

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	1 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

CONTENT

SL NO	DESCRIPTION	PAGE NO
01	PART-I - GENERAL CONDITIONS OF CONTRACT	02 - 18

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	2 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

PART - I
GENERAL CONDITIONS OF CONTRACT

INDEX

CLAUSE NO	DESCRIPTION
1.0	APPLICATION
2.0	DEFINITION OF TERMS
3.0	GENERAL INSTRUCTIONS
4.0	INTEGRITY PACT
5.0	SCOPE OF CONTRACT
6.0	PRICE EVALUATION CRITERIA
7.0	CONTRACT PRICE
8.0	TAXES AND DUTIES, FREIGHT & INSURANCE CHARGES
9.0	QUANTITY VARIATION
10.0	STATUTORY VARIATION
11.0	TERMS OF PAYMENT
12.0	TIME - THE ESSENCE OF CONTRACT
13.0	DELIVERY FAILURE TERMINATION / LIQUIDATED DAMAGES (LD)
14.0	COMPETENCE AND GUARANTEES
15.0	DELIVERY TERMS
16.0	SHOP ASSEMBLY AND INSPECTION
17.0	MATERIALS AND WORKMANSHIP
18.0	COMPLETENESS OF EQUIPMENT
19.0	SUPERVISION OF ERECTION & COMMISSIONING
20.0	ERECTION & COMMISSIONING
21.0	REJECTION OF DEFECTIVE PLANT
22.0	TAKING OVER
23.0	GUARANTEE/ WARANTEE
24.0	PACKING
25.0	SHORTAGE / DAMAGE
26.0	INTER CHANGEABILITY
27.0	DEFAULT, BREACH OF CONTRACT, INSOLVENCY & RISK PURCHASE
28.0	FORECLOSURE OF CONTRACT
29.0	ASSIGNMENT AND SUBCONTRACTING
30.0	FORCE MAJEURE
31.0	CONSIGNEE'S RIGHT OF REJECTION
32.0	SETTLEMENT OF DISPUTE AND ARBITRATION
33.0	CONTRACT AGREEMENT, EFFECT AND JURIDITION
34.0	DIRECT TAX
35.0	PATENT RIGHTS
36.0	INDEMNIFICATION OF BHEL
37.0	PREVENTION OF EXTRAORDINARY TRAFFIC AND PROTECTION OF HIGHWAY.
38.0	MEMBERS OF STAFF ETC. NOT PERSONALLY LIABLE
39.0	POWER TO VARY OR OMIT WORK
40.0	SUSPENSION OF WORK
41.0	LIST OF STANDARDS FOR REFERENCE.
42.0	NON-DISCLOSURE AND INFORMATION OBLIGATIONS
43.0	EXPORT ADMINISTRATION REGULATIONS
44.0	LIMITATION OF LIABILITY
45.0	PUBLIC PROCUREMENT POLICY

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	3 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

CLAUSE NO	DESCRIPTION
1.0	APPLICATION: Unless otherwise provided in the contract documents, these general conditions shall govern the works of the accompanying technical specifications. Specific conditions, if any attached to this tender, shall be read in conjunction with these general condition and these conditions will form a part of the contract documents. Look into clause 2.50 also in this matter.
2.0	DEFINITION OF TERMS : In construing these General Conditions, Special conditions and accompanying Specifications, the following words shall have the meaning herein assigned to them except where the context otherwise requires.
2.1	The owner / purchaser shall mean BHEL and shall include its successor in office, legal representative and permitted assigns.
2.2	Purchaser/ vendee / BHEL shall mean Bharat Heavy Electricity Limited, a Company registered under the Indian Companies Act 1956, with its Registered Office at BHEL House, Siri Fort, New Delhi. PE&SD – BHEL / Hyderabad are authorised to deal with any matter pertaining to this tender during any stage of tender / contract execution.
2.3	Executive Director / General Manager shall mean the officer in administrative charge of BHEL, PE&SD, Hyderabad.
2.4	The bidder shall mean well established reputed organisations, manufacturer etc having requisite financial and technical capability for engineering, supply, delivery and supervision of E&C of equipment as per applicable technical specifications.
2.5	The contractor or vendor shall mean the successful bidder who is awarded the contract and shall be deemed to include the contractor's, successors, assigns, heirs, executors, administrator's representatives.
2.6	The sub-contractor or sub-vendor shall mean individual or firm to whom any part of the awarded contract has been sublet by the contractor and shall include his / its heirs, executors, administrators, legal representative and permitted assigns. Such subletting should adhere to the conditions, if any, imposed by the Purchaser in the contract documents.
2.7	The Engineer shall mean an Officer of BHEL as may be duly appointed and authorised in writing by BHEL, to act as Engineer on their behalf for the purpose of the Contract, to perform the duty set forth in this General Condition of Contract and other Contract Documents.
2.8	The Consulting Engineer shall mean any firm or person as may be duly appointed and authorised in writing by BHEL/Purchaser from time to time to review plant and equipment, works and services under the Contract.
2.9	The "Review Consultant" shall mean any firm or person as may be duly appointed and authorised in writing by BHEL/Purchaser from time to time for final review of the plant and equipment, works and services under the Contract.
2.10	The "Inspector" shall mean any firm or person as may be duly appointed and authorised in writing by BHEL/Purchaser from time to time to inspect plant and equipment, works and services under the Contract.
2.11	"Acceptance of Tender" shall mean e-mail / Tele-fax Letter of Intent or any notification communicating to the Contractor the acceptance by BHEL of his tender.
2.12	"Contract Price" shall mean the agreed sum of money stated in the Contract to be paid to the Contractor for the successful fulfilment of the Works in accordance with the terms of the Contract Documents.
2.13	"Contract" shall mean the Agreement between the Contractor and BHEL for execution of and payment for the works as defined in the Contract Documents.
2.14	The "Contract Documents" shall mean and include the Agreement entered into between BHEL and the Contractor under the Clause "Contract", letter of intent or letter of acceptance by BHEL, the General Conditions of Contract, Specific Condition of the Contract, Specifications, Forms of the Tender, Covering Letters, Schedule of Prices and Quantities submitted by the successful Bidder, latest amendments of Drawings / data sheets / inspection plan / quality plan mutually agreed upon and such other documents referred in tender form part (s) of the Contract Documents.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	4 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

2.15	“Work” or “Works” or “Goods” shall mean plants, equipment or materials to be supplied and / or such other works to be done / provided by the Contractor under the contract Documents.
2.16	“Plant” shall mean the portion of the work (under the scope of this contract) which includes permanent equipment, machinery, apparatus, materials, articles, civil works, structural works, architectural works and things of all kinds to be provided under the contract documents.
2.17	“Test” shall mean such tests as are prescribed in the specifications and/or other tests as mutually agreed upon by BHEL/ Purchaser and the Contractor, whether performed or made by the Engineer, Contractor or any Agency acting under the direction of the Engineer. “Tests on Completion / Acceptance Test / Performance Guarantee Test” shall mean such tests as are prescribed in the specifications and/or other tests as mutually agreed upon by BHEL/ Purchaser and the Contractor to be carried out by the Contractor on erection of the plant / equipment / material to prove satisfactory performance as per Specification.
2.18	“Constructional Plant” means all appliances or things of whatsoever nature required in or about the execution, completion or maintenance of the works or any ‘temporary work’ by the contractor at his own cost and risk (as hereinafter defined) but does not include materials or other things intended to form or forming part of “work” as defined at clause 2.15.
2.19	“Goods” shall mean plants, equipment or materials to be supplied under the Contract Documents.
2.20	“Temporary Work” shall mean all temporary jobs of every kind required in or about the execution, completion or maintenance of the work by the contractor at their cost and risk.
2.21	“Completion Time” shall mean the period by date / month specified in the acceptance of tender for supply and handing over of the intended scope of work, which are found acceptable by the engineer being of required standard and conforming to the specifications of the contract. The time and date of completion of the work as stipulated in the contract Documents shall be deemed to be the essence of the Contract. (Refer clause 11 of the General Conditions of the Contract
2.22	“Consignee” shall mean the authorised representative or officer of the Purchaser / BHEL to whom the plant, equipment and materials are required to be delivered in the manner indicated in the Contract Documents.
2.23	The “Specification” or “Technical Specifications” shall mean all Specifications including technical specifications of the Works and the Tender Drawings and schedules attached thereto and any modification made thereof.
2.24	“Drawings” shall mean drawings referred to in the Contract Documents including modifications if any and such other drawings as may be from time to time furnished by the Contractor and approved by BHEL / purchaser.
2.25	“Site” shall mean the land and other places including existing roads, paths etc., put at the disposal of the Contractor by BHEL / purchaser in connection with the execution of the Contract.
2.26	“Tests on Completion” shall mean such tests as are prescribed in the specifications and/or other tests as mutually agreed upon by BHEL/ Purchaser and the Contractor to be carried out by the Contractor on erection of the plant to prove satisfactory performance as per Specification.
2.27	“Acceptance Test / Performance Guarantee Test” shall mean such test as are required to determine and demonstrate guaranteed capacity, efficiency and operating characteristics of the Plant as stipulated in the contract Documents.
2.28	“Commissioning” shall mean the successful completion of trial operations and readiness of the contracted / ordered plant and materials for commercial use. This will include all consumables and inputs required for pre-commissioning.
2.29	“Initial Operation”, “Reliability Run” or “Trial Run” shall mean the first continuous operation of the plant by the Contractor covered under the Contract with sub-systems under varying loads to demonstrate satisfactory operation for a specified period which shall not be less than fifteen (15) days.
2.30	“Commercial Operation” shall mean the conditions of operation in which all the equipment covered under the Contract are officially declared by BHEL/ purchaser, to be available for continuous operation at different loads and including rated capacity.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	5 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

2.31	“Service” shall mean furnishing of labour and services as per specifications and supervision of complete erection, testing and putting equipment and materials to be supplied into satisfactory operation, supervision of inland transportation, loading and unloading and storage at the site as defined in the Contract Documents.
2.32	“Warranty Period” shall mean the period during which the Contractor shall remain liable for repair or replacement of any defective part of the plant supplied, works done and services rendered under the Contract.
2.33	“Code” shall mean the applicable International and Indian standards as on the date of letter of intent and any subsequent modification thereof.
2.34	“Month” shall mean calendar month. “Day” or “Days” unless 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.
2.35	“Letter of Intent” / “Purchaser Order” shall mean BHEL’s letter or notification conveying their acceptance of the Tender subject to such conditions as may have been stated therein.
2.36	“Writing” shall include any manuscript typed or handwritten or printed statement, including Telex, Cable and facsimile transmission under or over signature or seal as the case may be.
2.37	“Approved” or “Approval” shall mean as approved by or approval of competent authority of the Purchaser/ BHEL.
2.38	Words incorporating “Persons” shall include firms, companies, corporations and other bodies whether incorporated or not.
2.39	Words incorporating the singular only shall also include the plural and vice-versa where the context requires.
2.40	“F.O.B.” shall mean delivery free of expenses to the Purchaser / BHEL on board the vessel at the port of shipment.
2.41	“CIF Price” shall mean delivery free of expenses to the purchaser / BHEL on board the vessel at the port of entry including the insurance coverage.
2.42	“F.O.R. “ Destination” shall mean delivery free of expenses to the Purchaser / BHEL on rail wagons at destination Railway Station or the purchaser’s siding as may be named or / and by road transport at customer’s destination.
2.43	“F.O.R. Works” shall mean loaded and stowed or trimmed free of expenses to the purchaser / BHEL on board rail wagons / road transport at the Contractor’s Works siding or the nearest Railway station for transportation.
2.44	“Tonne” or “Ton” shall mean 1000 Kilogram weight. “Gallon” shall mean Imperial gallon, unless otherwise mentioned specifically.
2.45	“Final Acceptances” mean the BHEL’s/ purchaser’s acceptance of the work/plant completed in every respect as per terms of the contract Documents on expiry of the Warranty / guarantee / maintenance period.
2.46	Terms and conditions not herein defined shall have the same meaning as are assigned to them in the latest edition of Indian Sale of Goods Act/Indian Contract Act as applicable.
2.47	SINGULAR AND PLURAL: Words importing the masculine gender or singular number shall also include the feminine gender and plural and vice versa where the context so requires.
2.48	HEADINGS OR NOTES: The headings or notes in these conditions are solely for the purpose of facilitating reference and shall not be deemed to be part thereof or be taken into consideration in the interpretation or construction thereof or of the contract.
2.49	LANGUAGE: All documentations and correspondence regarding the contract shall be in English language.
2.50	DOCUMENTS MUTUALLY EXPLANATORY: Except if and to the extent otherwise provided by the contract, the provisions of special Conditions of contract shall prevail over General Conditions of Contract and over those of any other documents forming part of the Contract. Subject to the foregoing, various documents forming the Contract are to be taken as mutually explanatory of one another. In case of ambiguities or discrepancies the same shall be explained and adjusted by the Engineer who shall thereupon issue to the contractor instructions directing in what manner the work is to be carried out. Otherwise, the order of precedence shall be Purchase order, LOA / LOI by Purchaser, Specific Conditions of the Contract, General Conditions of the Contract, tender and offer.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	6 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

3.0	GENERAL INSTRUCTIONS :
3.1	Tenderers are advised to study all the tender documents carefully. Any submission of tender by the tenderer shall be deemed to have been done after careful study and examination of the tender documents and with full understanding of the implications thereof. The specifications and terms & conditions shall be deemed to have been accepted unless otherwise specifically commented upon by the tenderer in his offer. Non-compliance with any of the requirements and instructions in the Tender Enquiry may result in rejection of the tender.
3.2	NO RESPONSE: Non-Response from vendor against the enquiry will be deemed as vendor is not interested to quote for the Material / equipment under consideration. Any changes to NIT conditions during the processing of the enquiry will not be intimated to such vendors.
3.3	REGRET : If any vendor regrets to quote against the enquiry giving specific reason for the regret, then subsequent changes to NIT conditions, if any, which impact the reason for regret, will be intimated to such vendors
3.4	Tenders received after the Due Date and Time of submission shall be rejected.
3.5	Unsolicited tenders will not be entertained.
3.6	PRICE VALIDITY : Vendors' offers shall be submitted with the following validity periods: i) Original offer shall be valid for 180 days from Part-I opening. ii) If revised price bid/ price impact is asked by BHEL, the validity of the same shall be 60 days from the date of price bid opening or 180 days from Part-I opening, whichever is later. iii) For the enquiries where unit prices are called for scope addition/ deletion, these unit prices shall be valid till end of execution of contract with end-user for equipment supplied by the vendor.
3.7	E&C VALUE : Not Applicable
4.0	INTEGRITY PACT: Integrity Pact (IP) will be applicable for all tenders/ contracts valuing Rs 5.0 crores and above unless otherwise specified elsewhere. Integrity Pact document shall be issued as part of tender and shall be returned by bidders along with their techno-commercial bids, duly signed by authorized signatories. Only those vendors/bidders who enter into Integrity Pact with BHEL would be qualified to participate in the bidding process.
5.0	SCOPE OF CONTRACT: The scope of work, if not otherwise mentioned in the contract, shall be on the basis of a single contractor's responsibility, completely covering all Technical Specifications referred in and including accompanying Technical Specification. Some of the salient features are hereunder.
5.1	Detailed design of all the equipment and subsystem and work as per specification.
5.2	Complete manufacture / Procurement of all the equipment / subsystem including shop testing and assembly as per specification.
5.3	Providing of special tools and tackles and services necessary for satisfactory execution of the contract.
5.4	Providing engineering drawings, data sheets, operation manual, etc.
5.5	Packing and transportations of the Goods from the manufacturer's works to the site.
5.6	E&C works or Supervision of E&C works at destination site (as applicable) called for elsewhere in the contract documents.
5.7	Performance testing and obtaining site certification regarding satisfactory performance as per Specification, where applicable and as prescribed in the Contract documents and/or mutually agreed upon by BHEL/ Purchaser and the Contractor
6.0	PRICE EVALUATION CRITERIA
6.1	Not Applicable
6.2	LOADING FOR COMMERCIAL TERMS DEVIATION: Deviations on Commercial terms from NIT are generally not acceptable. In case of deviations from NIT w.r.t. Payment terms, the price will be loaded at Base rate of SBI (as applicable on the date of bid opening / Techno-commercial bid in case of 2 part bids) + 6% for the period of relaxation sought by the bidders. In case of deviations from NIT w.r.t. LD, the price loading shall be as per clause 13.2.6
7.0	CONTRACT PRICE (UNLESS SPECIFIED OTHERWISE IN SPECIFIC CONDITIONS OF CONTRACT)
7.1	The contract price is the agreed sum of money stated in the contract documents to be paid to the contractor for the successful completion supply in accordance with the terms of the

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	7 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

	contract documents. The contract price shall be for the entire scope of the work with the break-ups as specified.
7.2	The individual item rates or lump sum price as the case may be, in the schedule of this contract shall be deemed to be firm for the entire period of the Contract or extended period of contract and no escalation in the rates or price shall be permissible for any reason whatsoever unless otherwise specified.
7.3	The contract price shall not be varied in respect of the fluctuations in rate of wages or allowances payable to the labour or in the cost of materials, consumables, water, fuel, power or for anticipated profit or alleged losses or for any other reason whatsoever.
8.0	TAXES, DUTIES, FREIGHT & INSURANCE CHARGES – Refer to Specific Conditions of the Contract for details
8.1	Contractors are required to include applicable taxes, duties and surcharges, if any, in the quotation and ensure that they are as per the existing tariff on the date of the offer and have availed all benefits as per existing rules.
8.2	Contractor shall be required to transport the items through transport contractor of repute. Freight charges shall be payable by the contractor and included in the price quoted. The transit insurance shall be arranged and borne by vendor up to Consignee Address indicated by BHEL against the PO / LOI
9.0	QUANTITY VARIATION (UNLESS SPECIFIED OTHERWISE IN SPECIFIC CONDITIONS OF CONTRACT)
9.1	BHEL shall have the right to increase / decrease bid quantities up to 10% of final bid value and bidder shall be bound to accept the same at the final bid unit rates without any escalation.
9.2	Unit rates of detailed BOQ list, where applicable, shall be valid till contract completion
9.3	Transport: If for any reason, the contractor has to resort to a mode of transport other than what was contemplated by them at the time of tendering to keep up the completion schedule and consequently and has to incur more expenditure, BHEL will not under any circumstances reimburse such extra expenditure and price will not exceed the firm contract / order price.
10.0	STATURORY VARIATIONS (UNLESS SPECIFIED OTHERWISE IN SPECIFIC CONDITIONS OF CONTRACT)
10.1	It is the responsibility of the bidder to inform themselves of the correct rates of customs or other duties or taxes leviable on the materials at the time of tendering. If the rates assumed by the bidder are less than the correct rates prevailing at the time of tendering the bidder will be responsible for such errors.
10.2	No variations on customs duty / exchange rate / minimum wages, prices of controlled commodities or any other input shall be payable by BHEL.
10.3	Notwithstanding the above, where the actual completion of the supply occurs beyond the period stipulated in the order/contract, variations referred above will be limited to the rates prevailing on the dates of the stipulated contractual completion period only. For variations after the contractual completion period, the bidder alone shall bear the impact if it is upward revision and if it is downward revision BHEL shall be given credit to the extent. This will be without prejudice to the levy of LD for delay in completion.
11.0	TERMS OF PAYMENT: For all items of package as per rate schedule of main supply, payment shall be made as per terms mentioned in SCC.
12.0	TIME (THE ESSENCE OF CONTRACT) :
12.1	The time and date of material supply completion stipulated in the contract Documents shall be deemed to be the essence of the Contract. The Contractor shall so organise their resources and perform so as to complete the work not later than the aforesaid date of completion. The contractor shall commence the works and shall proceed with the same with due expedition and without delay except as may be expressly sanctioned or ordered by the Engineer. If the contractor fails to commence the work or organize his resources to enable delivery of supplies within the stipulated time, BHEL at their sole discretion will have the right to cancel the contract. In such an event the contractor's security deposit with BHEL will stand forfeited without any further reference to the contractor, without prejudice to any and all of the BHEL's other rights and remedies in this regard.
12.2	MISTAKE IN DRAWINGS: The Engineer shall have the right at all reasonable times to inspect at the office / premises of contractor all shop and / or detailed drawings of the works or any

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	8 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

	portion of the works. The Contractor shall be responsible for and shall undertake without any commercial implications, any alterations of the work due to any discrepancies, errors or omission in the drawings or other particulars supplied by him whether such drawings or particulars has been approved by the Engineer or not, provided that such discrepancies, errors or omissions be not due to inaccurate information or particulars furnished to the contractor by the Engineer, in which event BHEL shall pay for any alterations of work necessitated by reason of inaccurate information supplied by the Engineer to the Contractor.
13.0	DELIVERY FAILURE TERMINATION/ LIQUIDATED DAMAGES (LD) (UNLESS SPECIFIED OTHERWISE IN SPECIAL CONDITION OF CONTRACT)
13.1	It should be clearly understood by the Contractor that time and the date of delivery of despatch stipulated in the order is the essence of the contract, If the contractor fails to complete the order within the time fixed in the order, or within any extension of time granted by BHEL, it shall be lawful for BHEL to recover damages for breach of order without prejudice to any other rights and / or remedies provided for, in the order and hereunder. To be entitled to impose such damage, BHEL will not be required to prove that he has incurred such amount as actual damage.
13.2	DELAYED DELIVERY (LD)/PENALTY
13.2.1	Supply: BHEL shall Recover from the contractor LD/penalty, a sum equivalent to half percent (1/2%) of the order /contract price of the undelivered portion, excluding elements of taxes, duties freights etc., per week or part thereof subject to a maximum of ten percent (10%) of total order/contract price of the complete order if the contractor has failed to deliver any part of equipment /item within the period fixed for delivery.
13.2.2	Not used
13.2.3	BHEL shall deduct the amount of such compensation from any money due or which may become due to the vendor and/or recover such compensation from the bank guarantees/ security deposit of the vendor. To be entitled to impose such compensation, BHEL will not be required to prove that they have incurred such amount as actual damage.
13.2.4	Subject to force majeure, if vendor fail to complete the scope of tender within aforesaid completion period, BHEL shall have the right to cancel the order/ contract or a portion thereof at the risk & cost of the vendor and the vendor shall be liable to BHEL for any excess costs thereof.
13.2.5	The vendor shall continue the performance of the order/ contract under all circumstances, to the extent not cancelled.
13.2.6	Change in LD terms: If any bidder is not agreeable to the above LD terms, then the bid evaluation shall be done after loading the price quote of such bidder to the extent of percentage of LD not agreed to by the bidder.
14.0	COMPETENCE AND GUARANTEES
14.1	Contractor shall have sound technical and financial capabilities and possess recognised experience in executing the works of similar kind and magnitude. The contractor shall properly fill in the various schedules and proforma prescribed in the tender documents. Non submission of the information in the prescribed schedules and proforma and within the time prescribed may lead to rejection of the bid.
14.2	PERFORMANCE BANK GUARANTEE : As per Specific Terms of Contracts
15.0	DELIVERY TERMS When the goods are ready for shipment BHEL / owner should be notified by the contractor through Email. Notification of delivery in regard to each and every consignment shall be made to the owner/BHEL at least 48 hours ahead of actual delivery, enabling arrangements for its receipt at the site. The contractor shall further supply to the consignee a priced invoice and packing list of all goods delivered or despatched by them and other shipping particulars. All packages, containers, bundles and loose materials forming part of each and every consignment shall be described fully in the packing list, and full details of the contents of packages and quantity of goods shall be submitted to enable the consignee to check the goods on arrival at destination.
16.0	INSPECTION AND SHOP ASSEMBLY
16.1	The manufacturing, assembly and Inspection shall be as per the Standard Quality Assurance Plan (QAP), if any, issued along with the enquiry.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	9 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

16.2	If Standard QAP is not included in tender documents, the vendor shall submit quality assurance plan (QAP) within 28 calendar days of receipt of order / LOI, which will be commented / approved by Engineer / Consulting Engineer within a scrutiny period of 10 calendar days after receipt from the vendor
16.3	Wherever the contract requires shop assembly of various components at vendor works, the Shop assembly to the largest extent feasible shall be performed by the contractor to assure proper fitting of the various parts and for checking the correctness of clearances and dimensions. Parts where dismantling for shipment / other exigencies is required, shall be disassembled and match – marked for reassembly at the site. Dismantled shipment of a PO line item shall be strictly as per BBU agreed with the Purchaser and incorporated in applicable QAP approved by BHEL.
16.4	No Goods shall be shipped before all tests and inspection have been carried out according to the approved Quality Assurance Plan unless otherwise instructed by BHEL.
16.5	The acceptance of any Goods prior to shipment shall in no way relieve the contractor of any of his responsibilities for meeting all the requirements of the specification and shall not prevent subsequent rejection if such Goods are found to be defective.
16.6	BHEL/ owner and their duly authorized representative shall have the power at all reasonable times to inspect drawings of any portion of the work or examine the materials and workmanship of the equipment/ items during its manufacture
16.7	Such inspection, examination and testing shall not relieve the contractor from any obligation under the contract.
16.8	BHEL engineer shall, on giving seven (7) days notice in writing to the contractor setting out any ground of objection which he may have in respect of the plant/equipment /work, be at liberty to reject any drawings and all or any plant or workmanship, subject to any of the said ground of objection, which in his opinion are not in accordance with the contract / order. The contractor shall give due consideration to such objections and shall either make the modifications that may be necessary to meet the said objections or shall satisfy the engineer that no modifications are necessary to comply with the contract/order.
16.9	The contractor shall give the engineer and his duly authorized representatives notice of any material being ready for testing (all standard shop tests physical and chemical tests required by the standards or as may be prescribed or approved by the engineer), and the engineer or the said representative shall (unless the inspection of tests voluntarily waived) on giving reasonable previous notice in writing to the contractor attend at the contractor's premises (as the case may be) within twenty (20) days of the date on which the material is notified as being ready, failing which the contractor may proceed with the tests which shall be deemed to have been made in the engineer's presence. The engineer reserves the right to waive any of the above tests requirement and to prescribe new tests required if found necessary to expedite the work or to confirm to the latest and best practice. Definition, method of measurement, calibration of inspection, measuring and test equipment and required procedure as referred in the above standard and / or those approved by the engineer and equivalent shall be followed. The contractor shall forthwith forward to the engineer duly certified copies of the test certificates in quadruplicate for approval. Further copies of the shop test certificate shall be bound with the instruction manuals.
16.10	In all cases where the order/ contract provided for tests/ inspections whether at the premises or works of the contractor or any sub-contractor, the contractor, except where otherwise specified shall provide free of charge to BHEL such labour, materials, electricity, fuel, water, stores, apparatus, inspection measuring and test equipment as may reasonably be required to carry out efficiently such tests of the equipment/ plant, in accordance with the order/ contract and shall give facilities to the engineer or his authorised representative to accomplish such testing.
16.11	The contractor shall maintain & ensure necessary safety measures as required for inspection and tests like HV test, Pneumatic test, Hydraulic test, Loan test Spring test, Bend test etc, of his/his subcontractors works to enable inspection Agency for performing inspections. If any test equipment is found not complying with proper safety requirements, then the inspection agency may withhold inspection, till such time desired safety requirements are met.
16.12	INSPECTION MEASURING AND TEST EQUIPMENT (IMTE)/ MMD

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	10 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

16.12.1	Inspection measuring and test equipment's (IMTE) whether used by the contractor or his sub-contractor shall be calibrated, maintained and controlled. Calibration shall be valid and IMTE shall be in sound condition during usage.
16.12.2	In addition to above, contractor shall ensure the following.
16.12.2.1	Measurement uncertainty is known and consistent with required measurement capability of the IMTE.
16.12.2.2	Selection of IMTEs is compatible with the necessary accuracy precision of required measurement.
16.12.2.3	IMTEs are calibrated at the required intervals against certified equipment having known valid relationship to nationally recognised standard/ recognised calibration labs.
16.12.2.4	Calibration records are available and traceable to the particular IMTE.
16.12.2.5	In case during recalibration, the IMTE is found out of calibration, report on action taken to validate the previous results along with both calibration records of the IMTE should be furnished to BHEL. NOTE: BHEL decision on acceptability of the product in such case shall be binding.
16.12.2.6	IMTEs are stored, handled and preserved such that accuracy and fitness are maintained and safeguarded from adjustments.
16.12.2.7	Responsibility of usage of valid and calibrated IMTEs by sub-contractors shall be of the contractor.
16.12.2.8	In case calibration records are required by owner/ BHEL, copies of the same shall be furnished.
17.0	MATERIALS AND WORKMANSHIP
17.1	All Goods to be supplied and all works to be done by the Contractor under Contract shall be manufactured and executed in the manner stipulated in the specification or where not specified, to the satisfaction of the Engineer.
17.2	All materials used in the manufacture of the plant/equipment/system shall be selected from the best available for the purposes of strength, durability, best engineering practice, and freedom from defects, These materials should be of recent manufacture and unused. Liberal factors of safety shall be used throughout the design and especially in the design of all parts subject to alternating stresses or shocks.
17.3	All the work shall be performed and completed in a thorough work-man like manner and shall follow the best modern practice in the manufacture of high grade equipment notwithstanding any omission in the Specification.
17.4	Castings shall be free from blow holes, flaws, cracks or other defects and shall be smooth, close – grained and of true forms and dimensions. No plugged or filled –up holes or other defects will be allowed. Such castings are liable to be rejected. However, the Contractor may rectify minor casting defects by welding or other method in accordance with the standard manufacturing practice provided such rectifications does not affect the strength of the casting or impair the efficient working of the Plant and prior approval of BHEL is obtained for the same.
18.0	COMPLETENESS OF EQUIPMENT
18.1	The equipment shall be complete in every respect with all mountings, fixtures and standard accessories which are normally supplied even through not specifically detailed in the Specification. The Contractor shall not be eligible for any extra payment in respect of such mountings, fittings, fixtures and accessories needed for safe operation and handling of the equipment as per applicable codes of the country, though they may not have been included in the Contract.
18.2	Parts of all similar equipment supplied shall be interchangeable with one another.
18.3	All the equipment supplied under this contract shall be subject to BHEL/owner's approval according to applicable stipulations set-forth in the specifications.
18.4	If while BHEL installing the equipment supplied by vendor, any part of the equipment is found defective or with sub-assembly mismatch, the Engineer shall give the contractor notice setting forth particulars of such defects or mismatch, and the contractor shall forthwith make the defective equipment good by free replacement or alter the same to make it comply with the requirements of the contract without any commercial implication to BHEL. Should he fail to do so within a reasonable time, BHEL after giving seven (7) days written notice may reject and

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	11 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

	replace at the cost of the contractor the whole or any portion of the equipment, as the case may be, which is defective or fails to fulfil the requirements of the contract.
19.0	SUPERVISION OF ERECTION & COMMISSIONING
19.1	Not Applicable
19.2	Not Applicable
19.3	NOTIFICATION OF READINESS OF THE SITE: The Purchaser shall give the Contractor a notice in advance (7 days for indigenous / 15 days for imports / as per contracted terms) in writing of the date at which the site will be ready for the work and the commencement of supervision. Contractor to mobilize concerned competent personnel for supervision of Erection & commissioning activities within a period of 7 days of receipt of intimation in this regard by BHEL.
19.4	LOCAL LAWS AND SAFETY REGULATIONS: The Contractor shall ensure that his staff complies with local laws and safety regulations as applicable at the work site. Any liability or penalty arising due to violation or non-compliance thereof shall be to Contractor's account.
19.5	WORK COMPLETION CERTIFICATE: Upon completion of the contracted scope of work, Purchaser shall issue a 'Work Completion Certificate'. Onus of obtaining the same shall be on the vendor.
20.0	ERECTION & COMMISSIONING
20.1	Not used
20.2	Not used
20.3	Not used
20.4	Not used
20.5	Not used
20.6	Not used
20.7	Not used
21.0	REJECTION OF DEFECTIVE SYSTEM
21.1	Not used
21.2	Not used
21.3	Not used
22.0	TAKING OVER: TAKING OVER: Upon successful completion of all the tests to be performed at the site on equipment, systems and material supplied by the contractor and on completion of successful trial run, where applicable, BHEL shall issue to the contractor a taking over certificate. Issuance of such certificate shall not be reasonably withheld on account of minor omissions or defects which do not affect the satisfactory operation and / or causes any serious risk to the equipment and systems, provided the contractor gives an undertaking to rectify such defects / omissions within a reasonable period of time. However until a final acceptance certificate is issued on completion of warranty / guarantee period by BHEL/owner, the contractor shall not be relieved of any of his obligations, duties, responsibilities under the T&C of the contract including insurance as specified elsewhere in the contract documents. The taking over by BHEL / the owner may be for each unit completed in all respects for satisfactory operation at the discretion of BHEL/ the owner.
23.0	GUARANTEE/ WARRANTY
23.1	The contractor shall warrant that the equipment / item supplied shall be free from all defects and faults in design, material, workmanship and manufacture and shall be of the highest rate and consistent with the established and generally accepted standards for stores of the type ordered and in full conformity with the order/contract, specifications, drawings or samples, if any. Contractor shall also be responsible for the quality of products supplied by their sub-contractors.
23.2	The contractor shall provide guarantee / warranty in respect of the equipment, materials and services furnished by him as enumerated in section "Special Condition of Contract" of this tender document.
23.3	The contractor shall, if required, replace, or repair the equipment/item of such portion thereof, as is rejected by BHEL free of cost at the site or at the option of BHEL the contractor shall pay to BHEL value thereof at the order/contract price and such other expenditure and damages, as may arise by reason of the breach of the condition therein specified.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	12 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

23.4	All replacements and repairs that BHEL shall call upon the contractor to deliver or perform under the guarantee shall be delivered free of cost and performed promptly and satisfactorily by the contractor within three months. If the contractor so desires and BHEL agrees subject to import control regulation, the replaced parts can be taken over by him or his representative or the same can be arranged to be despatched by the contractor or his representative at contractor's cost as he deems fit within a period of three months from the date of replacement of equipment/ item/ parts.
23.5	The cost of any special or general overhaul rendered necessary during guarantee / warranty period due to defects in the plant or, defective work carried out by the contractor the same shall be borne by the contractor.
23.6	If for rectification or replacement of any part of equipment or work due to defective materials, manufacture or design or workmanship, the services of the contractor's personal are requisitioned within the guarantee/ warranty period, these services shall be made available free any cost to BHEL/ owner.
23.7	Goods repaired or replaced and services re-performed are warranted for the remainder of the original warranty period or six months from date of completion of repair/replacement, whichever is later. The Contractor is not liable under this Clause for defects attributable to: (a) any non compliance with the contractor's instructions, (b) any unauthorized alterations or repairs, (c) any accident, contamination, abuse, or negligence, or (d) damage caused by failure of any Goods or service not supplied by the Contractor. The warranties in this Contract are exclusive and in lieu of all other warranties, whether written, express, implied, statutory or otherwise, including without limitation, implied warranties of merchantability, non-infringement, and fitness for particular purpose. The remedies in this clause are the BHEL's only remedies for breach of warranty.
24.0	PACKING
24.1	The packing shall be in conformity with specification and shall be such as to ensure prevention of damages, corrosion, deterioration, shortages, pilferage, loss in transit or storage.
24.2	The packing shall be capable of withstanding the rigours of transit and handling at various points / ports and may be provided with fixtures / hooks and sling marks as may be required for safe handling.
24.3	In case of shipment by sea the packing shall be sea worthy as per international standard.
24.4	Each package must be marked with Consignee name, PO number, Package number, Gross weight, Net weight, dimensions of the package (LxBxH) and seller's name. The packing shall allow for easy removal and checking of goods on receipt and comply with established trade practices. One copy of Packing list enumerating the PO item number, PO item description and quantity dispatched in the package shall be put inside the package and one copy shall be fixed securely to the outside of the package. If any consignment / package needs special handling requirements, the same shall be clearly marked on the consignment / package with standard symbols and instructions. Hazardous materials should be notified and their packing, transportation and other protection must conform to relevant regulations.
25.0	SHORTAGE/ DAMAGE
25.1	In case of shortages/ damages noticed on receipt of materials at site, the contractor should replenish the same immediately. Replenishment of damages arising out of faulty and insufficient packing will be to the cost of contractor and shortages out of sound cases, if not accepted by under writer, will have to be replenished free of cost by the contractor.
25.2	In case of faults, deficiencies in materials, components assemblies, subassemblies etc, these are to be supplied free of cost to enable the equipment to be put in order.
26.0	INTER-CHANGEABILITY
26.1	All similar components / parts of similar equipment supplied shall be interchangeable with one another.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	13 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

26.2	Even though all the work and materials necessary to the satisfactory completion of the works may not be detailed in the specifications and schedules, their cost will be considered to be within the order / contract and no extra charges will be accepted.
27.0	DEFAULT BREACH OF CONTRACT, INSOLVENCY AND RISK PURCHASE
27.1	If the contractor fails to deliver the equipment / plant or any instalment thereof within the period (s) fixed for such delivery or at any time repudiates or otherwise abandons the order /contract before expiry of such period or otherwise fails to perform the order/contract or commits any breach of the order / contract not herein specifically provided for or if the contractor being an individual or if a firm or a partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order for administration of his estate made against him or shall take any proceeding for composition under any insolvency Act for the time composition under any insolvency Act for the time being in force or make any assignment of the order / contract or enter into any assignment of the order/contract or enter into any arrangement or composition with his creditors or suspend payment or if the firm dissolved under the partnership Act or if the contractor being a company is wound up voluntarily or by order of a court or a Receiver. Liquidator or Manager on behalf of the debenture holders/ creditors is appointed or circumstances shall have arisen which entitles the Court of debenture holder / creditors to appoint a receiver, liquidator or manager, BHEL without prejudice to his right to recover any expenses, losses or damages to which BHEL may be put to incur or sustain by reason of the contract shall be entitled to cancel the order/contract on whole or portion thereof without compensation to contractor and if so desires, he may procure upon such terms and in such manner as he deems appropriate items not so delivered or others of a similar description where items exactly complying with particulars are not, in the opinion of BHEL, which shall be final, readily procurable, at the risk and cost of the contractor and the contractor shall be liable to BHEL for any excess costs provided that the contractor shall continue the performance of the order/contract to the extent not cancelled under the provisions of this clause. Provided also that the contractor shall not be entitled to any gain on repurchase etc.
27.2	NEGLIGENCE
	If the Contractor shall neglect to execute the work with due diligence and expedition or such refuse or neglect to comply with any reasonable orders given to him in writing by BHEL in connection with the work, or shall contravene the provisions of the contract, BHEL may give notice in writing to the Contractor calling upon him to make good the failure, neglect or contravention complained of. Should the Contractor fail to comply with such notice within a period considered reasonable by BHEL from the date of such notice service thereof, in the case of a failure, neglect or contravention capable of being made good within that time, or otherwise within such time as may be in the opinion of BHEL be reasonably necessary for making it good, then and in such case BHEL shall the option and be at liberty to take the work wholly or in part, out of the Contractor's hand and may carry on the work envisaged in the Contract either by himself or his agents or may re-contract with any other person or person to execute the same or any part thereof and provide, as applicable, any other materials, tools, tackle or labour for the purpose or completing the works or any parts thereof. In such event BHEL shall without being responsible to the Contractor for normal wear and tear or the same, be entitled to seize and take possession and have free use of all materials, tools, tackle, or other things which may be on the Site, for use at any time in connection with the work to the exclusion of any right of the Contractor over the same and BHEL shall be entitled to retain and apply any balance sum which may otherwise be then due on the contract by him to the contractor or such part thereof as may be necessary to the payment of the cost of execution of such work as aforesaid . If the cost of completing the works or executing a part thereof as aforesaid shall exceed the balance due to the contractor, the contractor shall pay such excess.
28.0	FORECLOSURE OF CONTRACT : If at any time after acceptance of the Tender the owner/BHEL shall decide to abandon or reduce the scope of the work for any reason whatsoever and hence not require the whole or any part of the work to be carried out, BHEL shall give notice in writing to that effect to contractor and the Contractor shall have no claim to any payment of compensation or otherwise, whatsoever, on account of any profit or advance which he might

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	14 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

	have derived from the execution of the works in full but which he could not derive in consequence of the foreclosure of the whole or part of the work.
29.0	ASSIGNMENT: The Contractor shall not assign or transfer the Contract or any part thereof or any benefit or any obligation thereof or interest therein or there under (otherwise than by a charge in favour of the Contractor's Bankers of and moneys due to become due under this contract) without the prior written consent of BHEL.
30.0	FORCE MAJEURE: The Following shall amount to force majeure.
30.1	Acts of God, acts of any Government, war, sabotage, riots civil commotion, police action, revolution, flood, fire, cyclone, earthquake, epidemic and other similar causes over which the contractor has no control.
30.2	If the contractor suffers delay in the due execution of the contractual obligation due to delays caused for force majeure as defined above the agreed time of completion of the job covered by this contract or the obligations of the contract shall be extended by a period or time equal to the period of delay provided that on the occurrence of any such contingency the contractor immediately reports of BHEL in writing the causes of delay and contractor shall not be eligible for any compensation.
31.0	CONSIGNEE'S RIGHT OF REJECTION : Notwithstanding any approval which BHEL or the engineer may have given in respect of the plants / equipment / items or any materials or other particulars or the work or workmanship involved in the performance of the order / contract (whether with or without any test carried out by contractor or the engineer or under the direction of the engineer), and notwithstanding delivery of the same where so provided to the interim consignee, it shall be lawful for the consignee, on behalf of BHEL, to reject the plants / equipment / items or any part, portion or consignment thereof within thirty (30) days after actual delivery, thereof to him at the stipulated place or destination, if such plants / equipment or part, portion of consignment thereof is not in all respects in conformity with the terms and conditions of order / contract whether on account of any loss, storage, deterioration or damage before despatch or delivery or during transit or otherwise, howsoever.
32.0	SETTLEMENT OF DISPUTE AND ARBITRATION
32.1	<p>The Parties agree that if at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning operation, effect, interpretation or breach of the agreement, contract or the Memorandum of Understanding (delete whichever is inapplicable), which the Parties are unable to settle mutually), arise inter-se the Parties, the same may, be referred by the either party to Conciliation to be conducted through Independent Experts Committee to be appointed by Competent Authority of BHEL from the BHEL Panel of Conciliators.</p> <p>Notes:</p> <ol style="list-style-type: none"> 1. No serving or a retired employee of BHEL / Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators. 2. Any other person(s) can be appointed as Conciliator(s) who is / are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators. <p>The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act, 1996 or any statutory modification thereof.</p>
32.2	Except as otherwise specifically provided in the Contract all disputes concerning questions of fact arising under the Contract shall be decided by BHEL subject to a written appeal by the Contractor to BHEL, whose decision shall be final to the parties hereto.
32.3	Any disputes or differences including those considered as such by only one of the parties arising out of or in connection with the Contract shall be to the extent possible settled amicably between the parties.
32.4	If any dispute or differences of any kind whatsoever shall arise between BHEL and the contractor, arising out of the contract for the performance of the work whether during the progress of termination, abandonment or breach of the contract, it shall in the first place be

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	15 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

	referred to and settled by the Engineer who within a reasonable period 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 contractor who shall proceed with the work with all due diligence, whether he or BHEL required arbitration as hereinafter provided or not.
32.5	If after the Engineer has given written notice of this decision to the party, no claim to arbitration has been communicated to him by the 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 contractor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be referred to the sole arbitration of the person appointed by General Manager of BHEL.
32.6	The parties to the contract understand and agree that there will be no objection to any such appointment that the arbitrator so appointed is a Government servant or in the employment of BHEL, that he had to deal with the matters to which the contract relates and that in the course of his duties or any of the matter in dispute or difference as a Government servant or as an employee of BHEL he had expressed views in all or any of the matter in dispute or difference. The award of the arbitrator shall be final and binding on the parties to this contract.
32.7	In the event of the arbitrator dying, neglecting or refusing or resigning or transferred or being unable to act for any reason or his award being set aside by the court for any reason, it shall be lawful for the GM or his successor, as the case may be, either to act himself as the arbitrator or to appoint another arbitrator in place of outgoing arbitrator in the matter aforesaid.
32.8	The arbitrator may from time to time with the consent of both the parties to the contract enlarge the time for making the award.
32.9	Work under the contract shall continue during arbitration proceeding unless BHEL shall order the suspension or termination thereof or any part thereof of the work or any portion of the work.
32.10	Subject arbitration as aforesaid, shall be conducted in accordance with the provision of The Arbitration & Conciliation Act, 1996 or any statutory modification or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceeding under the clause. The jurisdiction of the arbitration, if any, shall only be Hyderabad.
33.0	CONTRACT AGREEMENT, EFFECT AND JURISDICTION (if applicable)
33.1	The contractor shall within 60 days from the date of LOI/P.O. but in any case before submitting his first bill for payment enter into and execute a contract agreement (to be prepared at the cost of the contractor). In the event of the failure of the contractor to execute the contract agreement within the time specified above, BHEL may cancel the LOI and forfeit his SD unless this period is extended by BHEL.
33.2	The agreement will be signed in seven (7) originals and the contractor shall be provided with one (1) signed original and the rest will be retained by BHEL. These General conditions together with the specifications, tenders drawings and technical particulars, tender data with subsequent agreed modification thereof. Tender, all correspondences with BHEL and signed agreement and other supporting documents shall constitute the contract document(s) No variation or modification of terms and conditions of the contract documents or waiver of any of these terms and conditions shall be deemed valid unless agreed in writing and signed by the BHEL and the Contractor.
33.3	The failure of either party to endorse at any time of the provisions of the contract or any right thereto or to an option herein provided shall in no way be construed to be a waiver of such provisions, rights or option or in any way to affect the validity of the Contract. The exercise by either party or any of his rights herein shall not preclude or prejudice either party from exercising the name or any other right in may have hereunder.
33.4	The contract shall in all respects be deemed to be and shall be construed and shall operate as an Indian contract as defined in the Indian Contract Act 1972 and all payments there under shall be made in Indian Rupees unless otherwise specified.

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	16 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

33.5	The Contract shall be considered to come into force on the date of notification of Award by BHEL to the Contractor which may be in the form of a Fax of Award or Letter of Intent / purchase order.
33.6	The law applicable to the Contract shall be the law in force in India. The Courts of Sangareddy/Hyderabad under this contract shall have exclusive Jurisdiction in all matters arising under this contract, including Arbitration Awards.
34.0	DIRECT TAX
34.1	BHEL shall not be liable towards income tax of whatever nature including variations thereof arising out of this order/contract as well as tax liability of the contractor and his personnel.
34.2	Deductions of tax at source at the prevailing rate shall be effected by BHEL before payment as a statutory obligation.
35.0	PATENT RIGHTS
35.1	The Contractor shall defend any claim which allege in a suit of proceeding against BHEL that equipment or any part thereof constitutes an infringement of any patent, if notified promptly in writing and given authority, information and assistance for the defence and the Contractor shall pay all damage and costs awarded against BHEL in such suit or proceeding for the patent infringement and the use of equipment or part is prohibited, the contractor shall, at his own expenses either procure for BHEL the right to continue using the equipment or replace the same with a non-infringing equipment, or modify it so that it becomes non-infringing, or move the equipment and refund the Contract Price plus the transportation and installation costs thereof.
35.2	The contractor shall indemnify BHEL from and against all claims and proceeding for or on account of infringement or alleged infringement of any patent rights, design trade mark or name or other protected rights in respect of execution of the contract.
36.0	INDEMNIFICATION OF BHEL : The Contractor shall insure all his personnel, tools and tackles, drawings etc. and shall also take a third party liability cover to indemnify BHEL of all liabilities such may come up due to any act or omission on the part of Contractor, his agent, representative, or sub-contractor(s) and cause harm/damage to other contractor / representatives of the owner / BHEL or all or anybody rendering service to the owner/BHEL or is connected with the owner's /BHEL's work in any manner whatsoever. The Contractor shall necessarily indemnify BHEL in all these respects and the indemnification and insurance policy shall be subject to approval of the owner / BHEL.
37.0	PREVENTION OF EXTRAORDINARY TRAFFIC AND PROTECTION OF HIGHWAY : The Contractor shall use every reasonable means to prevent any of the highways or bridges communicating with or on the routes to the Site from being damaged or injured by any traffic of the contractor or any or his sub-contractors and in particulars shall select routes, choose and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from the moving of Plant and material from and to the site shall be limited as far as reasonably possible and so that no damage or injury may be occasioned to such highways and bridges. Should it be found necessary for the Contractor to move one of more loads or construction plant machinery or reconstructed units or parts of units or work as applicable over part of a highway or bridge and that the moving of such load must in all probability damage the highway or bridge unless means of protection of strengthening are carried out then the contractor shall before moving the load on to such highway or bridge carryout such protection or strengthening at his own cost. If during the execution of the works or at anytime thereafter BHEL or purchaser shall receive any claim arising out of the execution of the works in respect of damage or injury to highways or bridges, he shall immediately notify the same to the contractor and thereafter the contractor shall negotiate the settlement of and pay all sum due in respect of such claim and shall indemnify BHEL in respect thereof and in respect of all claims demands, cost charges and expenses in relation thereto.
38.0	MEMBERS OF STAFF ETC NOT PERSONALLY LIABLE: Neither any member of BHEL's staff nor the Engineer, nor the Engineer's representative shall be in any way personally liable for the acts or obligations under the contract or answerable for any default or omission on the part of BHEL in the observance or performance of any of the acts, matters, or things which are herein contained.
39.0	POWER TO VARY OR OMIT WORK

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	17 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

39.1	No alternations, amendments, omissions, additions, suspensions or variation of the work (hereinafter referred as “variations”) under the contract shall be made by the contractor except as directed in writing by BHEL. But BHEL shall have full power, subject to the provision hereinafter contained from time to time during the execution of the contract by notice in writing to instruct the contractor to make such variation without prejudice to the contract and the contractor shall carry out such variations and be bound by the same conditions as far as applicable, as though the said variations occurred in the contract Documents.
39.2	If any suggested variations would in the opinion of the contractor, if carried out, prevent him from fulfilling any of his obligations or guarantee under the contract he shall notify BHEL thereof in writing and BHEL shall decide forthwith whether or not the same shall be carried out and if BHEL confirms his instruction, the contractor’s obligations and guarantee shall be modified to such and extent as may be justified.
40.0	SUSPENSION OF WORK: BHEL reserves the right to suspend and reinstate execution of the whole or any part of the work without invalidating the provision of the contract. Orders for suspension or reinstatement of the work will be issued by BHEL to the contractor in writing. The time for completion of the work be extended for a period equal to duration of the suspension.
41.0	LIST OF STANDARDS FOR REFERENCE
41.1	International Standards Organisation (ISO).
41.2	International Electro-technical Commission (IEC).
41.3	American Society of Mechanical Engineers (ASME).
41.4	American National Standards Institute (ANSI).
41.5	American Society for Testing and Materials (ASTM).
41.6	American Institute of Steel Construction (AISC).
41.7	American Wilding Society (AWS).
41.8	Architecture Institute of Japan (AIJ).
41.9	National Fire Protection Association (NFPA).
41.10	National Electrical Manufacturer’s Association (NEMA).
41.11	Japanese Electro-Technical Committee (JEC).
41.12	Institute of Electrical and Electronics Engineers (IEEE).
41.13	Federal Occupation Safety and Health Regulations (FOSHA).
41.14	Instrument Society of America (ISA).
41.15	National Electric Code (NEC).
41.16	Heat Exchanger Institute (HEI).
41.17	Tubular Exchanger Manufacturer’s Association (TEMA).
41.18	Hydraulic Institute (HIS).
41.19	International Electro-Technical Commission Publications.
41.20	Power Test Code for Steam Turbines (PTC).
41.21	Application German Standards (AGS).
41.22	Application British Standards (ABS).
41.23	Application Japanese Standards (AJS).
41.24	Electric Power Research Institute (EPRI).
41.25	Standard of Manufacturer’s Standardisation Society (MSS).
41.26	Bureau of Indian Standards Institute (BIS).
41.27	Indian Electricity Rules.
41.28	Indian Boiler Regulations (IBR).
41.29	Indian Explosives Act.
41.30	Indian Factories Act.
41.31	Tariff Advisory Committee (TAC) Rules.
41.32	Emission regulation of Central Pollution Control board (CPCB).
41.33	Pollution Control regulations of Dept of Environment Govt of India.
41.34	Central Board of Irrigation and Power (CBIP) Publications.
41.35	Any other statutory Codes/ Standards/ Regulations.
42.0	Non-Disclosure Agreement & Confidentiality Information: a-The confidentiality obligations should be mutual,

VOLUME – IC1	GENERAL CONDITIONS OF CONTRACT	18 of 18

(For Supply & Spare Supply portion of Price Bid Format, Ann.I & Ann. II)

	<p>b-The information which needs to be kept confidential should be marked as 'confidential' while making disclosure by disclosing party,</p> <p>c-Exclusions " The parties shall keep other party's information confidential. The information which needs to be kept confidential shall be marked as "confidential" by the disclosing party while making disclosure. This confidentiality obligation of either party shall remain for a period of 5 years from expiry of the Contract. Confidential Information will not include any information that:</p> <ul style="list-style-type: none"> (a) was in Recipient's possession and not subject to an obligation of confidentiality before receipt from Discloser; (b) is or becomes legally available in the public domain through no fault of Recipient; (c) was rightfully received by Recipient from a third party who had no obligation of confidentiality, either directly or indirectly, to Discloser; or (d) was independently developed by Recipient without use of or reference to Discloser's Confidential Information. <p>If Recipient is required to disclose Confidential Information pursuant to applicable law, statute, regulation, or court order, Recipient will</p> <ul style="list-style-type: none"> (a) give to Discloser prompt written notice of the request and a reasonable opportunity to object to the disclosure and seek a protective order or appropriate remedy; and (b) disclose Confidential Information only to the extent required. <p>In the event of violation of this confidentiality / non-disclosure, BHEL will take legal action as deemed fit.</p>
43.0	<p>Export Administration Regulations</p> <p>If a delivery by seller includes such technology and / or supply, which is subject to extant export regulations, the seller shall obtain due permissions, approvals, licences etc., and consequences of not obtaining the same shall be to the account of seller</p>
44.0	<p>Limitation of Liability</p> <p>In no event will contractor be liable for any incidental, consequential, special, punitive or indirect damages, loss of profits, revenues, or use, or the loss or corruption of data, even if informed of the possibility of these damages. The aggregate liability of contractor for any claims arising out of or related to this contract will in no case exceed contractor accepted purchase order value under which liability arose. To the extent permitted by applicable law, these limitations and exclusions will apply whether liability arises from breach of contract, indemnity, warranty, tort, operation of law, or otherwise.</p>
45.0	<p>For this procurement, Public procurement(Preference to Make in India) order, 2017 dated 15.06.2017 & 28.05.2018 & 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.</p>