

Vol-IB: GENERAL CONDITIONS OF CONTRACT- Part-01

Cl. No	DESCRIPTION
1.	Technical cum Commercial Bid' and 'Price Bid' shall be sealed in two separate envelopes. Both these sealed envelopes shall bear distinct identification with regard to the type of bid and Enquiry number. These two sealed envelopes shall then be kept in a third envelope and superscripted with correct Enquiry No. and Due Date & time. The outer cover should be addressed to the issuing authority (as mentioned below) of this enquiry and shall also bear the name and address of the bidder. Address : AGM/PURCHASE —BHARAT HEAVY ELECTRICALS LIMITED, —POWER SECTOR WESTERN REGION, —SHREE MOHINI COMPLEX, 345 KINGSWAY, —NAGPUR 440001 (MAHARASHTRA) Tender should be free from OVERWRITING AND ERASURES. Bidder's authorized signatory must attest corrections, if any. All amounts shall be indicated both in words as well as in figures. Where there is difference between amount in figures and words, amount quoted in words shall prevail. It is the responsibility of bidder to submit their offer within due date & time as mentioned in this enquiry. BHEL shall NOT be responsible for any loss/damage to the offer submitted by the bidder.
2.	Technical bid will be opened at stipulated time on Due Date. The Technical cum Commercial bid should accompany with a copy of this enquiry duly signed & stamped on all pages as a token of acceptance of Technical & Commercial T & C and copy of documents like authorized dealership certificate, earlier supply order details of similar equipment and their performance feedback from customers, company profile and present status, product catalogue of the models offered, technical specifications of the product, commercial Terms & Conditions and other relevant documents etc. Please fill up all the columns of all formats of this enquiry. Price bid should be submitted as per the 'Price Format' given in this enquiry. Quotations not accompanying filled in 'Price Format' are likely to be rejected. Terms and condition if any enclosed with price bid, shall not be considered. Tenders received as single bid indicating the price is liable to be rejected.
3.	Price bid of technically accepted bidders only will be opened. No revision of prices will be entertained after Tenders are opened, unless mentioned in our enquiry / asked so by BHEL.
4.	Manufacturer's name, Trade Mark or Patent No. if any, shall be specified in the Technical cum Commercial Bid
5.	Please mention the relevant national / international standard code of the product quoted for in the Technical cum Commercial bid.
6.	The purchaser shall be under no obligation to accept the lowest or any other tender and shall be entitled to accept or reject any tender in part or full without assigning any reason whatsoever.
7.	The tenders received after the specified time of their submission or treated as 'Late tenders' and shall not be considered under any circumstances.
8.	Price quoted shall be valid for 03 Months from the date of opening.
9.	Price shall be quoted as per enclosed 'Price Format' only. Quotations not accompanying filled in 'Price Format' are likely to be rejected. Please fill in all the columns of all formats

10.	The price quoted should be as applicable to DGS & D (Govt. of India) and other Govt. Organizations. In case DGS & D rate / Running Contract is not existing, but a contract is in vogue with any BHEL Unit, reference of the same shall be furnished and same may be applicable to this contract.
11.	SECURITY DEPOSIT: The supplier shall have to furnish Security Deposit (Cash/DD/Bank Guarantee from a Scheduled Bank) if so specified in the tender under Special Terms & Conditions.
12.	PACKING AND MARKING: The supplier shall arrange for secure protective packing of the goods suitable for tropical conditions to avoid loss, damage, atmospheric action during handling and transit. The packing standards will comply with relevant national standard/carrier's conditions of packing or established practice. If any damage is sustained and the carrier or underwriter attributes it to improper packing, the seller shall be liable to replace the material or reimburse the value of the loss notwithstanding any transit insurance arranged by him or not. The following marking shall be made on each package in black bold letters. NAME & ADDRESS OF CONSIGNEE, DIMENSION OF PACKAGE, WEIGHT DETAILS: GROSS, TARE & NETT These markings should be stenciled or written in bold letters on the package. Should the package be small, suitable cards/metal tags giving these details may be tagged or nailed.
13.	INSPECTION: Final inspection will be carried out the destination/site/Purchaser's works by the authorized inspecting Officer, if so specified in the tender under Special Terms & Conditions. Whenever preliminary or stage inspection is to be carried out at supplier's works the same is subject to final acceptance after receipt of the material at the destination/Purchasers works and the decision of the purchaser shall be final. The propriety of goods shall not pass until final acceptance by the purchaser
14.	REJECTION: The seller shall intimate the purchaser in writing within 15 days (after being intimated about rejection of goods) regarding disposal action of the rejected material. If no advice is received within this time the purchaser shall be at liberty to return the material at the cost and risk of the seller after receiving the cost if any paid by the Purchaser including inward freight and other incidental charges. The Purchaser will not be responsible for the rejected material thereafter and no claim will rest on him.
15.	DELIVERY: Purchaser shall not be liable to receive and pay for any supply made after delivery date stipulated in the order unless the delivery date is formally extended by the purchaser. Wherever the terms of delivery of the order is other than F.O.R. destination, delivery date will be reckoned as the date of dispatch or the date of readiness after inspection of the material where the Purchaser has agreed for inspection or collection.
16.	Test certificate: The seller shall carry out such tests as prescribed by the purchaser / as required in accordance to the relevant national or international standards, in his works and/or and other places as stipulated in the order. Necessary test certificate shall be submitted with delivery of materials. The seller shall also provide at no extra cost the required number of catalogues, drawing and other manuals related to materials under this order.
17.	TERMS OF PAYMENT: Payment will normally be made within a month of receipt of material in good condition at destination. Any other payment terms have to be mutually agreed. The seller shall send dispatch documents, invoice etc. in such quantum and a manner as provided in the order. (I) It is expressly understood that in the event of rejection of the materials for which payment has been made against document's through bank the Purchaser reserves the right to claim from the seller the amount paid and the incidental charged incurred in the same manner i.e. negotiating return dispatch documents, through Bank and the Seller shall honour such claim and retire the documents from the Bank. (ii) Bank charges for any payment claimed through Bank shall be borne by the seller and the seller shall also agree to bear any demurrage or other charges arising out of any delay in retirements or documents from Bank due to delayed, insufficient incorrect information furnished. (iii) The seller shall also ensure that the Carriers do not delay dispatch of the consignment once the carrier's receipt is obtained.
18.	GUARANTEE WARRANTY: The materials shall be warranted for design material and workmanship and also for performance warranty as specially stipulated by the purchaser in the order in its annexure.
19.	INSURANCE: Wherever specifically agreed to and directed, the supplier will insure the goods for all transit risks upto delivery of the goods at the final destination. In all other cases supplier must furnish particulars of dispatch for each consignment immediately after the dispatch of goods. Failure to do this will make the supplier responsible for making good any loss, which otherwise might have been recovered from underwriters.
20.	DELIVERY FAILURE, TERMINATION & LIQUIDATED DAMAGE: The parties hereto agree that the timely dispatch/delivery and completion of the other schedules as stipulated in order/contract shall be the essence of the Order/Contract. If the seller/contractor fails to complete the dispatch/ delivery and other schedules within the time period stipulated in the order/contract, or within any extension of time granted by the purchaser, it shall be lawful for

the purchaser to recover damages for the breach of order/contract without prejudice to any other rights and/or remedies provided for, in order/contract and hereunder.

The purchaser reserves the right to recover from the Seller/Contractor, as agreed liquidated damages and not by way of penalty, a sum equivalent to half percent {½% of the total contract price per week part thereof, subject to a maximum of ten percent @ 10%} of the total contract price excluding elements of taxes, duties and freight, if seller/contractor has failed to deliver any part of the goods within the period stipulated in the Order/Contract.

The purchaser reserves the right to purchase from elsewhere on account of and at the risk and cost of the seller /contractor without notice to the seller /contractor of goods not so delivered or their equivalent , without canceling the order/contract in respect of the goods not yet due for delivery.

The purchaser reserves the right to cancel the order/contract or a portion thereof for the goods not so delivered at the risk and cost of the seller/contractor and the seller/contractor shall be liable to the purchaser for any excess costs thereof.

In case of staggered delivery schedule, LD shall be 0.5 % of the undelivered portion per week of delay or part thereof subject to a maximum of 10% of the total order value. However, even if a staggered delivery schedule for Capital Machine/ BOPs is agreed, the LD cap will be levied on total order value and not undelivered portion of the order value.

- 1) BHEL reserves the right to take action against contractors who fail to perform or indulge in malpractices, by suspending business dealings with them.
- 2) Suspension could be in the form of 'Hold', 'De-listing' or 'Banning' a contractor.
- 3) A bidder may be put on HOLD for a period of 6 months, for future tenders for specific works on the basis of one or more of the following reasons:
 - a. Bidder does not honour his own offer or any of its conditions within the validity period.
 - b. Bidder fails to respond against three consecutive enquires of BHEL.
 - c. After placement of order, Bidder fails to execute a contract.
 - d. Bidder fails to settle sundry debt account, for which he is legitimately liable, within one year of its occurrence.
 - e. Bidder's performance rating falls below 60% in specific category (more fully described in chapter 'Performance Monitoring')
 - f. Bidder works are under strike/ lockout for a long period.
- 4) A Bidder may be de-listed from the list of registered Bidders of the region for a period of 1 year on the basis of one or more of the following reasons:-
 - a) Bidder tampers with tendering procedure affecting ordering process or commits any misconduct which is contrary to business ethics.
 - b) Bidder has substituted, damaged, failed to return, short returned or unauthorizedly disposed off materials/ documents/ drawings/ tools etc of BHEL.
 - c) Bidder no longer has the technical staff, equipment, financial resources etc. required to execute the orders/ contracts.
- 5) A Bidder can be banned from doing any business with all Units of BHEL for a period of 3 years on the basis of one or more of the following reasons:
 - a. Bidder is found to be responsible for submitting fake/ false/ forged documents, certificates, or information prejudicial to BHEL's interest.
 - b. In spite of warnings, the Bidder persistently violates or circumvents the provisions of labour laws/ regulations/ rules and other statutory requirements.
 - c. Bidder is found to be involved in cartel formation
 - d. The Bidder has indulged in malpractices or misconduct such as bribery, corruption and fraud, pilferage etc which are contrary to business ethics.
 - e. The Bidder is found guilty by any court of law for criminal activity/ offences involving moral turpitude in relation to business dealings.
 - f. The Bidder is declared bankrupt, insolvent, has wound up or been dissolved; i.e ceases to exist for all practical

	purposes. g. Bidder is found to have obtained Official Company information/ documentation by questionable means. h. Communication is received from the administrative Ministry of BHEL to ban the Bidder from business dealings. 6) Contracts already entered with a contractor before the date of issue of order of 'HOLD' or 'DE-LISTING' shall not be affected. 7) All existing contracts with a 'BANNED' contractor shall normally be short closed 8) Once the order for suspension is passed, existing offers/new offers of the contractor shall not be entertained 9) The above guidelines are not exhaustive but enunciate broad principles governing action against contractors. 10) EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provision of extant "Guidelines on Suspension of business dealing with supplier/contractors" and forfeited/released based on the action as determined under these guidelines. 11) Offers from tenderers who are under suspension (banned) by any Unit/Region/Division of BHEL shall not be considered. 12) Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL, or tenderer under suspension (hold/banning /delisted) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt of India. 13) 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.
21.	<u>RISK PURCHASE</u> : In the event the supplier has failed to deliver or dispatch whole of the goods or any part within the time stipulated or if the same were not available in his stock, the best and the nearest available substitute thereof may be purchased/arranged by purchaser from elsewhere at the risk and the cost of the seller. The purchaser at his option will be entitled to terminate the contract and seller shall be liable for any loss which the purchaser may sustain by reason of such risk purchases in addition to penalty at the rate mentioned in clause 20 above.
22.	<u>PREFERENTIAL DELIVERY</u> : It should be noted that if an Order is placed on a higher tenderer as a result of this invitation to tender, in preference to the lowest acceptable offer in consideration of the earlier delivery, the seller will be liable to pay the purchaser the difference between the contract rate and that of the lowest acceptable tender on the basis of final price F.O.R. destination including all elements of freight, sales tax, duties and other incidentals in case of failure to complete supplies in terms of such contract within the date of delivery specified in the tender and contract.
23.	<u>RIGHTS OF BHEL</u> : 1) 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) 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 suit BHEL's commitment to its customer or in case BHEL decides to advance the date of completion due to other emergent reasons/ BHEL's obligation to its customer. 3) To terminate the contract or withdraw portion of work and get it done through other agency, at the risk and cost of the contractor after due notice of a period of 14 days" by BHEL in any of the following cases: i. Contractor's poor progress of the work vis-à-vis execution timeline as stipulated in the Contract, backlog attributable to contractor including unexecuted portion of work does not appear to be executable within balance available period considering its performance of execution. ii. Withdrawal from or abandonment of the work by contractor before completion of the work as per contract. iii. Non-completion of work by the Contractor within scheduled completion period as per Contract or as extended from time to time, for the reasons attributable to the contractor. iv. Termination of Contract on account of any other reason (s) attributable to Contractor. v. Assignment, transfer, subletting of Contract without BHEL's written permission. vi. Non-compliance to any contractual condition or any other default attributable to Contractor. <u>Risk & Cost Amount against Balance Work:</u> Risk & Cost amount against balance work shall be calculated as follows: Risk & Cost Amount= [(A-B) + (A x H/100)] Where,

A= Value of Balance scope of Work (*) as per rates of new contract

B= Value of Balance scope of Work (*) as per rates of old contract being paid to the contractor at the time of termination of contract i.e. inclusive of PVC & ORC, if any.

H = Overhead Factor to be taken as 5

In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero).

* Balance scope of work (in case of termination of contract):

Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for "Termination of Contract", shall be taken as balance scope of Work for calculating risk & cost amount.

Contract quantities are the quantities as per original contract. If, Contract has been amended, quantities as per amended Contract shall be considered as Contract Quantities.

Items for which total quantities to be executed have exceeded the Contract Quantities based on drawings issued to contractor from time to time till issue of Termination letter, then for these items total Quantities as per issued drawings would be deemed to be contract quantities.

Substitute/ extra items whose rates have already been approved would form part of contract quantities for this purpose. Substitute/ extra items which have been executed but rates have not been approved, would also form part of contract quantities for this purpose and rates of such items shall be determined in line with contractual provisions.

However, increase in quantities on account of additional scope in new tender shall not be considered for this purpose.

NOTE: Incase portion of work is being withdrawn at risk & cost of contractor instead of termination of contract, contract quantities pertaining to portion of work withdrawn shall be considered as „Balance scope of work" for calculating Risk & Cost amount.

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

LD against delay in executed work shall be calculated in line with LD clause no. 2.7.9 of GCC, for the delay attributable to contractor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of work till termination of contract.

Method for calculation of "LD against delay in executed work in case of termination of contract" is given below.

- i. Let the time period from scheduled date of start of work till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
 - ii. Let the value of executed work till the time of termination of contract= X
 - iii. Let the Total Executable Value of work for which inputs/fronts were made available to contractor and were planned for execution till termination of contract = Y
 - iv. Delay in executed work attributable to contractor i.e. $T2 = [1 - (X/Y)] \times T1$
 - v. LD shall be calculated in line with LD clause (clause 2.7.9) of the Contract for the delay attributable to contractor taking "X" as Contract Value and "T2" as period of delay attributable to contractor.
- 4) In case Contractor fails to deploy the resources as per requirement, BHEL can deploy own/hired/otherwise arranged resources at the risk and cost of the contractor 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**.

5) **Recoveries arising out of Risk & Cost and LD or any other recoveries due from Contractor**

Following sequence shall be applicable for recoveries from contractor:

- a. Dues available in the form of Bills payable to contractor, SD, BGs against the same contract.
- b. Demand notice for deposit of balance recovery amount shall be sent to contractor, if funds are insufficient to effect complete recovery against dues indicated in (a) above.
- c. If contractor fails to deposit the balance amount to be recovered within the period as prescribed in demand

	notice, following action shall be taken for balance recovery: i. Dues payable to contractor against other contracts in the same Region shall be considered for recovery. ii. If recovery cannot be made out of dues payable to the contractor as above, balance amount to be recovered, shall be informed to other Regions/Units for making recovery from the Unpaid Bills/Running Bills/SD/BGs/Final Bills of contractor. iii. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against contractor. 6) 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, as per mutual agreement. 7) While every endeavour will be made by BHEL to this end, they cannot guarantee uninterrupted work due to conditions beyond their control. The Contractor will not be normally entitled for any compensation/extra payment on this account unless otherwise specified elsewhere in the contract. 8) In case the execution of works 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 two months, due to reasons not attributable to the contractor and other than Force Majeure conditions, BHEL may consider permitting the contractor to de mobilize forthwith and remobilize at an agreed future date. Cost of such demobilization/remobilization shall be mutually agreed. ORC in such cases shall not be applicable for the period between the period of demobilization and re mobilisation. The duration of contract/time extension shall accordingly get modified suitably. In case of any conflict, BHEL decision in this regard shall be final and binding on the contractor. 9) In the unforeseen event of inordinate delay in receipt of materials, drawings, fronts, etc, due to which inordinate discontinuity of work is anticipated, BHEL at its discretion may consider contractor"s request to short close the contract in following cases: a. The balance works (including but not limited to Trial Operation, PG Test, etc) 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 (example in Hydro projects or in projects where work has stopped due to reasons beyond the control of BHEL) c. The balance works cannot be done within a reasonable period of time as they are dependent on unit shutdown or on other facilities of customer or any other reasons not attributable to the contractor. 10) 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 mutually agreed, shall however be reduced from the final contract value.
24.	This order or any part thereof shall not be sub-contracted without the purchaser's consent.
25.	METRIC SYSTEM: Supplier is requested to indicate metric system measurements in all documents.
26.	INDEMNITY: The Seller shall indemnify the Purchaser against any claim due to any breach of patent, negligence, defective material or injury to seller or his agent.
27.	In the event of any reduction in the price, due to change of Govt. duties after award to the work and before delivery commencement, purchaser is entitled to such reduction and may negotiate fresh price at its discretion.

28.	GENERAL: The purchaser reserves the right to split up the tender and place orders for individual item on different suppliers and also increase or decrease the quantity.
29.	DISPUTES & ARBITRATION: All cases of disputes will be resolved according to the Indian Arbitration Act 1996. The area of jurisdiction shall be Nagpur, Maharashtra.
30.	FORCE MAJEURE: Acts of God, Acts of Government, War, Sabotage, Riots, Civil commotion, Police action, Revolution, Natural Calamities, Epidemic and other similar causes over which the supplier has no control, will amount to Force Majeure. Delay attributable to Force Majeure will be condoned; however the onus of establishing the reason of delay lies with the Supplier.
31.	The offers of the bidders who are on the banned list as also the offer of the bidders, who engage the services of the banned firms, shall be rejected. The list of banned firms is available on BHEL web site (www.bhel.com ---> Tender Notification ---> List of Banned Firms)
32.	Important Note: 1) IF L-1 BIDDER IS OTHER THAN Micro and Small Scale Enterprises (MSEs). a) In tender, participating Micro and Small Scale Enterprises (MSEs) quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE shall be allowed to supply up to 25% of total tendered value. In case of more than one such MSE (L1+15%), L-3 onwards bidders will be given opportunity to match the L-1 prices, provided their predecessors in terms of Price standing refuses to match L-1 prices. b) Total tendered quantity shall be divided as follows: In the ratio of 75 : 18.75 : 6.25 (if L-1 bidder is non MSE), where 75% order will be placed on L-1 bidder, 18.75% on MSE and 6.25% on MSE (owned by SC/ST) subjected to following conditions: I. MSEs Matches L-1 price. II. If no MSE owned by SC/ST has participated in the tendering process, portion earmarked (6.25%) will be awarded entirely to other MSE (not owned by SC/ST) i.e. total 25% will be awarded to them. c) If no MSE matches the L-1 price, then entire order shall be awarded to L-1 bidder. 2) IF L-1 BIDDER IS Micro and Small Scale Enterprises (MSEs) (NOT OWNED BY SC/ST). In tender, participating MSEs, owned by SC/ST, quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price. MSE (owned by SC/ST) shall be allowed to supply up to 25% of total tendered value/quantity. In case of more than one such MSE (L1+15%), L3 onwards bidders will be given opportunity to match the L-1 prices, provided their predecessors in terms of Price standing refuses to match L-1 prices. 3) IF L-1 BIDDER IS Micro and Small Scale Enterprises (MSEs) (OWNED BY SC/ST). 100% order will go to the L-1 bidder. 4) Participating MSEs should be registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or Udyog Aadhaar Memorandum and their ownership is established in case they are claiming the portion earmarked for MSEs owned by SC/STs. 5) Bidder who is claiming 6.25% of the quantity earmarked for MSEs owned by SC/STs are required to submit the documentary evidence to establish the ownership of MSE firm. Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained. 6) Bidder who is claiming 6.25% of the quantity earmarked for MSEs owned by SC/STs are required to submit the documentary evidence to establish the ownership of MSE firm. a) In case of proprietary MSE, proprietor(s) shall be SC/ST. b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the unit. c) In case of Private limited companies, at least 51% share shall be held by SC/ST promoters. Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained.

	7) Minimum of 3% reservation for women owned MSEs within the above mentioned 25% reservation shall be applicable. Bidder who is claiming 3% of the quantity earmarked for Women entrepreneurs are required to submit the documentary evidence to establish the ownership of MSE firm owned by Women entrepreneurs. a) In case of proprietary MSE, proprietor(s) shall be a Women. b) In case of partnership MSE, the Women partners shall be holding at least 51% shares in the unit. c) In case of Private limited companies, at least 51% share shall be held by Women promoters. Bidder should also mention the same in their techno-commercial bid. After opening of Price bids no such claim shall be entertained. Note: All these preferences are applicable, subject to the submission of applicable certificates (i.e. District Industries Centers OR Khadi and Village Industries Commission OR Khadi and Village Industries Board OR Coir Board OR National Small Industries Corporation OR Directorate of Handicrafts and handloom OR Udyog Aadhaar Memorandum OR any other body specified by Ministry of Micro Small and Medium Enterprises). 8) MSE suppliers can avail the intended benefits only if they submit along with offer, attested copies of either ENTREPRENEUR MEMORANDUM PART II certificate having deemed validity (Five years from the date of issue of acknowledgement in EM-II) or valid NSIC certificate or ENTREPRENEUR MEMORANDUM PART II certificate along with CA certificate (Format enclosed as per MSE Annex - I) applicable for the year, certifying quantum of investment in plant and machinery within the permissible limit as per the act for relevant status (Micro or small) where the deemed validity of ENTREPRENEUR MEMORANDUM PART II is over. Date to be reckoned for determining the deemed validity will be the last date of technical bid submission. Non submission of such documents will lead to consideration of their bids at par with other bidders and MSE status of such suppliers shall be shifted to Non MSE supplier till the supplier submits these documents.
33.	Declaration of UAM number on CPPP portal is mandatory for MSE bidders to enjoy the benefits as per Public Procurement Policy for MSEs order 2012 for tenders invited electronically through CPPP only.
34.	For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017 & 28.05.2018 and subsequent Orders issued by the respective Nodal Ministry shall be applicable even if issued after issue of this NIT but before finalization of contract/ PO/ WO against this NIT. In the event of any Nodal Ministry prescribing higher or lower percentage of purchase preference and/ or local content in respect of this procurement, same shall be applicable.
35.	PRICE DISCREPANCY: a) Conventional (Manual) Price Bid opening : In the case of price bid opening without resorting to Reverse Auction, if there are differences between the rates given by the tenderer in words and figures or in amount worked out by him, the following procedure for evaluation and award shall be followed: i) When there is a difference between the rates in figures and in words, the rates which corresponds to the amounts worked out by the bidder, shall be taken as correct ii) When the amount of an item is not worked out by the bidder or it does not correspond with the rate written either in figure or in words, then the rate quoted by the bidder in words shall be taken as correct iii) When the rate quoted by the bidder in figures and words tallies but the amount is not worked out correctly, the rate quoted by the bidder shall be taken as correct and not the amount. iv) In case of lump-sum price, 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. v) In case of omission in quoting any rate for one or more items, the evaluation shall be done considering the highest quoted rate obtained against the respective items by other tenderers for the subject tender. If the tenderer becomes L-1, the notional rates for the omission items shall be the lowest rates quoted for the respective items by the other tenderers against the respective omission items for the subject job and the 'Total quoted price (loaded for omissions)' shall be arrived at. However the overall price remaining the same as quoted originally, the rates for all the items in the 'Total quoted price (loaded for omissions)' shall

	be reduced item wise in proportion to the ratio of 'Original' total price and the "Total quoted price (loaded for omissions)". vi) The 'Final Total Amount' shall be arrived at after considering the amounts worked out in line with 'i' to 'iv' above. b) <u>Reverse Auction:</u> 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. In case of omission of rates, the procedure shall be as per 'Guidelines for Reverse Auction' enclosed.
--	--

Part-02

A. TAXES, DUTIES, LEVIES (Rev 13 dated 05/11/2018)

For Purchase/works other than enabling work

- 1) All taxes excluding GST, GST Cess & BOCW Cess but including, Royalties, fees, license, deposits, commission, any State or Central Levy and other charges whatsoever, if any, shall be borne by you and shall not be payable extra.
- 2) Any increase of the taxes excluding GST, GST Cess & BOCW Cess, at any stage during execution including extension of the contract shall have to be borne by the contractor. Quoted/ accepted rates/ price shall be inclusive of all such requirements. Please note that since GST on output will be paid by BHEL separately as enumerated below, your quoted rates/ price should be after considering the Input Credit under GST law at your end.
- 3) **GST :**
The successful bidder shall furnish proof of GST registration. GST along with Cess (as applicable) legally leviable & payable by the successful bidder as per GST Law, shall be paid by BHEL. Hence Bidder shall not include GST along with Cess (as applicable) in their quoted price.
- 4) GST charged in the Tax Invoice/Debit note by the contractor shall be released separately to the contractor only after contractor files the outward supply details in GSTR-1 on GSTN portal and input tax credit of such invoice is matched with corresponding details of outward supply of the contractor and has paid the GST at the time of filing the monthly return
- 5) Bidder shall note that the GST Tax Invoice complying with GST Invoice Rules (Section 31 of GST Act & Rules referred there under) wherein the 'Bill To' details will be as below :-
BHEL GSTN – As per **annexure -1**
NAME -- Bharat Heavy Electricals Limited
ADDRESS -- Site address
- 6) Bidder to immediately intimate on the day of removal of Goods (in case of any supply of goods) to BHEL along with all relevant details and a scanned copy of Tax Invoice to below email ids to enable BHEL to meet its GST related compliances :-
Email id ---- to be intimated later on.

In case of delay in submission of the abovementioned documents on the date of dispatch, BHEL may incur penalty /interest for not adhering to Invoicing Rules under GST Law. The same will be liable to be recovered from the successful bidder, if such delay is not attributable to BHEL.
- 7) In case of raising any Supplementary Tax Invoice (Debit / Credit Note) Bidder shall issue the same containing all the details as referred to in Section 34 read with Rule 53.
- 8) Bidder shall note that in case GST credit is delayed/ denied to BHEL due to delayed / non receipt of goods and /or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reasons not attributable to BHEL, GST amount shall be recoverable from the vendor along with interest levied / leviable on BHEL, as the case may be.
- 9) Bidder shall upload the Invoices raised on BHEL in GSTR-1 within the prescribed time as given in the GST Act. Bidder shall note that in case of delay in declaring such invoice in your return and GST credit availed by BHEL is denied or reversed subsequently as per GST Law, GST amount paid by BHEL towards such ITC reversal as per GST law shall be recoverable from the bidder along with interest levied / leviable on BHEL.
- 10) Way Bill: Successful Bidder to arrange for way bill / e-waybill for any transfer of goods for the execution of the contract.

The Bidder has to make their own arrangement at their cost for completing the formalities, if required, with Issuing Authorities, for bringing materials, plants & machinery at site for execution of the works under this contract, Road Permit/ Way Bill, if required, shall be arranged by the contractor and BHEL will not supply any Road Permit/ Way Bill for this purpose.

- 11) **New taxes and duties**:-Any New taxes & duties, if imposed subsequent to due date of offer submission as per NIT & TCN, by statutory authority during contract period including extension, if the same is not attributable to you, shall be reimbursed by BHEL on production of relevant supporting document to the satisfaction of BHEL. However, you shall obtain prior approval from BHEL before depositing new taxes and duties.

Benefits and/or abolition of all existing taxes must be passed on to BHEL against new Taxes, if any, proposed to be introduced at a later date.

In case any new tax/levy/duty etc. becomes applicable after the date of bidder's offer but before opening of the price bid, the bidder must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of the price bids. Claim for any such impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.

- 12) For transportation work, bidder shall declare in his quotation whether he is registered under GST, if yes, whether he intends to claim GST on forward charge basis. In absence of this declaration, BHEL will proceed further with the assumption that bidder intends not to claim GST on forward charge basis. However, in case of GST registered transporter, the amount to the extent of goods and service tax will be retained till BHEL avails the credit of GST. Further, transporter shall issue tax invoice which inter alia includes gross weight of the consignment, name of the consigner and the consignee, registration number of vehicle in which the goods are transported, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as mentioned under rule 46.
- 13) TDS under Income Tax shall be deducted at prevailing rates on gross invoice value from the running bills unless exemption certificate from the appropriate authority/ authorities is furnished.

- 14) TDS under GST shall be deducted at prevailing rates on applicable value from the running bills.

Annexure-1

State wise GSTIN no.s of BHEL

Sl.No	Projects under state	GSTIN
1	Andhra Pradesh	37AAACB4146P7Z8
2	Bihar	10AAACB4146P1ZU
3	Chhattisgarh	22AAACB4146P1ZP
4	Gujarat	24AAACB4146P1ZL
5	Jharkhand	20AAACB4146P5ZP
6	Madhya Pradesh	23AAACB4146P1ZN
7	Maharashtra	27AAACB4146P1ZF
8	Orissa	21AAACB4146P1ZR
9	Telangana	36AAACB4146P1ZG

B. Cancellation of Order:

In the event of non-performance of the contract by the Supplier, BHEL reserves the right to cancel the order with issue of a written notice. BHEL would provide a curing period of 30 days, for the Supplier to rectify the situation. If the Supplier fails to rectify the reason/s that led to the issue of cancellation notice by BHEL, then the cancellation order would be issued automatically by BHEL, without further recourse to the Seller. BHEL will not pay any cancellation charges or any other charges / damages to the Supplier, arising out such cancellation. In the event of the non-performance of the supply contract, by the Supplier, the rights of BHEL include, in addition to cancelling the order, to take alternate purchase action at the cost and risk of the supplier. The additional expenditure to be incurred by BHEL in such alternate purchase would be to the account of the supplier (Risk Purchase). This remedy would be in addition to the invoking of the PBG/CEBG on grounds of failure of the Supplier in executing the Contract and any other legal remedies. BHEL reserves the right to initiate the alternate purchase action at the cost and risk of the erring supplier by issue of a simple notice of intention for the alternate purchase action duly sent by any electronic means and / or by a letter. The cancellation of the order would not be a pre-condition for initiation of the alternate purchase action.

C. General Terms and Conditions

1. **Shortages/Damages**: If there are any Shortages/Damages observed in the Equipment/Item during the receipt of material at Destination/Site, Supplier shall supply those shortages as per the contract delivery terms, unless and otherwise specified elsewhere. BHEL decision will be final as regards to Shortages/Damages.
2. **Rejection**: The seller shall intimate the purchaser in writing within 15 days (after being intimated about rejection of goods) regarding disposal action of the rejected material. If no advice is received within this time the purchaser shall be at liberty to return the material at the cost and risk of the seller after receiving the cost if any paid by the Purchaser including inward freight and other incidental charges. The Purchaser will not be responsible for the rejected material thereafter and no claim will rest on him.
3. **Insurance**: Wherever specifically agreed to and directed, the supplier will insure the goods for all transit risks upto delivery of the goods at the final destination. In all other cases supplier must furnish particulars of dispatch for each consignment immediately after the dispatch of goods. Failure to do this will make the supplier responsible for making good any loss, which otherwise might have been recovered from underwriters.
4. **Metric System**: Supplier is requested to indicate metric system measurements in all documents.
5. **Indemnity**: The Seller shall indemnify the Purchaser against any claim due to any breach of patent, negligence, defective material or injury to seller or his agent.
6. The language in the tender documents downloaded by the Bidders shall at no point of time be changed, altered or modified in any manner by the Tenderer. If such changes are made by any tenderer, it shall be considered as tampering with BHEL's terms and the offer shall be summarily rejected, whenever it is noticed by BHEL. Such Bidders would be disqualified from the Bidding Process and their offers would be forfeited / Bank Guarantees invoked. They would also not be allowed to take part in future tenders of BHEL