contract, pending settlement of dispute(s).

34. TERMINAL PAYMENT

BHEL shall have the right to acquire all the equipment at the end of the contract period by paying a nominal charge of ₹1.00 as terminal payment.

35. PROJECT MANAGER

- 35.1. The successful bidder shall depute one qualified and experienced person as Project Manager who will be overall responsible for implementation and single point of contact from Vendor's side during the implementation period. There will be one Project Manager from BHEL side also who will coordinate during the implementation period. Project Manager from Vendor should have following qualifications:
- To have minimum 10 years of professional experience.
 - Should have handled preferably 1 assignment of similar nature.
- 35.2. Project Manager shall be responsible for overall planning and tracking the progress of the implementation of project activities. Project Manager to share project plans, Activity lists, work details, schedules and

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periodic project progress report. BHEL shall periodically review implementation progress with the Project Manager and his team.

36. TRAINING

Vendor shall provide two days operational level training to the concerned IT Team of BHEL for day to day operation and management of the offered solution at BHEL premises.

37. RISK PURCHASE CLAUSE

BHEL reserves the right to terminate the order / contract and purchase from elsewhere at the risk and cost of the vendor / lessor, either the whole or part of equipment, which the vendor / lessor has failed to deliver within the stipulated delivery period. The vendor / lessor shall be liable to compensate the BHEL for any loss which BHEL may sustain by reason of such purchase. This clause will be operated only after completion of delivery period including extended period with penalty.

38. HR REGISTRATION

Contract shall be registered in HR –Contract labor cell (HR- CLC) and bill shall be obtained only after obtaining certificate from HR-CLC after verification of all documents for labor related payment, compliances etc., if applicable.

39. INFORMATION SECURITY REQUIREMENTS

39.1. BHEL Haridwar has implemented Information Security Management System (ISMS) and has taken certificate for the same based on ISO 27001 standard.

39.2. BHEL Information Security Policy is as follows:

“BHEL is committed to ensuring Confidentiality, Integrity, Availability and Privacy of its Information at all times for enhancing continuity & efficiency of IT services, and serving the needs of the organization in line with its Vision, Mission & Values, while meeting all regulatory requirements.”

39.3. In line with the ISMS requirements, vendor and its staff shall ensure the protection of BHEL information assets / information processing facilities at all times with respect to confidentiality, integrity and availability.

39.4. The vendor / personnel deputed by vendor shall comply with following requirements:

- a. Personnel deputed by vendor shall follow the ISMS system requirements.
- b. Personnel deputed by vendor shall present his / her identity proof to BHEL for getting proper authorization from BHEL. He/she shall not enter into BHEL premises without proper authorization.
- c. Vendor and personnel deputed by vendor shall sign Non-Disclosure Agreement (NDA) in the specified format of BHEL Haridwar.
- d. When allowed by proper authority, he / she shall work in secure area only in the presence of BHEL staff.
- e. If he /she has to work on any server / network device in secure area, the work shall only be allowed in presence of system administrator or any other person authorized by DTG.
- f. He / she shall maintain and service only that equipment which comes under his /her scope of contract.



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- g. Vendor / personnel deputed by vendor shall ensure the return or destruction of information / data at the end of AMC agreement and as and when required.
- h. Access to information assets, which is not explicitly authorized, shall be treated as forbidden.
- i. Any information security incident and / or security breaches shall be immediately reported to BHEL.

In case of any violation of the above, it will amount to non-fulfilment of terms & conditions of the contract.



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ADDITIONAL TERMS AND CONDITIONS

1. **Bidder financial standing:** The bidder should not be under liquidation, court receivership or similar proceedings, should not be bankrupt. Bidder to upload undertaking to this effect with bid.
2. Bidder's offer is liable to be rejected if they don't upload any of the certificates / documents sought in the Bid document, ATC and Corrigendum if any.
3. Dedicated /toll Free Telephone No. for Service Support: BIDDER/OEM must have Dedicated/toll Free Telephone No. for Service Support.
4. Escalation Matrix For Service Support: Bidder/OEM must provide Escalation Matrix of Telephone Numbers for Service Support.
5. **Malicious Code Certificate:**
The seller should upload following certificate in the bid:-
 - a. This is to certify that the Hardware and the Software being offered, as part of the contract, does not contain Embedded Malicious code that would activate procedures to :-
 - i. Inhibit the desires and designed function of the equipment.
 - ii. Cause physical damage to the user or equipment during the exploitation.
 - iii. Tap information resident or transient in the equipment/network.
 - b. The firm will be considered to be in breach of the procurement contract, in case physical damage, loss of information or infringements related to copyright and Intellectual Property Right (IPRs) are caused due to activation of any such malicious code in embedded software.

UNPRICED BID

Annexure-V A

Instructions for filling details in the Un-Priced Bid Format:

1. The rate should be quoted in Indian Rupees, and should be exclusive of GST.
2. The lease charges are to be quoted for financial lease for 60 months, payable at the end of each quarter for 20 quarters.
3. The total cost should be mentioned in this format. The prices should be fixed and should avoid use of vague terms as "Extra as applicable".
4. Five year warranty charges are included in Maintenance Charges
5. Transit as well as Onsite insurance shall be in bidder's scope.
6. "Maintenance Charges" (Column 'H') has been considered as 30% of Column 'F' (Per Quarter Charges excluding Incidentals) and "Hardware Charges" (Column 'G') has been considered as 70% of Column 'F'.
7. The bidder should provide the Total Lease charges for 5 years in field 'Z' and Per Quarter Incidentals Charges for Unit Quantity in Column 'E'.
8. The rate are inclusive Installation & Commissioning

Total Lease charges for 5 years, excluding GST, in Rs (To be quoted), Z=

X

In words:

S. No.	ITEM Code	QTY.	Fixed Itemwise Percentage (of Total Price, "Z")	Make	Model	GST Rate (%)	HSN/SAC	Lease Charges for the Total Quantity for 5 years excluding taxes (INR)	Total Per Quarter Lease Charges for Unit Qty (excluding taxes) (INR)	Per Quarter Incidentals Charges (like Interest on capital, etc.) for Unit Qty (excluding taxes) (INR) (To be quoted)	Total Per Quarter Lease Charges excluding Incidentals for Unit Qty (excluding taxes) (INR)	Per Quarter Hardware Charges for unit qty on outright basis (excluding taxes) (INR)	Per Quarter Maintenance Charges for Unit Qty (excluding taxes) (INR)
		A	B					C = B * Z	D = C/(A*20)	E	F = D - E	G = 70% * F	H = 30% * F
1	PAC	3	70%					X	X	X	X	X	X
2	IAC	2	26%					X	X	X	X	X	X
3	CAC	7	4%					X	X	X	X	X	X

Note: This Unpriced Bid format is the part of Technical Bid (Part-I). Bidders shall fill only only Make, Model, GST & HSN/SAC in the prescribed columns. The Price column (crossed out) shall contain only the word "Quoted". Do not indicate any price on this sheet, otherwise your offer shall be rejected.

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CHECKLIST

To be submitted with Technical Bid

Sl.	Annexure	Description	Enclosed by Bidder (Yes/No)	Page Nos. in Bid Document	Remarks
1.	Annexure-I	Pre-Qualification Criteria (PQC)			
2.	Annexure-I A	Annual Turnover of Bidder			
3.	Annexure-I B	Major Orders Received in Last 7 Years Order for Supply and Installation of Environmental Conditioning Systems such as Precision Air Conditioners (PAC), Industrial Air Conditioners (IAC), and Comfort Air Conditioners (CAC) for a Data Center			
	Annexure-I C	Authorization by OEM			
4.	Annexure-II	Bill of Material (BOM) & Technical Specification			
5.	Annexure-II A	Technical Compliance Sheet - PAC			
6.	Annexure-II B	Technical Compliance Sheet - IAC			
7.	Annexure-II C	Technical Compliance Sheet - CAC			
8.	Annexure-III	Scope of Work & Special Terms and Conditions			
9.	Annexure-IV	No Deviation Certificate			
10.	Annexure-V	Price Bid			
11.	Annexure-V A	Unpriced Bid			
12.	Annexure-VI	Mutual Non-Disclosure Agreement (NDA)			
13.	Annexure-VII	OEM Certificate & Newness			

Annexure-I A

ANNUAL TURNOVER OF BIDDER

Sl. No.	Financial Year	Turnover (in Rs.)
1	2022-2023	
2	2023-2024	
3	2024-2025	

Annexure-I B

MAJOR ORDERS RECEIVED IN LAST 7 YEARS

(Order for Supply and Installation of Air Conditioning Systems such as Precision Air Conditioners (PAC), Industrial Air Conditioners (IAC), and Comfort Air Conditioners (CAC) for a Data Center)

Sl. No.	Customer Name	Type of Order (Leasing / Outright Sale)	Customer Contact Details (Name, Phone, Email)	Value of Order / Contract (excluding GST)	Brief Scope of Contract along with Equipment details
1					
2					
3					
4					

AUTHORIZATION BY OEM

Date: _____

To,
BHEL,

Subject: Letter of Authority

Tender Ref. No.: _____ dated _____

Dear Sir,

We hereby authorize _____ who fulfils the requirements of the tender enquiry ref. no. _____ dated _____ to quote /negotiate and service the equipment as required in the above tender enquiry.

This authorization is valid only for the following equipment for which we are the OEM:

1. _____
2. _____
3. _____

The authorized agency would ensure reliable service during complete period of 5 years.

(Authorized Signatory)

For _____

Note: This 'Letter of Authority' should be issued on the letterhead of OEM & enclosed in Part-I.

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Annexure-IV

NO DEVIATION CERTIFICATE

(To be typed and submitted in the Letter Head of the Company/Firm of Bidder)

This is to certify that our offer is exactly in line with your Tender Enquiry no. Ref. no.: _____
dated: _____ and any subsequent corrigendum's issued by BHEL. This is to expressly certify that our offer
contains no deviation either Technical or Commercial in either direct or indirect item.

Signed by:

Name: -----

Designation: -----

Organization: -----

Date & Place: -----

Phone/Fax/Mobile: -----

Email: -----

Stamp / Seal: -----

Annexure-VI: Mutual Non-Disclosure Agreement (NDA)

MUTUAL NON-DISCLOSURE AGREEMENT

This Agreement is made and entered into as of the last date signed below (the "Effective Date") by and between **Bharat Heavy Electricals Ltd.(BHEL)**, a Public Sector Organization having its principal place of business at BHEL House, Siri Fort, New Delhi - 110049 and _____, a _____ corporation, hereinafter called "The Bidder", whose principal mailing address is _____.

WHEREAS in order to pursue the mutual business purpose of this particular project as specified in Bid document for IT Hardware Rate Contract on Lease basis across BHEL at more than 20 locations for a period of FIVE years, **BHEL** and the Bidder have an interest in participating in discussions wherein either Party might share information with the other that the disclosing Party considers to be proprietary and confidential to itself ("Confidential Information"); and

WHEREAS the Parties agree that Confidential Information of a Party might include, but not be limited to that Party's:

1. business plans, methods, and practices;
2. personnel, customers, and suppliers;
3. inventions, processes, methods, products, patent applications, and other proprietary rights; or
4. specifications, drawings, sketches, models, samples, tools, computer programs, technical information, or other related information;

NOW, THEREFORE, the Parties agree as follows:

1. Either Party may disclose Confidential Information to the other Party in confidence provided that the disclosing Party identifies such information as proprietary and confidential either by marking it, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other Party of the proprietary and confidential nature of the information, such notification to be done orally, by e-mail or written correspondence, or via other means of communication as might be appropriate.
2. When informed of the proprietary and confidential nature of Confidential Information that has been disclosed by the other Party, the receiving Party ("Recipient") shall, for a period of three (3) years from the date of disclosure, refrain from disclosing such Confidential Information to any contractor or other third party without prior, written approval from the disclosing Party and shall protect such Confidential Information from inadvertent disclosure to a third party using the same care and diligence that the Recipient uses to protect its own proprietary and confidential information, but in no case less than reasonable care. The Recipient shall ensure that each of its employees, officers, directors, or agents who has access to Confidential Information disclosed under this Agreement is informed of its proprietary and confidential nature and is required to

abide by the terms of this Agreement. The Recipient of Confidential Information disclosed under this Agreement shall promptly notify the disclosing Party of any disclosure of such Confidential Information in violation of this Agreement or of any subpoena or other legal process requiring production or disclosure of said Confidential Information.

3. All Confidential Information disclosed under this Agreement shall be and remain the property of the disclosing Party and nothing contained in this Agreement shall be construed as granting or conferring any rights to such Confidential Information on the other Party. The Recipient shall honor any request from the disclosing Party to promptly return or destroy all copies of Confidential Information disclosed under this Agreement and all notes related to such Confidential Information. The Parties agree that the disclosing Party will suffer irreparable injury if its Confidential Information is made public, released to a third party, or otherwise disclosed in breach of this Agreement and that the disclosing Party shall be entitled to obtain injunctive relief against a threatened breach or continuation of any such breach and, in the event of such breach, an award of actual and exemplary damages from any court of competent jurisdiction.
4. The terms of this Agreement shall not be construed to limit either Party's right to develop independently or acquire products without use of the other Party's Confidential Information. The disclosing party acknowledges that the Recipient may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Nothing in this Agreement will prohibit the Recipient from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that the Recipient does not violate any of its obligations under this Agreement in connection with such development.
5. Notwithstanding the above, the Parties agree that information shall not be deemed Confidential Information and the Recipient shall have no obligation to hold in confidence such information, where such information:
 - 5.1. Is already known to the Recipient, having been disclosed to the Recipient by a third party without such third party having an obligation of confidentiality to the disclosing Party; or
 - 5.2. Is or becomes publicly known through no wrongful act of the Recipient, its employees, officers, directors, or agents; or
 - 5.3. Is independently developed by the Recipient without reference to any Confidential Information disclosed hereunder; or
 - 5.4. Is approved for release (and only to the extent so approved) by the disclosing Party; or
 - 5.5. Is disclosed pursuant to the lawful requirement of a court or governmental agency or where required by operation of law.
6. Nothing in this Agreement shall be construed to constitute an agency, partnership, joint venture, or other similar relationship between the Parties.

- 7. Neither Party will, without prior approval of the other Party, make any public announcement of or otherwise disclose the existence or the terms of this Agreement.
- 8. This Agreement contains the entire agreement between the Parties and in no way creates an obligation for either Party to disclose information to the other Party or to enter into any other agreement.
- 9. This Agreement shall remain in effect during the contract period from the Effective Date unless otherwise terminated by either Party giving notice to the other of its desire to terminate this Agreement. The requirement to protect Confidential Information disclosed under this Agreement shall survive termination of this Agreement.

IN WITNESS WHEREOF:

FOR AND ON BEHALF OF

FOR AND ON BEHALF OF

BHARAT HEAVY ELECTRICALS LTD.

Signature: _____

Signature: _____

Name: _____

Name: _____

Designation: _____

Designation: _____

Date: _____

Date: _____

Witness

Witness

1.

1.

2.

2.

Annexure-VII: Certifications Required in Addition to Mentioned in Technical Specifications for Each of the Item

Sl. No.	Product	Certification	Whether (Yes/No)
1	PRECISION AC (PAC)	a) OEM Guarantee Certificate for compliance of technical specifications of PAC listed as per Annexure-II A. b) Vendor shall provide the certificate of newness for all the equipment of PAC at the time of supply.	
2	INDUSTRIAL AC (IAC)	a) OEM Guarantee Certificate for compliance of technical specifications of IAC as per Annexure-II B. b) Vendor shall provide the certificate of newness for all the equipment of IAC at the time of supply.	
3	COMFORT AC (CAC)	a) OEM Guarantee Certificate for compliance of technical specifications of CAC as per Annexure-II C. b) Vendor shall provide the certificate of newness for all the equipment of CAC at the time of supply.	

General Conditions of Contract (GCC) for Works & Services Contracts

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CHAPTER -1 1. GENERAL INSTRUCTION TO TENDERERS

1.1. DESPATCH INSTRUCTIONS

- i. The General Conditions of Contract form part of the Tender specifications. For this tender, bidders shall use electronic Signature viz Digital Signature Certificate while uploading the tender documents on the e-procurement portal. The information furnished shall be complete by itself. The tenderer is required to furnish all the details and other documents as required in the following pages.
- ii. 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 the full understanding of the implications thereof. Should the tenderers have any doubt about the meaning of any portion of the Tender Specification or find discrepancies or omissions in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, the scope of work etc., he shall at once, contact the authority inviting the tender well in time (so as not to affect last date of submission) for clarification before the submission of the tender. Tenderer's request for clarifications shall be with reference to Sections and Clause numbers given in the tender documents. The specifications and terms and conditions shall be deemed to have been accepted by the tenderer in his offer. Non-compliance with any of the requirements and instructions of the tender enquiry may result in the rejection of the tender.
- iii. Integrity pact (IP) shall be applicable for all tenders / contracts if indicated in NIT. This IP shall be issued as part of the Tender documents and shall be submitted by the bidder along with Techno-commercial bid duly filled, signed and stamped by the authorized signatory who signs the bid. Entering into this pact shall be a preliminary qualification.

1.2. SUBMISSION OF TENDERS

- 1.2.1 The tenderers must submit their tenders to Officer inviting tender as per instructions in the NIT.
- 1.2.2 Tenders shall be submitted through E-Procurement portal as per instruction in NIT. Tenderers to upload offers well in advance in order to avoid last minute congestion in e-procurement website. However, after

submission of the tender, the tenderer can re-submit revised tender but before due date and time of submission of tender as notified.

- 1.2.3 Tenders shall be opened by Officer of BHEL at the time and date as specified in the NIT. For this tender, bidders may attend through online mode, if provisions are available in e-procurement portal.
- 1.2.4 Tenderers whose bids are found techno commercially qualified shall be notified through e-procurement system about the date and time of opening of the Price Bids. BHEL's decision in this regard shall be final and binding.
- 1.2.5 The information given in the tender documents is for general guidance and shall not be construed as contractually binding on BHEL/ Owner. All relevant site data/ information as may be necessary for bidding shall have to be obtained/ collected by the Tenderer.
- 1.2.6 The Tenderers are advised to physically visit the site to acquaint and satisfy themselves about the weather conditions, working culture in the area, sociopolitical environment, safety & security aspects, law & order situation, law of the land, transportation routes, various distances, surroundings of plant/ project premises together with all statutory, obligatory, mandatory requirements of various authorities and obtain for themselves all necessary information as to the risks, contingencies and all other circumstances, which may influence or affect the discharge of various obligations under the Contract during contract period including extended period (if any).
- 1.2.7 The submission of bid will tantamount to due diligence having been done and it shall be deemed that:
 - a. the Tenderer has obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Works
 - b. the Tenderer accepts total responsibility for having foreseen all difficulties and costs of successfully completing the Works
 - c. the Tenderer accepts that, the Contract Price shall not be adjusted to take account of any unforeseeable or unforeseen difficulties or costs and the Tenderer shall not raise any claims/ disputes against BHEL and/ or Owner at later date in any manner whatsoever.

1.3. LANGUAGE

- 1.3.1 The tenderer shall quote the rates in English language and international numerals. These rates shall be entered in figures as well as in words. Tenderers are requested to refer the clauses of NIT/"Price Bid" for more details. For the purpose of the tenders, the metric system of units shall be used.
- 1.3.2 All entries in the tender shall either be typed or written legibly in ink. Erasing and over-writing is not permitted and may render such tenders liable for rejection. All cancellations and insertions shall be duly attested by the tenderer.

1.4 PRICE DISCREPANCY:

- 1.4.1 Price Bid opening: During opening of price bids, if there is any difference between the amount in figures and in words, the amount quoted by the bidder in words shall be taken as correct.
- 1.4.2 Reverse Auction: In case of Reverse Auction, the successful bidder shall undertake to execute the work as per overall price offered by him during the Reverse Auction process. (Guidelines as available on www.bhel.com on "**supplier registration page**" or as per GeM guidelines, as applicable).

1.5 QUALIFICATION OF TENDERERS

- i. Only tenderers who have previous experience in the work of the nature and description detailed in the Notice Inviting Tender and/or tender specification are expected to quote for this work duly detailing their experience along with offer.
- ii. Offers from tenderers who do not have proven and established experience in the field shall not be considered.

- iii. The offers of the bidders who are on the debarred list shall be rejected. Further, offer of the bidders, who engage the services of the debarred firms or associated with the debarred firm, for present bid, shall also be rejected. The list of debarred firms is available on BHEL web site www.bhel.com.
- iv. Offers from tenderers who do not comply with the latest guidelines of Ministry/ Commissions of Govt. of India shall not be considered.

1.6 EVALUATION OF BIDS

- i) Technical Bids submitted by the tenderer will be opened first and evaluated for fulfilling the Pre-Qualification criteria and other conditions in NIT/Tender documents, based on documentary evidences submitted along with the offer.
- ii) In case the same qualifying experience is claimed by more than one agency, then: a. The agency who has executed the work as per documentary evidence submitted shall only be qualified. Scope of qualifying work should be totally with the agency who has executed and in case it is only labour and consumables without T&P, then the credentials of execution is assigned to the first agency and not to the agency who has executed only as labour supply contractor. Further, BHEL reserves the right to ask for any other proof for the said job. b. However, if the same is on account of subletting, part of scope by one agency to another agency in a project of BHEL, experience of both the agencies may be considered for the sublet portion of the work provided subletting has been done with the approval of BHEL.
- iii) In case the qualifying experience is claimed by bidder is based on 'Work Order' and 'Experience Certificates' from any organization other than BHEL (main agency), then it shall be the responsibility of the bidder to submit (in addition to the experience certificate from main agency) relevant certificate regarding qualifying experience from the end Customer or the Turnkey-Contractor (if any) who has awarded the work to main agency, as a proof for having executed subject qualifying work. BHEL reserves the right to ask for any other proof for the said job.
- iv) Assessing Bidder's Capacity for executing the current tender shall be as per Notice Inviting Tender.
- v) Price Bids of shortlisted bidders shall only be opened through the electronic price bid opening with/without Reverse Auction, at the discretion of BHEL. Unless specified otherwise in the tender, the L1 bidder amongst all the shortlisted bidders shall be considered for award. However, the L1 bidder shall have no claim on the award & BHEL reserves the right to award the tender at its sole discretion.
- vi) Price Bids of unqualified bidders shall not be opened. Reasons for rejection shall be intimated in due course either through system generated e-mail or through letter/e-mail after award to successful bidder.
- vii) Bidders are advised to also refer to clause no 2.9.4 regarding evaluation of their performance in ongoing projects.
- viii) In the course of evaluation, if more than one bidder happens to occupy L-1 status, effective L-1 will be decided by soliciting discounts from the respective L-1 bidders. In case more than one bidder happens to occupy the L-1 status even after soliciting discounts, the L-1 bidder shall be decided by a toss / draw of lots, in the presence of the respective L-1 bidder(s) or their representative(s). Ranking will be done accordingly. BHEL's decision in such situations shall be final and binding.

1.7 DATA TO BE ENCLOSED

Full information shall be given by the tenderer in respect of the following. Nonsubmission of this information may lead to rejection of the offer.

- i) **INCOME TAX PERMANENT ACCOUNT NUMBER**
Certified copies of Permanent Account Numbers as allotted by Income Tax Department for the Company/Firm/Individual Partners etc. shall be furnished along with tender.
- ii) **ORGANIZATION CHART**

The organization chart of the tenderer's organization, including the names, addresses and contact information of the Directors/Partners shall be furnished along with the offer.

- iii) An attested copy of the Power of Attorney, in case the tender is signed by an individual other than the sole proprietor.
- iv) **IN CASE OF INDIVIDUAL TENDERER:**
His / her full name, address, PAN and place & nature of business.
- v) **IN CASE OF PARTNERSHIP FIRM:**
The names of all the partners and their addresses, copy of the partnership deed/instrument of partnership duly certified by the Notary Public shall be enclosed.
- vi) **IN CASE OF COMPANIES:**
 - a) Date and place of registration including date of commencement certificate in case of Public Companies (certified copies of Memorandum and articles of Association are also to be furnished).
 - b) Nature of business carried on by the Company and the provisions of the Memorandum relating thereof.

1.8 AUTHORIZATION AND ATTESTATION

Tenders shall be signed by a person duly authorized/empowered to do so, for which a Power of Attorney is to be submitted along with the tender offer. For company, a Power of Attorney shall be submitted.

1.9 EARNEST MONEY DEPOSIT

- 1.9.1 Every tender must be accompanied by the prescribed amount of Earnest Money Deposit (EMD) in the manner described herein.
- i) EMD shall be furnished before tender opening / along with the offer in full as per the amount indicated in the NIT.
 - ii) The EMD up to an amount of Rs. 2 Lakh is to be paid only in the following forms:
 - a. Cash deposit as permissible under the extant Income Tax Act (before tender opening).
 - b. Electronic Fund Transfer credited in BHEL account (before tender opening).
 - c. Banker's cheque / Pay order / Demand draft, in favour of 'Bharat Heavy Electricals Limited' and payable at Regional HQ issuing the tender (along with offer).
 - d. Fixed Deposit Receipt (FDR) issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL) duly marking lien in favour for BHEL (along with offer). The Fixed Deposit in such cases shall be valid for at least six months from the due date of tender submission.
 - e. Insurance Surety Bonds
 - f. In case EMD amount is more than Rs. Two Lakhs, Tenderer has the option to submit the amount in excess of Rs. Two lakhs in the forms described above in clause no. 1.9.1. ii) (a) to (e) or in the form of Bank Guarantee from Scheduled Bank (along with the Offer). The Bank Guarantee in such cases shall be valid for at least six months from the due date of tender submission. The Bank Guarantee format for EMD shall be in the prescribed formats.
 - iii) No other form of EMD remittance shall be acceptable to BHEL.
 - iv) Proof of EMD: Bidder shall upload the scanned copy of EMD along with bid submission through BHEL e-procurement Portal/GeM Portal. However, for the purpose of realization, the bidder shall send the demand draft/ banker's cheque/ pay order/ Bank Guarantee/ FDR/ Insurance Surety Bonds, in original, to the designated officer through post/courier or by hand within reasonable time.

- 1.9.2 EMD by the Tenderer will be forfeited as per NIT conditions, if:
- i) After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL. **OR**
 - ii) The successful Contractor, on whom the work has been awarded, fails to deposit the required Security deposit or commence the work within the period as per LOI/ LOA/ Contract or refuse to accept the LIO/LOA/Contract. EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" of BHEL and forfeited/ released based on the action as determined under these guidelines.
- 1.9.3 EMD shall not carry any interest.
- 1.9.4 EMD given by all unsuccessful tenderers shall be refunded normally within fifteen days of award of work.
- 1.9.5 Cash portion of EMD of successful tenderer will be retained as part of Security Deposit. EMD submitted in the form of Bank Guarantee/ FDR shall be retained by BHEL until the receipt of the Security Deposit.

1.10 SECURITY DEPOSIT

- 1.10.1 Upon acceptance of Tender, the successful bidder shall be required to deposit the 5% of the contract value as Security Deposit towards fulfilment of any obligations in terms of the provisions of the contract.
- 1.10.2 The Security Deposit shall be furnished before start of the work by the contractor.
- 1.10.3 The required Security Deposit may be accepted in the following forms.
- i) Cash (as permissible under the extant Income Tax Act).
 - ii) Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL.
 - iii) Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).
 - iv) Bank Guarantee from Scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format for Security Deposit shall be in the prescribed formats.
 - v) Fixed Deposit Receipt issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL). Specific lien in favour of BHEL on the FDR shall be marked and letter from the Bank having created such lien in the format shall be submitted along with FDR.
 - vi) Insurance Surety Bonds.
- Note:**
- i. BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.
 - ii. In case of delay in submission of Security Deposit, enhanced security deposit which would include interest (Repo rate + 4%) for the delayed period, shall be submitted by the bidder before submission of first bill
- 1.10.4 The Security Deposit shall not carry any interest.
- 1.10.5 In case the value of work exceeds the awarded / accepted value, the Security Deposit shall be correspondingly enhanced as given below:
- i) The enhanced part of the Security Deposit shall be immediately deposited by the Contractor or adjusted against payments due to the Contractor.
 - ii) Contract value for the purpose of operating the increased value of Security Deposit due to Quantity Variation, shall be exclusive of Price Variation Clause, Over Run Compensation and Extra works done on man-day rates.
 - iii) The recoveries made from running bills can be released against submission of equivalent Bank Guarantee in acceptable form, but only once, before completion of work, with the approval of competent authority of BHEL.

- 1.10.6 The validity of Bank Guarantees towards Security Deposit shall be valid till actual completion of work + Guarantee Period + 3 months.
- 1.10.7 BHEL reserves the right of forfeiture of Security Deposit in addition to other claims, damages and remedies in the event of the Contractor's failure to fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract. BHEL reserves the right to set off the Security Deposit against any claims of other contracts with BHEL by giving prior notice to the contractor.

1.11 RETURN OF SECURITY DEPOSIT

Security Deposit shall be released to the contractor upon fulfillment of contractual obligations as per terms of the contract including completion of Guarantee Period after deducting all expenses / other amounts due to BHEL under the contract.

1.12 BANK GUARANTEES

Where ever Bank Guarantees are to be furnished/submitted by the contractor, the following shall be complied with

- i) Bank Guarantees shall be from Scheduled Banks / Public Financial Institutions as defined in the Companies Act. Bank Guarantees issued by Co-Operative Banks/ Financial Institutions shall not be accepted.
- ii) The Bank Guarantees shall be as per prescribed formats.
- iii) It is the responsibility of the bidder to get the Bank Guarantees revalidated/extended for the required period as per the advice of BHEL Site Engineer / Construction Manager. BHEL shall not be liable for issue of any reminders regarding expiry of the Bank Guarantees.
- iv) In case extension/further extensions of any Bank Guarantees are not required, the bidders shall ensure that the same is explicitly endorsed by the Engineer Incharge.
- v) In case the Bank Guarantees are not extended before the expiry date, BHEL reserves the right to invoke the same by informing the concerned Bank in writing, without any advance notice/communication to the concerned bidder.
- vi) Bidders to note that any corrections to Bank Guarantees shall be done by the issuing Bank, only through an amendment in an appropriate non judicial stamp paper.
- vii) The Original Bank Guarantee shall be submitted to Engineer Incharge unless specified otherwise in TCC.

1.13 VALIDITY OF OFFER

The rates in the Tender shall be kept open for acceptance for a minimum period of **120 DAYS** from latest due date of offer submission (including extension, if any). In case BHEL (Bharat Heavy Electricals Ltd) calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the original offer which shall be binding on the tenderers.

1.14 EXECUTION OF CONTRACT AGREEMENT

The successful tenderer's responsibility under this contract commences from the date of issue of the Letter of Award by Bharat Heavy Electricals Limited. The successful tenderer shall be required to execute an agreement in the prescribed form, with BHEL, within a reasonable time/as per tender terms, after the acceptance of the Letter of Award, and in any case before releasing the first running bill. The contract agreement shall be signed by a person duly authorized/ empowered by the tenderer.

1.15 REJECTION OF TENDER AND OTHER CONDITIONS

- 1.15.1 The acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender nor any tender and reserves to itself full rights for the following without assigning any reasons whatsoever: -
- a. To reject any or all of the tenders.
 - b. To split up the work amongst two or more tenderers as per NIT.

- c. To award the work in part if specified in NIT.
 - d. In case of either of the contingencies stated in (b) and (c) above, the time for completion as stipulated in the tender shall be applicable.
- 1.15.2 Conditional tenders, unsolicited tenders, tenders which are incomplete or not in the form specified or defective or have been materially altered or not in accordance with the tender conditions, specifications etc. are liable to be rejected.
- 1.15.3 Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL or tenderer under suspension (debarred) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt of India. BHEL reserves the right to not consider a bidder for further processing of tender in case it is observed that they are overloaded and may not be in a position to execute this job. The decision of BHEL will be final in this regard.
- 1.15.4 If a tenderer who is a proprietor expires after the submission of his tender or after the acceptance of his tender, BHEL may at their discretion, cancel such tender. If a partner of a firm expires after the submission of tender or after the acceptance of the tender, BHEL may then cancel such tender at their discretion, unless the firm retains its character. In case BHEL resolves to cancel the tender under this clause, BHEL will issue a notice in this regard containing reasons as to the cancellation of tender. The contractor shall be required to furnish his response to such notice within a period of 14 days from the date of receipt of such notice through any means (BHEL reserves the right to decrease the period upto 05 days). BHEL after due consideration of the representation made by contractor shall communicate its final decision within a reasonable period. In case contractor fails to submit any response to the notice issued by BHEL within the period stipulated in the notice, BHEL at its discretion may proceed to cancel the contract. Contractor shall not be eligible for any compensation whatsoever for the cancellation of contract under this clause.
- 1.15.5 BHEL will not be bound by any Power of Attorney granted by changes in the composition of the firm made subsequent to the execution of the contract. BHEL may, however, recognize such power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned.
- 1.15.6 If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract if awarded and forfeit the Earnest Money/Security Deposit/any other money due.
- 1.15.7 Canvassing in any form in connection with the tenders submitted by the Tenderer shall make his offer liable to rejection.
- 1.15.8 In case the Proprietor, Partner or Director of the Company/Firm submitting the Tender, has any relative or relation employed in BHEL, the authority inviting the Tender shall be informed of the fact as per specified format, along with the Offer. Failing to do so, BHEL may, at its sole discretion, reject the tender or cancel the contract and forfeit the Earnest Money/Security Deposit.
- 1.15.9 The successful tenderer (Contractor) shall not sub-contract any portion of work detailed in the tender specification undertaken by him without written permission of BHEL's Construction Manager/Site in charge. BHEL, at its discretion, may consider the written request from the Contractor and permit subletting of part scope. However, the Contractor is solely responsible to BHEL for the work awarded to him.
- 1.15.10 The Tender submitted by a techno commercially qualified tenderer shall become the property of BHEL who shall be under no obligation to return the same to the bidder.
- 1.15.11 Unsolicited discount received after the due date and time of Bid Submission shall not be considered for evaluation. However, if the party who has submitted the unsolicited discount/rebate becomes the L-1 party, then the awarded price i.e. contract value shall be worked out after considering the discount so offered.
- 1.15.12 BHEL shall not be liable for any expenses incurred by the bidder in the preparation of the tender irrespective of whether the tender is accepted or not.

1.16 INTIMATION OF CHANGE OF NAME/ RE-CONSTITUTION OF THE ORGANIZATION

In the event of the organization (Proprietorship/Partnership/Company) undergoing any change of name or reconstitution, prior intimation of the same shall be given to BHEL. Upon such changes coming into effect, the same is to be intimated to BHEL immediately with supporting documents as applicable.

CHAPTER-2

2.1 DEFINITION: The following terms shall have the meaning hereby assigned to them except where the context otherwise requires

- i) BHEL shall mean Bharat Heavy Electricals Limited, a company registered under Indian Companies Act 1956, having its Registered Office at BHEL HOUSE, SIRI FORT, NEW DELHI – 110 049, and its office at (inviting tenders) (Name of the Unit or Power Sector Regional Offices or its Authorized Officers.
- ii) “EXECUTIVE DIRECTOR” or “GENERAL MANAGER (In- charge)” or “GENERAL MANAGER” shall mean the Officer in Administrative charge of the respective UNIT/Power Sector Region.
- iii) “COMPETENT AUTHORITY” shall mean BHEL Officers who are empowered to act on behalf of BHEL.
- iv) “ENGINEER” or “ENGINEER IN CHARGE” shall mean an Officer of BHEL as may be duly appointed and authorized by BHEL to act as “Engineer” on his behalf for the purpose of the Contract, to perform the duty set forth in this General Conditions of Contract and other Contract documents. The term also includes ‘CONSTRUCTION MANAGER’ or ‘SITE INCHARGE’ as well as Officers at Site or at BHEL HARIDWAR. For the purpose of joint measurement, verification, certification and/ or approval of the work and/ or documents under the contract the word "Engineer" or "Engineer Incharge" shall be deemed to include the Engineers of the Customer and/ or his Consultant also.
- v) “SITE” shall mean the places or place at which the plants/equipments are to be erected and services are to be performed as per the specification of this Tender.
- vi) “CLIENT OF BHEL” or “CUSTOMER” shall mean the project authorities with whom BHEL has entered into a contract for supply of equipments or provision of services.
- vii) “CONTRACTOR” shall mean the successful Bidder/Tenderer who is awarded the Contract and shall include the Contractor’s successors, heirs, executors, administrators and permitted assigns.
- viii) “CONTRACT” or “CONTRACT DOCUMENT” shall mean and includes the Agreement or Work Order, the accepted appendices of Rates, Schedules, Quantities if any, Offer submitted by contractor including acceptance to General Conditions of Contract, Special Conditions of Contract, Instructions to the Tenderers, Drawings, Technical Specifications, the Special Specifications if any, the Tender documents, subsequent amendments /corrigendum to Tender mutually agreed upon and the Letter of Intent/Award/Acceptance issued by BHEL. Any conditions or terms stipulated by the contractor in the tender documents or subsequent letters shall not form part of the contract unless, specifically accepted in writing by BHEL in the Letter of Intent/Award and incorporated in the agreement or amendment thereof.
- ix) “GENERAL CONDITIONS OF CONTRACT” shall mean the ‘Instructions to Tenderers’ and ‘General Conditions of Contract’ pertaining to the work for which above tenders have been called for.
- x) “TENDER SPECIFICATION” or “TENDER” or “TENDER DOCUMENTS” shall mean General Conditions, Common Conditions, Special Conditions, Price Bid, Rate Schedule, Technical Specifications, Appendices, Annexures, Corrigenda, Amendments, Forms, Procedures, Site information etc. and drawings/documents pertaining to the work for which the tenderers are required to submit their offers. Individual specification number will be assigned to each Tender Specification.
- xi) “LETTER OF INTENT/ AWARD” shall mean the intimation by a Letter/Fax/email to the tenderer that the tender has been accepted in accordance with provisions contained in the letter. The responsibility of the contractor commences from the date of issue of this letter and all terms and conditions of the contract are applicable from this date.
- xii) “COMPLETION TIME” shall mean the period by ‘date/month’ specified in the ‘Letter of Intent/Award’ or date mutually agreed upon for handing over of the intended scope of work, the erected

- equipment/plant which are found acceptable by the Engineer, being of required standard and conforming to the specifications of the Contract.
- xiii)** "PLANT" shall mean and connote the entire assembly of the plant and equipments covered by the contract.
 - xiv)** "EQUIPMENT" shall mean equipment, machineries, materials, structural, electricals and other components of the plant covered by the contract.
 - xv)** "TESTS" shall mean and include such test or tests to be carried out on the part of the contractor as are prescribed in the contract or considered necessary by BHEL in order to ascertain the quality, workmanship, performance and efficiency of the contractor or part thereof.
 - xvi)** "APPROVED", "DIRECTED" or "INSTRUCTED" shall mean approved, directed or instructed by BHEL.
 - xvii)** "WORK or CONTRACT WORK" shall mean and include supply of all categories of labour, specified consumables, tools and tackles and Plants required for complete and satisfactory site transportation, handling, stacking, storing, erecting, testing and commissioning of the equipments to the entire satisfaction of BHEL.
 - xviii)** "SINGULAR AND PLURALS ETC" words carrying singular number shall also include plural and vice versa, where the context so requires. Words imparting the masculine Gender shall be taken to include the feminine Gender and words imparting persons shall include any Company or Associations or Body of Individuals, whether incorporated or not.
 - xix)** "HEADING" – The heading in these General Conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken as instructions thereof or of the contract.
 - xx)** "MONTH" shall mean calendar month unless otherwise specified in the Tender.
 - xxi)** 'Day' or 'Days' unless herein otherwise expressly defined shall mean calendar day or days of twenty-four (24) hours each. A Week shall mean continuous period of seven (7) days.
 - xxii)** "COMMISSIONING" shall mean the synchronization testing and achieving functional operation of the Equipment with associated system after all initial adjustments, trials, cleaning, re-assembly required at site if any, have been completed and Equipment with associated system is ready for taking into service.
 - xxiii)** "WRITING" shall include any manuscript type written or hand written or printed statement or electronically transmitted messages, under the signature or seal or transmittal of BHEL.
 - xxiv)** "TEMPORARY WORK" shall mean all temporary works for every kind required in or for the execution, completion, maintenance of the work.
 - xxv)** 'CONTRACT PRICE' or 'CONTRACT VALUE' shall mean the sum mentioned in the LOI/LOA/Contract Agreement subject to such additions thereto or deductions there from as may be made under provisions hereinafter contained.
 - xxvi)** 'EXECUTED CONTRACT VALUE' shall mean actual value of works executed by the contractor and certified by BHEL. This value shall not include PVC, ORC, Extra Works and Taxes.
 - xxvii)** "COMMENCEMENT DATE" or "START DATE" shall mean the commencement/start of work at Site as per terms defined in the Tender.
 - xxviii)** "SHORT CLOSING" or "FORE CLOSING" of Contract shall mean the premature closing of Contract, for reasons not attributable to the contractor and mutually agreed between BHEL and the contractor.
 - xxix)** "TERMINATION" of Contract shall mean the pre-mature closing of contract due to reasons as mentioned in the contract.
 - xxx)** "DE MOBILIZATION" shall mean the temporary winding up of Site establishment by Contractor leading to suspension of works temporarily for reasons not attributable to the contractor.
 - xxxi)** "RE MOBILIZATION" shall mean the resumption of work with all resources required for the work after demobilization.
 - xxxii)** "OVERRUN CHARGES (ORC)" shall mean and include all the costs incurred by the Contractor during the extended period of the contract, including but not limited to any cost arising out of idle labour, administrative cost, T & P and machinery.

2.2 LAW GOVERNING THE CONTRACT AND COURT JURISDICTION

The contract shall be governed by the Laws of India. Subject to clause 2.21.1.1 of this contract, the Civil Court having original Civil Jurisdiction at HARIDWAR, shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

2.3 ISSUE OF NOTICE

2.3.1 Service of notice to the Contractor

Any notice to be given to the Contractor under the terms of the contract shall be served by sending the same by Email/ Registered Post/Speed Post to or leaving the same at the Contractor's last known address of the principal place of business (or in the event of the contractor being a company, to or at its Registered Office). In case of change of address, the notice shall be served at changed address as notified in writing by the Contractor to BHEL. Such dispatch or display posting or leaving of the notice as the case may be shall be deemed to be good service of such notice and the time mentioned to the condition for doing any act after notice shall be reckoned from the date so mentioned in such notice.

2.3.2 Service of notice on BHEL

Any notice to be given to BHEL concerned In-charge under the terms of the Contract shall be served by sending the same by Registered/AD or Speed post to BHEL address or changed address as notified in writing by BHEL to the Contractor.

2.4 USE OF LAND

No land belonging to BHEL or their Customer under temporary possession of BHEL shall be occupied by the contractor without written permission of BHEL.

2.5 COMMENCEMENT OF WORK

- 2.5.1** The contractor shall commence the work as per the time indicated in the Letter of Intent/Award from BHEL and shall proceed with the same with due expedition without delay.
- 2.5.2** If the contractor fails to start the work within stipulated time as per LOI/ LOA or as intimated by BHEL, then BHEL at its sole discretion shall have the right to cancel the contract. The Earnest Money and/or Security Deposit furnished by the contractor to under this tender will stand forfeited without any further reference to him and without prejudice to BHEL's other rights and remedies under this contract and the applicable laws in this regard.
- 2.5.3** All the work shall be carried out under the direction and to the satisfaction of BHEL.

2.6 MEASUREMENT OF WORK AND MODE OF PAYMENT:

- 2.6.1** All payments due to the contractors shall be made by e mode only, unless otherwise found operationally difficult for reasons to be recorded in writing and approved by contract executing department.
- 2.6.2** For progress running bill payments: - The Contractor shall present detailed measurement sheets in triplicate, duly indicating all relevant details based on technical documents and connected drawings for work done during the month/period under various categories in line with terms of payment as per contract. The basis of arriving at the quantities, weights shall be relevant documents and drawings released by BHEL. These measurement sheets shall be prepared jointly with BHEL Engineers and signed by both the parties.
- 2.6.3** These measurement sheets will be checked by BHEL Engineer and quantities and percentage eligible for payment under various groups shall be decided by BHEL Engineer. The abstract of quantities and percentage

so arrived at based on the terms of payment shall be entered in Measurement Book and signed by both the parties.

- 2.6.4** Based on the above quantities, contractor shall prepare the bills, along with statutory documents, in prescribed format and work out the financial value. These will be entered in Measurement Book and signed by both the parties. Payment shall be made by BHEL after effecting the recoveries due from the contractor.
- 2.6.5** All recoveries due from the contractor for the month/period shall be effected in full from the corresponding running bills unless specific approval from the competent authorities is obtained to the contrary.
- 2.6.6** Measurement shall be restricted to that portion of work for which it is required to ascertain the financial liability of BHEL under this contract.
- 2.6.7** The measurement shall be taken jointly by persons authorized on the part of BHEL and by the Contractor.
- 2.6.8** The Contractor shall bear the expenditure involved if any, in making the measurements and testing of materials to be used/ used in the work. The contractor shall, without extra charges, provide all the assistance with appliances and other things necessary for measurement.
- 2.6.9** If at any time due to any reason whatsoever, it becomes necessary to re-measure the work done in full or in part, the expenses towards such re measurements shall be borne by the contractor unless such re measurements are warranted solely for reasons not attributable to contractor.
- 2.6.10** Passing of bills covered by such measurements does not amount to acceptance of the completion of the work measured. Any left out work has to be completed, if pointed out at a later date by BHEL.

Final measurement bill shall be prepared in the final bill format prescribed for the purpose based on the certificate issued by BHEL Engineer that entire works as stipulated in tender specification has been completed in all respects to the entire satisfaction of BHEL. The Contractor shall submit the final bill in line with WAM 7 format as per tender documents with an additional recording of the dispute, if any and shall sign with the following declaration:

I/ We hereby certify that I/We have performed the work as per the terms and conditions of Contract Agreement/Work Order No.....dated.....for which payment is claimed as above and that I/We have no further claim under this agreement/work order* except for the following (nature of claim with details & amount claimed, if any. NIL may be mentioned if there are no further claims). –

- a)
- b)
- c)

It is agreed that the authorized signatory of Contractor shall necessarily record his claims/ dispute in Form WAM 7 only and any claim(s)/ dispute in any other form/ letter shall not be taken cognizance of by BHEL and admissible before any forum. BHEL shall make the payment of undisputed amount within the stipulated time without any unreasonable delay.

All the tools and tackles loaned to him should be returned in satisfactory condition to BHEL. The abstract of final quantities and financial values shall also be entered in the Measurement Books and signed by both parties to the contract. The Final Bill shall be prepared and paid within a reasonable time after completion of work.

2.7 RIGHTS OF BHEL

BHEL reserves the following rights in respect of this contract during the original contract period or its extensions if any, as per the provisions of the contract, without entitling the contractor for any compensation.

- 2.7.1** To withdraw any portion of work and/or to restrict/alter quantum of work as indicated in the contract during the progress of work and get it done through other agencies to fulfil BHEL's commitment to its customer or the date of completion is advance due to other emergent reasons/ BHEL's obligation to its customer. Where

the contractor fails to deploy adequate manpower to meet the contractual target, BHEL reserves the right to deploy manpower to meet such shortfall, through any other agency for expediting activities in the interest of the project. Supplied manpower shall be put on job by the contractor. Fulfilling of all obligations towards payments and other statutory compliances related to such manpower shall be the contractor's responsibility. In case of contractor's failure to fulfill his obligations in respect of such manpower, BHEL shall be entitled to take action as provided herein.

2.7.2 BREACH OF CONTRACT, REMEDIES AND TERMINATION

2.7.2.1 The following shall amount to breach of contract:

- I. Non-supply of material/ non-completion of work by the Supplier/Vendor/contractor within scheduled delivery/ completion period as per contract or as extended from time to time.
- II. The Supplier/Vendor/contractor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.
- III. The Supplier/Vendor/contractor delivers equipment/ material not of the contracted quality.
- IV. The Supplier/Vendor/contractor fails to replace the defective equipment/ material/ component as per guarantee clause.
- V. Withdrawal from or abandonment of the work by the Supplier/Vendor/contractor before completion as per contract.
- VI. Assignment, transfer, subletting of Contract by the Supplier/Vendor/contractor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
- VII. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor
- VIII. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor/contractor.
- IX. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.
- X. Supplier/Vendor/contractor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

Note-Once BHEL considers that a breach of contract has occurred on the part of Supplier/Vendor/contractor, BHEL shall notify the Supplier/Vendor/contractor by way of notice in this regard. Contractor shall be given an opportunity to rectify the reasons causing the breach of contract within a period of 14 days.

In case the contractor fails to remedy the breach, as mentioned in the notice, to the satisfaction of BHEL, BHEL shall have the right to take recourse to any of the remedial actions available to it under the relevant provisions of contract.

LD against delay in executed work in case of Termination of Contract:

As per Technical/Special conditions of contract

2.7.2.2 Remedies in case of Breach of Contract.

- i) Wherein the period as stipulated in the notice issued has expired and Contractor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- ii) Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Contractor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc. available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, from the money due to the Contractor etc. with BHEL) or the other legal remedies shall be pursued.
- iii) wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:
- iv) In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Contractor.
- v) If Contractor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
 - a. from dues available in the form of Bills payable to defaulted Contractor against the same contract.
 - b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Contractor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
 - c. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted Contractor.
- vi) It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Contractor for the purpose of estimation of damages.
- vii) In addition to the above, imposition of liquidated damages, debarment, termination, descoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

- 1) The defaulting contractor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include:
 - a) In case defaulted contractor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.
 - b) In case defaulted contractor is The Partnership Firm, any firm comprising of same partners/ some of the same partners (but not including any new partner); or sole proprietorship firm owned by any partner(s) as a sole proprietor.

2.7.3 In case Contractor fails to deploy the resources as per requirement informed by BHEL in writing to expedite the work, BHEL can deploy own/hired/otherwise arranged resources and recover the expenses incurred from the dues payable to contractor. Recoveries shall be actual expenses incurred plus 5% overheads or as defined in TCC.

2.7.4 To terminate the contract or to restrict the quantum of work and pay for the portion of work executed in case BHEL's contract with their customer are terminated for any reason, whatsoever.

- 2.7.5** Whenever any Claim or Claims for payment of any sum of money(s) arises under this or any other contract against the contractor, BHEL shall be entitled to withhold and also have a lien to retain such sum of money(s) in whole or in part from any money(s) payable to contractor and/or security deposits furnished or deducted in cash from the bills of contractor, (if any) under this contract. In the event of the securities or the amounts payable to Contractor, being insufficient to cover BHEL claims, then BHEL shall be entitled to withhold and have a lien to the extent of such claims from any sum or sums found payable or which at any time thereafter may become payable to the contractor under this or any other contract with BHEL.
- a) Claim or Claims for payment of any sum of money(s) arising from the Contractor under this or any other contract against the contractor, shall mean, the sum of money(s) actually incurred by BHEL in fulfilling the contractual responsibilities of contractor under the contract, to which he has failed to fulfil plus applicable overheads (@ 5%) along with interest as applicable under the Contract on total amount (i.e. money actually incurred plus overheads)
 - b) It is an agreed term of the contract that, the sum or sums of money so withheld or retained under the lien by BHEL will be kept withheld or retained as such by BHEL till the claims arising out of this or any other contract are finally adjudicated wither through Arbitration or a Court of competent jurisdiction as the case may be in accordance with the terms of contract. Intimation given by the BHEL Engineer regarding withholding of such money(s) shall be considered as sufficient and relevant date for all purposes. No Interest shall be payable on such sum(s) of money which becomes due or as the case may be adjudged to be due from BHEL to Contractor, whether under contract or otherwise.
 - c) Where the contractor is a partnership firm, BHEL shall be entitled to withhold and also have a lien to retain towards such claims in whole or in part, from any other money(s) payable to any partner, whether in his individual capacity or otherwise.
 - d) If any money(s) shall, as a result of any claim or application made under the relevant provisions of any Labour Welfare Act and/ or Rules, including but not limited to Contract Labour Regulation & Abolition Act, Minimum Wages Act, Payment of Gratuity Act, BOCW (RE&CS) Act, Provident Fund Act, Employee State Insurance Act, be directed to be paid by the BHEL, such money shall be deemed to be moneys payable to the BHEL by the Contractor.
 - e) Where the Contractor fails to repay to BHEL such moneys along with applicable overheads (@ 5%) and interest, as aforesaid within seven days of being demanded, BHEL shall be entitled to recover the same from Contractor's bills/ Security Deposit or any other money(s) payable to Contractor under this Contract or any other Contract with BHEL.

2.7.6 While every endeavor will be made by BHEL to this end, yet BHEL cannot guarantee uninterrupted work due to conditions beyond its control. The Contractor will not be normally entitled for any compensation/extra payment on this account unless otherwise specified elsewhere in the contract.

2.7.7 BHEL may permit or direct contractor to demobilize and remobilize at a future date as intimated by BHEL in case of following situations for reasons other than Force majeure conditions and not attributable to contractor:

- i) suspension of work(s) at a Project either by BHEL or Customer, or
- ii) where work comes to a complete halt or reaches a stage wherein worthwhile works cannot be executed and there is no possibility of commencement of work for a period of not less than three months

In such cases, charges towards demobilization and remobilization shall be as decided by BHEL after successful remobilization by contractor at site, and decision of BHEL shall be final and binding on the contractor. After remobilization, all conditions as per contract shall become applicable. In case Contractor does not remobilize with adequate resources or does not start the work within the period as intimated, then BHEL reserves the right to terminate the contract and effect remedies under Clause 2.7.2.2. In case of any conflict, BHEL decision in this regard shall be final and binding on the contractor.

- 2.7.8** In the unforeseen event of inordinate delay in receipt of materials, drawings, fronts etc. due to which inordinate discontinuity of work is anticipated, BHEL on its own or contractor's request at its discretion may consider to short close the contract in any of the following cases:
- a. The balance works are minor vis a vis the scope of work envisaged as per the contract.
 - b. There has been no significant work in past 6 months OR no significant work is expected in next 6 months.
 - c. The balance works cannot be done within a reasonable period of time as they are dependent on unit shut down or on other facilities of customer or any other such reasons not attributable to the contractor.

At the point of requesting for short closure, contractor shall establish that he has completed all works possible of completion and he is not able to proceed with the balance works due to constraints beyond his control. In such a case, the estimated value of the unexecuted portion of work (or estimated value of services to be provided for carrying out milestone/stage payments like Trial Operation/PG Test etc.) as decided by BHEL, shall however be reduced from the final contract value.

Note: The Contractor shall not be eligible for any compensation on account of Quantity Variation arising out of short-closure of contract as per clause no. 2.7.8 (b) above.

2.7.9 LIQUIDATED DAMAGES

Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the contractor agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be.

Liquidated Damages leviable upon the contractor is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the contractor.

Liquidated Damages shall be calculated in the manner stipulated hereinafter:

In case the work is not completed within the stipulated time period, BHEL at its discretion may grant provisional time extension to contractor for the sole purpose of completion of balance works keeping its right reserved under the contract and law.

Grant of any provisional time extension shall by no means be considered as waiver of BHEL rights under the contract or law.

After the completion of work, duly certified by Engineer Incharge, a comprehensive delay analysis shall be carried out to ascertain the attribution of delays in the provisional time extensions granted to contractor. The delay analysis shall record:

- a) Delays solely attributable to contractor
- b) Delays attributable to BHEL
- c) Delays on account of Force Majeure (as specified elsewhere in the contract)

The total period under the final time extension shall be equal to the period between the scheduled date of completion and the actual date of completion of contract. LD shall be imposed/ levied for the portion of time extensions solely attributable to contractor and recoverable from the dues payable to the contractor.

For the periods, wherein the delay as per the comprehensive delay analysis carried out is solely attributable to contractor, BHEL shall have the right to impose Liquidated Damage at the rate of 0.5% of the contract value, per week of delay or part thereof subject to a maximum of 10% of the contract value.

Contract Value for this purpose, shall be the final executed value exclusive of ORC, Extra Works executed on Man-day rate basis, Supplementary/ Additional Items and PVC. Before levying LD, the contractor shall be duly intimated the amount and reasons thereof for imposition of LD.

2.8 RESPONSIBILITIES OF THE CONTRACTOR IN RESPECT OF LOCAL LAWS, EMPLOYMENT OF WORKERS ETC.

The following are the responsibilities of the contractor in respect of observance of local laws, employment of personnel, payment of taxes etc. The subcontractor shall fully indemnify BHEL against any claims of whatsoever nature arising due to the failure of the contractor in discharging any of his responsibilities hereunder:

- 2.8.1 As far as possible, Unskilled Workers shall be engaged from the local areas in which the work is being executed.
- 2.8.2 The contractor at all times during the continuance of this contract shall, in all his dealings with local labour for the time being employed on or in connection with the work, have due regard to all local festivals and religious and other customs.
- 2.8.3 The contractor shall comply with all applicable State and Central Laws, Statutory Rules, Regulations, Notifications etc. such as Payment of Wages Act, Minimum Wages Act, Workmen Compensation Act, Employer's Liability Act, Industrial Disputes Act, Employers Provident Fund and Miscellaneous Provisions Act, 1952, Employees State Insurance Scheme, Contract Labour (Regulation and Abolition) Act, 1970, Payment of Bonus & Gratuity Act, Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996, The Building and Other Construction Workers' Welfare Cess Act 1996 and other Acts, Rules, and Regulations for labour/workers as applicable and as may be enacted by the State Government and Central Govt. during the tenure of the Contract and having force or jurisdiction at Site. The Contractor shall also comply with provisions of and give all such notices to the local Governing Body, Police and other relevant Authorities as may be required by the Law. The Contractor shall without any fail maintain all the registers/records in proper formats as per all the Acts, Rules and Regulations mentioned in this clause 2.8.3.
- 2.8.4 The Contractor shall obtain independent License under the Contract Labour (Regulations and Abolition) Act, 1970 for engaging contract labour as required from the concerned Authorities based on the certificate (Form-V or as applicable) issued by the Principal Employer/Customer.
- 2.8.5 The contractor shall pay and bear all taxes, fees, license charges, Cess, duties, deposits, tolls, royalties, commission or other charges which may be leviable on account of his operations in executing the contract.
- 2.8.6 Contractor shall be responsible for provision of Health and Sanitary arrangements (more particularly described in Contract Labour Regulation & Abolition Act), Safety precautions etc. as may be required for safe and satisfactory execution of contract.
- 2.8.7 The contractor shall be responsible for proper accommodation including adequate medical facilities for personnel employed by him.
- 2.8.8 The contractor shall be responsible for the proper behavior and observance of all regulations by the staff employed by him.
- 2.8.9 The contractor shall ensure that no damage is caused to any person/property of other parties working at site/company" premises. If any such damage is caused, it is responsibility of the contractor to make good the losses or compensate for the same.
- 2.8.10 All the properties/equipments/components of BHEL/their Client/Customer loaned with or without deposit to the contractor in connection with the contract shall remain properties of BHEL/their Client/Customer.

- 2.8.11 The contractor shall use such properties for the purpose of execution of this contract. All such properties/equipments/components shall be deemed to be in good condition when received by the contractor unless he notifies within 48 hours to the contrary. The contractor shall return them in good condition as and when required by BHEL/their Client. In case of non-return, loss, damage, repairs etc. the cost thereof as may be fixed by BHEL Engineer will be recovered from the contractor.
- 2.8.12 In case the contractor is required to undertake any work outside the scope of this contract, the rates payable shall be those mutually agreed upon if the item rates are not mentioned in existing contract.
- 2.8.13 Any delay in completion of works/or non-achievement of periodical targets/or non execution of contract due to the reasons attributable to the contractor, the same may have to be compensated by the contractor either by increasing manpower and resources or by working extra hours and/or by working more than one shift. All these are to be carried out by the contractor at no extra cost.
- 2.8.14 The contractor shall arrange, coordinate his work in such a manner as to cause no hindrance to other agencies working in the same premises.
- 2.8.15 All safety rules and codes applied by the Customer /BHEL at site shall be observed by the contractor without exception. The contractor shall be responsible for the safety of the equipment/material and works to be performed by him and shall maintain all light, fencing guards, slings etc. or other protection necessary for the purpose. Contractor shall also take such additional precautions as may be indicated from time to time by the Engineer with a view to prevent pilferage, accidents, fire hazards. Due precautions shall be taken against fire hazards and atmospheric conditions. Suitable number of Clerical staff, watch and ward, store keepers to take care of equipment/materials and construction tools and tackles shall be posted at site by the contractor till the completion of work under this contract.

The contractor shall arrange for such safety devices as are necessary for such type of work and carry out the requisite site tests of handling equipment, lifting tools, tackles etc. as per prescribed standards and practices.

Contractor has to ensure the implementation of Health, Safety and Environment (HSE) requirements as per directions given by BHEL/Customer. The contractor has to assist in HSE audit by BHEL/Customer and submit compliance Report. The contractor has to generate and submit record/reports as per HSE plan/activities as per instruction of BHEL/Customer. Contractor shall provide necessary Uniform, Shoes and PPEs to the staff engaged in the contract.

- 2.8.16 The contractor shall be directly responsible for payment of wages to his workmen/labours before the expiry of seven days from the last day of wage period and to ensure disbursement of wages in the presence of the representative from BHEL A pay roll sheet giving all the payments given to the workers and duly signed by the contractor's representative should be furnished to BHEL site for the purpose of maintaining the records for compliance,

Contractor shall create awareness amongst their workforce by helping & encouraging in opening bank accounts and to encourage them to adopt digital mode of transactions. While releasing wages/ salary to their workers/ supervisors/ staff, Contractor shall comply with the GOI's guidelines for maximizing such transactions through Non-Cash / digital means.

- 2.8.17 In case of any class of work for which there is no such specification as laid down in the contract, such work shall be carried out in accordance with the instructions and requirements of the Engineer.

- 2.8.18 Also, no idle charges will be admissible in the event of any stoppage caused in the work resulting in contractor's labour and Tools & Plants being rendered idle due to any reason at any time.
- 2.8.19 The contractor shall take all reasonable care to protect the materials and work till such time the plant/equipment has been taken over by BHEL or their Customer whichever is earlier.
- 2.8.20 The contractor shall not stop the work or abandon the site for whatsoever reason of dispute, excepting force majeure conditions. All such problems/disputes shall be separately discussed and settled without affecting the progress of work. Such stoppage or abandonment shall be treated as breach of contract and dealt with accordingly.
- 2.8.21 The contractor shall keep the area of work clean and shall remove the debris etc. while executing day-to-day work. Upon completion of work, the contractor shall remove from the vicinity of work, all scrap, packing materials, rubbish, unused and other materials and deposit them in places specified by the Engineer. The contractor will also demolish all the hutments, sheds, offices etc. constructed and used by him and shall clean the debris. In the event of his failure to do so, the same will be arranged to be done by the Engineer and the expenses recovered from the contractor.
- 2.8.22 The contractor shall execute the work in the most substantial and workman like manner in the stipulated time. Accuracy of work and timely execution shall be the essence of this contract. The contractor shall be responsible to ensure that the quality, assembly and workmanship conform to the dimensions and clearance given in the drawings and/ or as per the instructions of the Engineer.
- 2.8.23 The Contractor to note that some of BHEL's T&Ps (Tools & Plants)/MMDs (Measuring and Monitoring Devices) may not be insured. The Contractor will take necessary precautions and due care to protect the same while in his custody from any damage/ loss till the same is handed over back to BHEL. In case the damage / loss is caused due to carelessness/ negligence on the part of the contractor, the Contractor is liable to get them repair/ replaced immediately and in case of his failure to do so within a reasonable time, BHEL shall reserve the right to recover the loss from the contractor.
- 2.8.24 For all works having contract value of Rs. 5,00,000/- or above, BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life/ permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below.
- a) Victim: Any person who suffers permanent disablement or dies in an accident as defined below.
 - b) Accident: Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious occurrence caused during the manufacturing/ operation and works incidental thereto at BHEL factories/ offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving, overhaul, renovation and retrofitting, trial operation, performance guarantee testing undertaken by the company or during any works/ during working at BHEL Units/ Offices/ townships and premises/ Project Sites.
 - c) Compensation in respect of each of the victims:
 - i. In the event of death or permanent disability resulting from Loss of both limbs: Rs. 10,00,000/- (Rs. Ten Lakh).
 - ii. In the event of other permanent disability: Rs.7,00,000/- (Rs. Seven Lakh)
 - d) Permanent Disablement: A disablement that is classified as a permanent total disablement under the proviso to section 2 (l) of the Employee's Compensation Act, 1923.
- 2.8.25 Contractor shall be fully responsible for the safety of their T&Ps and other material mobilized at site. In any case, BHEL shall not be liable for any damage/loss/misuse of any item(s) belong to the contractor.

- 2.8.26 Contractor will ensure that the work/job is executed through his/her employees on and under no circumstances, the contractor shall subcontract the job without prior written permission from BHEL.
- 2.8.27 The liability for any compensation on account of injury sustained by an employee of the contractor will be exclusively that of the contractor.

2.9 EXECUTION PLAN, PROGRESS MONITORING, MONTHLY REVIEW AND PERFORMANCE EVALUATION

- 2.9.1** A tentative plan/ programme for completion of the contractual scope of work as per the time schedule given in the contract shall be made jointly by BHEL and Contractor, before commencement of work. The Contractor shall submit periodical progress reports (Daily/Weekly/Monthly) and other reports/information including manpower, consumables, T&P mobilization etc. as desired by BHEL.
- 2.9.2** Monthly progress review between BHEL and Contractor shall be based on the agreed programme as above, availability of inputs/fronts etc., and constraints if any, as per prescribed formats-
- 2.9.3** The burden of proof that the causes leading to any shortfall is not due to any reasons attributable to the contractor is on the contractor himself. The monthly progress review shall record shortfalls attributable to (i) Contractor, (ii) Force Majeure Conditions, and (iii) BHEL.
- 2.9.4** Performance of the Contractor shall be assessed as per prescribed formats and shall form the basis for 'Assessment of Capacity of Bidder' for Tenders where the Contractor is a bidder. BHEL reserves the right to revise the evaluation formats during the course of execution of the works.

2.10 TIME OF COMPLETION

- 2.10.1 The time for completion shall be as mentioned in the LOA/Contract. The time for completion shall be reckoned from the date of commencement of work at Site as certified/notified in writing by BHEL Engineers.
- 2.10.2 Time being the essence of the contract, the entire work shall be completed by the contractor within the time schedule or within such extended periods of time as may be allowed by BHEL under clause

2.11 EXTENSION OF TIME FOR COMPLETION

- 2.11.1 If the completion of work as detailed in the scope of work gets delayed beyond the contract period, the contractor shall request for an extension of the contract and BHEL at its discretion may extend the Contract. If the completion of work gets delayed for reasons not attributable to the contractor, the contract period may be suitably extended at the sole discretion of BHEL.
- 2.11.2 The works balance at the end of original contract period less the backlog attributable to the contractor shall be quantified, and the number of months of 'Time extension' required for completion of the same shall be jointly worked out. Within this period of 'Time extension', the contractor is bound to complete the portion of backlog attributable to the contractor. Any further 'Time extension' or 'Time extensions' at the end of the previous extension shall be worked out similarly.
- 2.11.3 However, if any 'Time extension' is granted to the contractor to facilitate continuation of work and completion of contract, due to backlog attributable to the contractor alone, then it shall be without prejudice to the rights of BHEL to impose penalty/LD for the delays attributable to the contractor, in addition to any other actions BHEL may wish to take under Clause 2.7.2 of GCC i.e. Breach of Contract, Remedies and Termination.
- 2.11.4 Planning, progress monitoring, monthly review and performance monitoring shall be carried out as per clause 2.9 of GCC.

2.12 OVERRUN COMPENSATION – As per Technical/Special conditions of contract

2.13 SECURED RECOVERABLE ADVANCES: As per Technical/Special conditions of contract

2.14 QUANTITY VARIATION

2.14.1 Variation in Final Executed Contract Value

The quantities given in the contract are tentative and may change to any extent (both in plus side and minus side).

BHEL, however, retains the right to arrange the excess quantity through any other source for expediting activities in the interest of the Project.

2.15 EXTRA WORKS

- 2.15.1** All rectifications/modifications, revamping and reworks required for any reasons not due to the fault of the contractor, or needed due to any change in deviation from drawings and design of equipments, operation/maintenance requirements, mismatching or due to damages in transit, storage and erection/commissioning and other allied works which are not very specifically indicated in the drawings, but are found essential for satisfactory completion of the work, will be considered as extra works.
- 2.15.2** Extra works arising on account of the contractor's fault, irrespective of time consumed in rectification of the damage/loss, will have to be carried out by the contractor free of cost. Under such circumstances, any material and consumable required for this purpose will also have to be arranged by the contractor at his cost.
- 2.15.3** All the extra work should be carried out by a separately identifiable gang, without affecting routine activities. Daily log sheets in the pro-forma prescribed by BHEL should be maintained and shall be signed by the contractor's representative and BHEL engineer. No claim for extra work will be considered/entertained in the absence of the said supporting documents i.e. daily log sheets. Signing of log sheets by BHEL engineer does not necessarily mean the acceptance of such works as extra works.
- 2.15.4** BHEL retains the right to award or not to award any of the major repair/rework/modification/rectification/fabrication works to the contractor, at their discretion without assigning any reason for the same.
- 2.15.5 Extra Works for Civil Packages** shall be regulated as follows –
- i. Rates for Extra Works arising due to (1) non-availability of BOQ (Rate Schedule), OR (2) change in Specifications of materials/works (3) rectification/modification/dismantling & re-erecting etc. due to no fault of Contractor, shall be in the order of the following:
 - a) Item rates are to be derived from similar nature of items in the BOQ (Rate Schedule) with applicable escalation derived from All India Consumer Price Index for Whole Sale Commodities.
 - b) As per latest edition of CPWD-DSR with applicable escalation derived from All India Consumer Price Index for Whole Sale Commodities OR Notification issued by the office of CPWD for 'Cost Index' in that Region where the project is being executed with applicable escalation derived from All India Consumer Price Index for Whole Sale Commodities, whichever is less.
 - c) Item rates are to be worked out on the basis of market rates prevailing on the date of execution mutually agreed between BHEL and Contractor.
 - ii. PVC and ORC will not be applicable for (i) above.

2.16 SUPPLEMENTARY ITEMS

2.16.1 For NON-Civil Works

Supplementary items are items/works required for completion of entire work but not specified in the scope of work. Subject to certification of such items/works as supplementary items by BHEL Engineer, rates shall be derived on the basis of any one of the following on mutual agreement: i) Based on percentage breakup/rates indicated for similar/nearby items. ii) In case (i) above does not exist, then BHEL/site may derive the percentage breakup/rates to suit the type of work.

2.16.2 For Civil Works

- i. Rates for Supplementary Works/Additional Works arising out due to additions/alterations in the original scope of works as per contract subject to certification of BHEL Engineer shall be worked out as under:
 - a. Item rates which are available in existing BOQ (Rate Schedule) shall be operated with applicable escalation derived from All India Consumer Price Index for Whole Sale Commodities
 - b. Items of works which are not available in existing BOQ shall be operated as an 'Extra Works' and rate shall be derived as per clause no 2.15.7
- ii. Execution of Supplementary Works/Additional Works through the Contractor shall be at the sole discretion of BHEL, and shall be considered as part of executed contract value for the purpose of Quantity Variation as per clause 2.14
- iii. BHEL Engineer's decision regarding fixing the rate as above is final and binding on the contractor.
- iv. PVC and ORC will not be applicable for (i) above.

2.17 PRICE VARIATION COMPENSATION – As per Technical/Special conditions of contract

2.18 INSURANCE

- 2.18.1 BHEL/their customer shall arrange for insuring the materials/properties of BHEL/customer covering the risks during transit, storage, erection and commissioning.
- 2.18.2 It is the sole responsibility of the contractor to insure his materials, equipment, workmen etc. against accidents and injury while at work and to pay compensation, if any, to workmen as per Workmen's compensation Act. The work will be carried out in a protected area and all the rules and regulations of the client /BHEL in the area of project which are in force from time to time will have to be followed by the contractor.
- 2.18.3 If due to negligence and or non-observation of safety and other precautions by the contractors, any accident/injury occurs to the property / manpower belong to third party, the contractor shall have to pay necessary compensation and other expense, if so decided by the appropriate authorities.
- 2.18.4 The contractor will take necessary precautions and due care to protect the material, while in his custody from any damage/ loss due to theft or otherwise till the same is taken over by BHEL or customer. For lodging / processing of insurance claim, the contractor will submit necessary documents. BHEL will recover the loss including the deductible franchise from the contractor, in case the damage / loss is due to carelessness / negligence on the part of the contractor. In case of any theft of material under contractor's custody, matter shall be reported to Police by the contractor immediately and copy of FIR and subsequently police investigation report shall be submitted to BHEL for taking up with insurance. However, this will not relieve the contractor of his contractual obligation for the material in his custody.

2.19 STRIKES & LOCKOUT

- 2.19.1 The contractor will be fully responsible for all disputes and other issues connected with his labour. In the event of the contractor's labour resorting to strike or the Contractor resorting to lockout and if the strike or lockout declared is not settled within a period of one month, it may be considered as 'Breach of Contract' under Clause 2.7 and the remedies under Clause 2.7.2.2 may be executed, at the discretion of BHEL.
- 2.19.2 For all purposes whatsoever, the employees of the contractor shall not be deemed to be in the employment of BHEL.

2.20 FORCE MAJEURE

2.20.1 "Force Majeure" shall mean circumstance which is:

- a) beyond control of either of the parties to contract,
- b) either of the parties could not reasonably have provided against the event before entering into the contract,
- c) having arisen, either of the parties could not reasonably have avoided or overcome, and
- d) is not substantially attributable to either of the parties

And

Prevents the performance of the contract,

Such circumstances include but shall not be limited to:

- i) War, hostilities, invasion, act of foreign enemies.
- ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
- iii) Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.
- iv) Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.
- v) Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.
- vi) Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.
- vii) Epidemic, pandemic etc.

2.20.2 The following events are explicitly excluded from Force Majeure and are solely the responsibilities of the non-performing party: a) any strike, work-to-rule action, go-slow or similar labour difficulty (b) late delivery of equipment or material (unless caused by Force Majeure event) and (c) economic hardship.

2.20.3 If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within 15 (fifteen) days after the occurrence of such event.

2.20.4 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The Time for Completion shall be extended by a period of time equal to period of delay caused due to such Force Majeure event.

2.20.5 Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not

- a. Constitute a default or breach of the Contract.
- b. Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.

2.20.6 BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure.

2.21 SETTLEMENT OF DISPUTE

If any dispute or difference of any kind whatsoever shall arise between BHEL and the Supplier/Vendor, arising out of the contract for the performance of the work whether during the progress of contract termination, abandonment or breach of the contract, it shall in the first place referred to Designated Engineer for amicable resolution by the parties. Designated Engineer (to be nominated by BHEL for settlement of disputes arising out of the contract) who within 60 days after being requested shall give written notice of his decision to the contractor. Save as hereinafter provided, such decision in respect of every matter so referred shall forthwith be given effect to by the Supplier/Vendor who shall proceed with the work with all due diligence, whether he or BHEL desires to resolve the dispute as hereinafter provided or not.

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per Clause 2.21.1

2.21.1 CONCILIATION:

Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure as per BHEL Conciliation Scheme 2018. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in - "Procedure for conduct of conciliation proceedings" (as available in www.bhel.com)).

Note: Ministry of Finance has issued OM reference No. 1/2/24 dated 03.06.2024 regarding "Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement. In the said OM it has been recommended that Government departments/ Entities/agencies are to encourage mediation under the Mediation Act. 2023. The said Act has not yet been notified by the Government. Therefore, the clause "Settlement of Disputes" shall be modified accordingly as and when the Mediation Act 2023 gets notified.

2.21.2 ARBITRATION:

2.21.2.1 Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in Clause 21.1 herein above or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the

Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Arbitral Institution – 'Delhi International Arbitration Centre' and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.

- 2.21.2.2 A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the Region, Power Sector/ Unit, BHEL, executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.
- 2.21.2.3 After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institution – 'Delhi International Arbitration Centre' and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to a specific Arbitral institution for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged.
- 2.21.2.4 The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.
- 2.21.2.5 The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be HARIDWAR.
- 2.21.2.6 Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at HARIDWAR.
- 2.21.2.7 Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.
- 2.21.2.8 It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.
- 2.21.2.9 In case the disputed amount (Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.
- 2.21.2.10 In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for

the purpose of clause 21.2.9. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

2.21.3 IN CASE OF CONTRACT WITH PUBLIC SECTOR ENTERPRISE (PSE) OR A GOVERNMENT DEPARTMENT, THE FOLLOWING SHALL BE APPLICABLE:

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. DPE-02/0001/2023-AMRCD-FTS-13578 dated 8th December 2025 and the decision of AMRCD on the said dispute will be binding on both the parties.

2.21.4 NO INTEREST PAYABLE TO CONTRACTOR

Notwithstanding anything to the contrary contained in any other document comprising in the Contract, no interest shall be payable by BHEL to Contractor on any moneys or balances including but not limited to the Security Deposit, EMD, Retention Money, RA Bills or the Final Bill, or any amount withheld and/or appropriated by BHEL. etc., which becomes or as the case may be, is adjudged to be due from BHEL to Contractor whether under the Contract or otherwise.

2.22 RETENTION AMOUNT – As per Technical/Special conditions of contract

2.23 PAYMENTS – As per Technical/Special conditions of contract

2.24 PERFORMANCE GUARANTEE FOR WORKMANSHIP

2.24.1 Even though the work will be carried out under the supervision of BHEL Engineers the Contractor will be responsible for the quality of the workmanship and shall guarantee the work done for a period of Twelve months from the date of commencement of guarantee period as defined in Technical Conditions of Contract, for good workmanship and shall rectify free of cost all defects due to faulty erection detected during the guarantee period. In the event of the Contractor failing to repair the defective works within the time specified by the Engineer, BHEL may proceed to undertake the repairs of such defective works by itself, without prejudice to any other rights and recover the cost incurred for the same along with 5% overheads from the Security Deposit.

2.24.2 BHEL shall release the Security Deposit subject to the following:

- i) Contractor has submitted 'Final Bill'
- ii) Guarantee period as per contract has expired
- iii) Contractor has furnished 'No Claim Certificate'
- iv) BHEL Site Engineer/Construction Manager has furnished the 'No Demand Certificate' in specified format
- v) Contractor has carried out the works required to be carried out by him during the period of Guarantee and all expenses incurred by BHEL on carrying out such works is included for adjustment from the Security Deposit refundable.

2.25 CLOSING OF CONTRACTS

The Contract shall be considered completed and closed upon completion of contractual obligations and settlement of Final Bill or completion of Guarantee period whichever is later. Upon closing of Contract, BHEL shall issue a performance/ experience certificate as per standard format, based on specific request of Contractor as per extant BHEL guidelines through the online portal available at <https://suvidha.bhel.in> only.

2.26 SUSPENSION OF BUSINESS DEALINGS

BHEL reserves the right to take action against Contractors who either fail to perform or Tenderers/Contractor who indulge in malpractices, by suspending business dealings with them in line with BHEL guidelines issued from time to time.

The offers of the bidders who are under suspension as also the offers of the bidders, who engage the services of the banned firms / principal / agents, shall be rejected. The list of banned firms is available on BHEL web site www.bhel.com.

If any bidder / supplier / contractor during pre-tendering / tendering / post tendering / award / execution / post-execution stage indulges in any act, including but not limited to, mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or tampers the tendering process or acts or omits in any manner which tantamount to an offence punishable under any provision of the Bharatiya Nyaya Sanhita (BNS),2023 or any other law in force in India, or does anything which is actionable under the Guidelines for Suspension of Business dealings, action may be taken against such bidder / supplier / contractor as per extant guidelines of the company available on www.bhel.com and / or under applicable legal provisions. Guidelines for suspension of business dealings is available in the webpage: http://www.bhel.com/vender_registration/vender.php

2.27 LIMITATION ON LIABILITY:

Notwithstanding anything to the contrary in this Contract or LOA or Work Order or any other mutually agreed document between the parties, the maximum liability, for damages, of the contractor, its servants or agents, shall under no circumstances exceed an amount equal to the Price of the Contract or the Work Order. Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever, arising out of or in connection with this contract.

This shall not be applicable on the recoveries made by Customer from BHEL on account of Contractor, any other type of recoveries for workmanship, material, T&P etc. due from the contractor.

2.28 NON-DISCLOSURE AGREEMENT (NDA):

The bidders shall enter into the Non-disclosure agreement totally voluntarily, with full knowledge of its meaning and without duress. (Format attached), if applicable.

2.29 TREATMENT OF CASES REGARDING CONFLICT OF INTEREST:

The bidder notes that a conflict of interest would said to have occurred in the tender process and execution of the resultant contract, in case of any of the following situations:

- i. If its personnel have a close personal, financial, or business relationship with any personnel of BHEL who are directly or indirectly related to the procurement or execution process of the contract, which can affect the decision of BHEL directly or indirectly;

- ii. The bidder (or his allied firm) provided services for the need assessment/ procurement planning of the Tender process in which it is participating;
- iii. Procurement of goods directly from the manufacturers/ suppliers shall be preferred. However, if the OEM/ Principal insists on engaging the services of an agent, such agent shall not be allowed to represent more than one manufacturer/ supplier in the same tender. Moreover, either the agent could bid on behalf of the manufacturer/ supplier or the manufacturer/ supplier could bid directly but not both. In case bids are received from both the manufacturer/ supplier and the agent, bid received from the agent shall be ignored. However, this shall not debar more than one Authorised distributor (with/ or without the OEM) from quoting equipment manufactured by an Original Equipment Manufacturer (OEM) in procurements under a Proprietary Article Certificate.
- iv. A bidder participates in more than one bid in this tender process. Participation in any capacity by a Bidder (including the participation of a Bidder as a partner/ JV member or sub-contractor in another bid or vice-versa) in more than one bid shall result in the disqualification of all bids in which he is a party. However, this does not limit the participation of an entity as a sub-contractor in more than one bid if he is not bidding independently in his own name or as a member of a JV.

The Bidder declares that they have read and understood the above aspects, and the bidder confirms that such conflict of interest does not exist and undertakes that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s), in this regard. 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. In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.

2.30 FRAUD PREVENTION POLICY

Bidder along with its associate /collaborators /sub-contractors /sub-vendors / consultants / service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice.

2.31 ORDER OF PRECEDENCE

In the event of any ambiguity or conflict between the contract Documents, the order of precedence shall be in the order below:

- a. Contract agreement with its Amendments
- b. Clarifications/Corrigenda/Errata etc. issued in respect of the tender documents by BHEL
- c. Notice Inviting Tender (NIT)
- d. Price Bid
- e. Technical Conditions of Contract (TCC)
- f. Special Conditions of Contract (SCC)
- g. General Conditions of Contract (GCC)
- h. Forms and Procedures

2.32 OTHER ISSUES

- 2.32.1 Value of Non-judicial Stamp Paper for Bank Guarantees and for Contract Agreement shall be not less than Rs 100/- unless otherwise required under relevant statutes.
- 2.32.2 In case of any conflict between the General Conditions of Contract and Special Conditions of Contract, provisions contained in the Special Conditions of Contract shall prevail.
- 2.32.3 Unless otherwise specified in NIT, offers from consortium/ JVs shall not be considered.

- 2.32.4 Formats specified in the tender document, if unavailable and required for submission by the tenderer, can be obtained from the contracting department upon request.

Chapter-3

3.1 MICRO AND SMALL ENTERPRISES (MSE):

Any Bidder falling under MSE category shall furnish the following details & submit documentary evidence/ Govt. Certificate etc. in support of the same along with their techno-commercial offer

Type under MSE	SC/ST owned	Women owned	Others (excluding SC/ ST & Women Owned)
Micro			
Small			

Note: If the bidder does not furnish the above, offer shall be processed construing that the bidder is not falling under MSE category.

a) MSE suppliers can avail the intended benefits in respect of the procurements related to the Goods and Services only (Definition of Goods and Services as enumerated by Govt. of India vide Office Memorandum F. No. 21(8)/2011-MA dtd. 09/11/2016 office of AS & DC, MSME) only if they submit along with the offer, attested copies of either Udyam Registration. Date to be reckoned for determining the deemed validity will be the last date of Technical Bid submission. Non-submission of supporting document in GeM portal will lead to consideration of their bids at par with other bidders. No benefits shall be applicable for this enquiry if the above required documents are not uploaded at the time of bid submission. Documents submitted by the bidder shall be verified by BHEL for rendering the applicable benefits.

3.2 DAMAGE & LOSS TO PRIVATE PROPERTY & INJURY TO CONTRACT EMPLOYEE.

The Contractor shall at his own expense reinstate and make good to the satisfaction of BHEL and pay compensation for any injury, loss or damage occurred to any property or rights whatever including property and rights of BHEL (or agents) servants or employee of BHEL, the injury loss or damage arising out of or in any way in connection with the execution or purported execution of the Contract and further the Contractor shall indemnify, the BHEL against all claims enforceable against BHEL (or any agent, servant or employee of BHEL) or which would be so enforceable against BHEL where BHEL is a private person, in respect of any such injury (including injury resulting in death) loss or damage to any person whomsoever or property including all claims which may arise under the Workmen's Compensation Act or otherwise.

3.3 GST RELATED TERMS & CONDITIONS

Bidder has to specify the following in their techno-commercial bid (part I bid in case of two part bid):

- I. a) Legal Name of the bidder as in GST registration, GST registration No., State, Place of business, category of registration under GST i.e. Registered dealer / Unregistered dealer/ dealer opted for Composition Scheme,

b) HSN (Harmonised System Nomenclature) / SAC (Service Accounting Code), description of Goods/Services and applicable IGST / CGST / SGST rate and any other statutory levy, if any, for each item of Goods or Services.
- II. a) Unregistered Dealer

Since in case of unregistered dealer, GST will have to be paid by BHEL under reverse charge mechanism, the same shall be added to the quoted price for evaluation bid.

- b) Dealer opting for Composition Scheme

In case of registered dealer, who opt for composition scheme at the time of submission of bid, no GST will be payable to the bidder and also same will not be considered for evaluation of bid. Dealer has to declare in technical bid that no GST is shown separately in price bid. However, in case at the time of actual supply, the bidder charges GST at normal rate, the same shall be reimbursed subject to the availability of GST credit to BHEL. In case GST credit is not available to BHEL, no GST will be payable to the bidder.

III. Reimbursement of GST shall be made by BHEL Haridwar on matching of Contractor inputs as mentioned below at GST portal and after ensuring of availability of input credit to BHEL, Haridwar. Hence, Contractor has to ensure compliance as follows:

- a) Timely raising & submission of GST compliant Invoices
- b) Timely receipt of Goods & Services
- c) Timely and correct payment of applicable GST by supplier/contractor
- d) Timely filing of return
- e) Compliance of other applicable provisions on supplier/contractor:

Contractor has to also give consent to accept payment of tax after such matching in all cases where bills are submitted directly to BHEL-Haridwar or through bank or under LC or through any other mode.

- IV. In the event of any disallowance of input credit (including reversal of credit) or applicability of interest or arising of any other financial liability on BHEL-Haridwar due to any default of supplier/contractor under GST such as non/delayed receipt of Good/Services, delayed raising & submission of invoices, delayed payment of tax, non/wrong declaration of sale by Contractor in return etc. or any other reason not attributable to BHEL, such implication shall be to supplier's/contractor's account and will be deducted from bills.
- V. In the event of any change in the status of the bidder after submission of the bid but before the supply/service, GST applicable at the time of supply/service or GST quoted in the bid, based on the registration status of the bidder, whichever is lower shall be payable.
- VI. Statutory Variation in Taxes & duties as applicable at the time of supply shall be payable. However, in the event of no change in law but bidder quoting certain tax structure in bid document which is lower than the applicable one, such amount shall be the maximum amount of tax that can be claimed by bidder.
- VII. In case of Liquidated damage (LD) recovery, the applicable GST shall also be recoverable from the suppliers.
- VIII. As per the extant GST rules, as of now it is not mandatory to file returns immediately and ITC has been allowed on self-declaration. In view of the changed scenario, the payment of GST shall made to the contractors simultaneously with their work/services invoices. The Contractors / vendors shall need to submit the undertaking as per the following format before such GST payments. However, in case the availability of ITC on self-declaration is discontinued at the time of submission of invoice then the clause II above shall be applicable.

Certificate of Goods and Service to be furnished by Contractor with each bill / invoice

We hereby undertake that:

1. Goods and Service Tax charged in the following Invoices / Bill Numbers are in compliance with the provision of GST Act & Rules prevailing thereon:

Sl. No	PO No/ Work Order	Invoice No	Invoice date	GST Amount

2. Goods and Service Tax charged in the Bill / Invoice shall be paid by us within due time.
3. Any liability due to any delay / default in payment of GST, return filling or any other Non-compliance under GST Law / Rules, shall be to our account.
4. In the event of any non-compliance on our part, We indemnify BHEL for any financial burden / loss on account of GST / interest / penalty.
5. We give our consent to BHEL to recover any such financial burden if arises on BHEL due to any noncompliance from any outstanding bills. In the event of Nil outstanding, same shall be paid by us to BHEL.
6. In the event of any such default, we agree BHEL to pay all future GST reimbursement after verification of GST compliance under the law.
7. We understand that this arrangement shall be valid till the credit of Input Tax Credit (ITC) is available without online validation or further amendment if any affecting admissibility of ITC to BHEL.

Signature of Authorized Signatory (with seal)

GST No:

- IX. The provisional GST registration number of Bharat Heavy Electrical Ltd, Heavy Electricals Equipment Plant, Ranipur, Haridwar is "05AAACB4146P1ZL" with state Code as "05" and State Name as "Uttarakhand"

3.4 SPECIAL POWERS OF TERMINATION

If at any time after the acceptance of the tender, BHEL shall for any reason whatsoever not require the whole or any part of the work, to be carried out, the Engineer In charge shall give notice in writing of the fact to the contractor, who shall have no claim to any payment of compensation or otherwise, howsoever on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of the foreclosing of the work. The contractor shall be paid at contract rates for the full amount of the work executed including such additional work i.e., cleaning of site etc. as may be rendered necessary by the said foreclosing. He shall also be allowed a reasonable payment (as decided by the Accepting Officer) for any expenses sustained on account of labour and material collected but which could not be utilized on the work as verified by the Engineer In charge but the contractor shall not have any claim for compensation on account of any alterations having been made in the original specifications, drawings, designs and instructions involving and curtailment of the work as originally contemplated.

3.5 INTER STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITION OF SERVICE) ACT, 1979

The contractor shall obtain License from Competent Authority under Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979 in case contractor engages in any day five or more workmen recruited from outside the state of Uttarakhand in which BHEL, HEEP, Haridwar located. The contractor shall submit a valid license under Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979 to Contract Execution department on or before the commencement of contract. Further contractor has to ensure all the compliances of the provisions of Inter State Migrant Workmen (Regulation of Employment and condition of Service) Act, 1979.

3.6 PUBLIC PROCUREMENT PREFERENCE TO MAKE IN INDIA, ORDER 2017

For this procurement, the local content to categorize a supplier as a Class I local supplier/ Class II local Supplier/ Non-local supplier and purchase preference to Class I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 19.07.2024 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the

NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against this NIT.

Duly filled & signed Annexure-I (Format for local content), as applicable, to be submitted by bidders along with their techno-commercial **offer**.

3.7 RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRS), 2017

- I. Any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority. Further, any bidder (including bidder from India) having specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India, shall also require to be registered with the same competent authority.
- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder (or entity) from a country which shares a land border with India" for the purpose of this Order means: (a) An entity incorporated, established or registered in such a country; or (b) A subsidiary of an entity incorporated, established or registered in such a country; or (c) An entity substantially controlled through entities incorporated, established or registered in such a country; or (d) An entity whose beneficial owner is situated in such a country; or (e) An Indian (or other) agent of such an entity; or (f) A natural person who is a citizen of such a country; or (g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.
- IV. The beneficial owner for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation

- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. Of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. To be inserted in tenders for Works contracts, including Turnkey contracts. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.
- VII. The registration shall be valid at the time of submission of bid and at the time of acceptance of bid.
- VIII. If the bidder was validly registered at the time of acceptance/ placement of order, registration shall not be a relevant consideration during contract execution

Note:

(i) The bidder shall provide undertaking for their compliance to this Clause, in the format provided in Annexure-II.

(ii) Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.

3.8 COMMON IP ADDRESS

Bidder may please note that GEM is capturing and showing the IP addresses used by the Buyer and the Bidder (s)/Sellers (s). The received bids having matching/common IP Address with either Bidder (s)/ Seller (s) or Buyer, shall be outrightly rejected & shall not be considered for further evaluation.

3.9 ONLINE INVOICE REGISTRATION AND DOCUMENT UPLOADING

For goods / works / services on Indian Suppliers / Contractors: Irrespective of the value of the invoice amount, the supplier/ contractor should necessarily upload the invoice details on BHEL SUVIDHA portal at <https://suvidha.bhel.in/suvidha/>, prior to despatch/raising invoice. All documents as per contract checklist, along with additional documents (if any), must be uploaded on the portal. It is mandatory that tax invoices with a net amount (including taxes) exceeding Rs five lakhs uploaded on the portal are digitally signed using a Class 3 Digital Signature Certificate (DSC) issued by a licensed Certifying Authority. Submission of invoice document in hard copy is allowed for invoices with a net amount (including taxes) equal to and upto Rs five lakhs in case the requirement for digitally signed invoice is not explicitly mentioned in the contract checklist.

The Invoice will not be accepted in absence of the above.

3.10 GRIEVANCE REDRESSAL MECHANISM

To promote transparency and ensure fair treatment of all bidders, a structured Grievance Redressal Mechanism is in place to address any concerns or issues arising during the tendering process or in subsequent business dealings with the company.

Suppliers/Contractors are requested to follow the below escalation process for grievance resolution:

1. **First Level:** Any grievance should initially be addressed to the designated Dealing Officer, whose contact details are provided in the Notice Inviting Tender (NIT)/Contract.

2. **Second Level:** If the issue remains unresolved, it may be escalated by lodging a formal grievance through the SUVIDHA Portal: <https://suvidha.bhel.in/suvidha/>. Responses will be provided in accordance with the defined escalation matrix.

DECLARATION REGARDING MINIMUM LOCAL CONTENT IN LINE WITH REVISED PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA), ORDER 2017 DATED 19TH JULY, 2024 AND SUBSEQUENT ORDER(S)

(To be typed and submitted in the Letter Head of the Entity/Firm providing certificate as applicable)

To,
(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: Declaration reg. minimum local content in line with Public Procurement (Preference to Make in India), Order 2017-Revision, dated 19th July, 2024 and subsequent order(s).

Ref: 1) GeM Bid Specification No:
2) All other pertinent issues till date

We hereby certify that the items/works/services offered by..... *(specify the name of the organization here)* has a local content of _____ % and this meets the local content requirement for **'Class-I local supplier' / 'Class II local supplier'** ** as defined in Public Procurement (Preference to Make in India), Order 2017-Revision dated 19.07.2024 issued by DPIIT and subsequent order(s).

The details of the location(s) at which the local value addition is made are as follows:

- 1. _____ 2. _____
- 3. _____ 4. _____

...
Thanking you,
Yours faithfully,

(Signature, Date & Seal of Authorized Signatory of the Bidder)
**** - Strike out whichever is not applicable.**

Note:

- 1. Bidders to note that above format, duly filled & signed by authorized signatory, shall be submitted along with the techno-commercial offer.
- 2. In case the bidder's quoted value is in excess of Rs. 10 crores, the authorized signatory for this declaration shall necessarily be the statutory auditor or cost auditor of the company (in the case of companies) or a practising cost accountant or practicing chartered accountant (in respect of suppliers other than companies).
- 3. In the event of false declaration, actions as per the above order and as per BHEL Guidelines shall be initiated against the bidder.

DECLARATION REGARDING COMPLIANCE TO RESTRICTIONS UNDER RULE 144 (xi) OF GFR 2017

(To be typed and submitted in the Letter Head of the Entity/ Firm providing certificate as applicable)

To,
(Write Name & Address of Officer of BHEL inviting the Tender)

Dear Sir,

Sub: Declaration regarding compliance to Restrictions under Rule 144 (xi) of GFR 2017

Ref: 1) GeM Bid Specification No:
2) All other pertinent issues till date

I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India. I certify that _____ (**SPECIFY THE NAME OF THE ORGANIZATION HERE**), is not from such a country/ has been registered with the Competent Authority (*attach valid registration by the Competent Authority, i.e., the Registration Committee constituted by the Dept. for Promotion of Industry and Internal Trade (DPIIT).*)

I hereby certify that we fulfil all requirements in this regard and is eligible to be considered.

Thanking you,
Yours faithfully,
**(Signature, Date & Seal of
Authorized Signatory of the Bidder)**

Note: Bidders to note that in case above certification given by a bidder, whose bid is accepted, is found to be false, then this would be a ground for immediate termination and for taking further action in accordance with law and as per BHEL guidelines.