

**BHARAT HEAVY ELECTRICALS LIMITED  
TIRUCHIRAPPALLI – 620 014  
CIVIL ENGINEERING DEPARTMENT (Township)**

02 03 26

To

**The Tenderer**

**Dear Sirs,**

Sub: Taking away of already cut or after cutting of different types of trees which are unwanted / fallen / dead / stacked / Fire wood in nature including branches within BHEL, Trichy Factory and Township complex on sale basis

Ref: Tender Schedule No. **CF-TS-24-25-26**

\*\*\*\*\*

Please find enclosed / attached non-transferable tender document containing

Techno-commercial bid consisting of Preamble, Specifications, General and Special Conditions of Contract, Norms for Qualification and Qualification Pro form, Bill of Quantities to offer your most competitive rates for all the items.

**TENDERS must be submitted *electronically by logging to e-procurement portal <https://eprocurebhel.co.in>***  
**Physical submission of tender shall not be accepted.**

**EMD:**

EMD may be submitted in the form of

- (i) Electronic Fund Transfer credited in BHEL account (before Tender opening) or
- (ii) Demand Draft (DD) in favour of BHEL Trichy or

***In case of offline payments, the hardcopies of EMD documents i.e. DD is to be submitted to Sr Manager / Civil / Planning/Civil Township office, BHEL, Trichy-14 before tender opening and the soft-copies to be uploaded at the time of online bid submission, otherwise the tender will be summarily rejected.***

Bidder should arrange for the EMD as specified in the tender. The original EMD should be posted/couriered/given in person in a sealed cover **super scribing “Name of Work” “Tender Schedule Number & date”** to the Tender Inviting Authority, within the bid submission date and time for the tender.

**NOTE: - EMD waiver not applicable for MSE / NSIC / SSI vendors for this tender** (Hence, vendors should furnish EMD of specified amount without which their bids will not be considered).

The completed qualification bid, Price Bid, Special Conditions of Contract and Standard conditions of Contract along with required documents and EMD of **Rs. 32,000/-** shall be uploaded in e-procurement portal on or before **13 03 26 @ 10:00 Hrs.** The qualification bid will be opened on **13 03 26 @14:00 hrs.** through e-procurement portal. In case of opening day falls on holiday or happened to be declared as a holiday, the receipt and opening of the tender shall automatically fall on the same timing of the next working day. Date and time of opening of the Price Bid shall be intimated only to the bidders those who have qualified after evaluation of the qualification bid.

Thanking you,

Yours faithfully  
For and on behalf of  
BHARAT HEAVY ELECTRICALS LIMITED,

**Sr Manager**  
Civil Planning  
Civil Township office  
BHEL, Trichy – 620 014.

**Bharat Heavy Electricals Limited**  
**High Pressure Boiler Plant - Tiruchirappalli – 620 014.**  
**Civil Engineering Department**  
**Part – I TECHNO COMMERCIAL BID (QB)**

<b>SECTION 1 - NOTICE INVITING E-TENDER</b>		
1.	Tender Schedule No.	<b>CF-TS-24-25-26</b>
2.	Tender Type	Open Tender (e-Tender)
3.	Name of Work	<i>Taking away of already cut or after cutting of different types of trees which are unwanted / fallen / dead / stacked / Fire wood in nature including branches within BHEL, Trichy Factory complex on sale basis..</i>
4.	Location of Work	BHEL – Trichy Complex
5.	Contract Value	<b>Rs. 16,11,768.93+ Applicable GST</b>
6.	Period of Contract	<b>15</b> Months from the date of award of contract
6a	Maintenance period	<b>NIL</b>
7.	EMD	<b>Rs. 32,000 /-</b> EMD will not be waived off for MSE / NSIC / SSI vendors
8.	Reverse auction	Reverse auction is NOT applicable to this tender.
9.	<b>SPLITTING OF WORK</b>	<b>No splitting of work. The entire work will be awarded to Qualified , Highest Bidder (H1)</b>
10.	Tender document Details	Qualification Bid: Pages 1 to 61 ; Price Bid: Page 62 to 67
11.	Mode of submission of offer	<b>No Physical submission of tender</b> , Tender only to be submitted electronically by logging to e-procurement portal <a href="https://eprocurebhel.co.in">https://eprocurebhel.co.in</a>
12.	Last Date for Receipt of Tender	<b>13 03 26 / 10:00 Hrs.</b>
13.	Date of Techno Commercial Bid opening	<b>13 03 26 / 14:00 Hrs.</b>
14.	MSE benefits if applicable	<b>Not Applicable</b>
15.	Contact details of queries related to tender	Shri. KV Lakshmi Narayanan, Sr Manager, Civil Planning. 0431 257 1053; e-mail: : <a href="mailto:kvln@bhel.in">kvln@bhel.in</a>
16.	Contact details for queries related to scope of work	<b>Shri B Rajabalan / Sr Manager / Civil Factory</b> 0431 257 4109: e-Mail : <a href="mailto:rajabalan@bhel.in">rajabalan@bhel.in</a>

**Contractor Profile details -**

1.	Name of the Enterprise / Company / Firm.	To be filled in e-procurement portal
1.1.	Status of the Enterprise / Company / Firm.	To be filled in e-procurement portal
1.2	Regd. Address of Enterprise / Company / Firm.	To be filled in e-procurement portal
1.3	If offer is addressed from different address, as above, the same may specified,	To be filled in e-procurement portal
2	Details of documentary evidence submitted in support of Status of the Enterprise / Company / Firm.	Details to be filled and documentary evidence to be uploaded in e-procurement portal
<b>Following documents to be uploaded in e-procurement portal based on status of Agency / Company / Vendor</b>		
2.1	Are you / your partner involved whether as a proprietor / partner in other companies. In case of bid given by company, any other sister concerns being run. (Details of Name, Address, etc., of such companies shall be furnished.) if applicable	To be filled in e-procurement portal
3.	Landline/Mobile number(s)	To be filled in e-procurement portal
4.	E-mail Address	To be filled in e-procurement portal
5.	Name, Designation and Contact details of person signing the Tender (In case of authorized signatory, the copy of Power of Attorney (POA) should be uploaded as per Annexure-A3.)	To be filled in e-procurement portal
6.	<b>BHEL- Trichy Vendor Code:</b> (If vendor code is not available, kindly Submit the original NEFT/RTGS Format duly filled and signed in page No. <b>17</b> of this document along with cancelled cheque leaf	To be filled in e-procurement portal

**NORMS FOR QUALIFICATION FOR THIS TENDER**  
**(CHECK LIST - TO BE FILLED BY CONTRACTOR COMPULSORILY)**

Sl. No	Qualifying Criteria	Details	Status
A	<b>EMD –Rs. 32,000 /-</b> <b>1. Offer without EMD will be Rejected.</b> <b>2. EMD is not waived off for SME/NSIC/SSI/MSME vendors for this tender</b> <b>3. NEFT is the preferred mode of payment for EMD</b> EMD may be submitted in following ways: i) Electronic fund transfer credited in BHEL account (Before Tender Opening). ii) In the form of DD (Along with offer) drawn in favour of BHEL - Trichy, payable at Trichy issued by Scheduled Bank / Nationalized bank / Consortium banks. <b>4. EMD in any other form (One Time EMD, BG for full value of EMD etc.) is not acceptable.</b>	NEFT/RTGS PAYMENT DETAILS: OR DD DETAILS:  (Details to be filled and documentary evidence to be uploaded in e-procurement portal)	<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
B	<b>1) PAN,</b> <b>2) GST / GST exemption declaration</b>		
C	<b>Acceptance to Scope of work and General Terms and conditions of Contract.</b> (Duly signed and sealed copy of tender document to be uploaded )		

Sl. No	Details to be furnished		Details	
	<b><u>COMPANY PROFILE</u></b>			
1	Sole Proprietorship	PAN / GST Registration	Details to be filled and documentary evidence to be uploaded in e-procurement portal	<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
2	Partnership	Registered Partnership Deed / Pan copy of all the partners to be furnished		<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
3	Private Limited Company / Public Limited Company / Public Sector / Govt. org	Certificate of Registration / Memorandum of Association & Articles of Association		<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
4	<b>Income Tax Registration (PAN)</b> (Copy of PAN to be uploaded)			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
5	<b>Goods &amp; Service Tax Registration (GST)</b> (Copy of GST Registration to be uploaded) (Declaration to be uploaded if Vendor is Exempted from paying GST. For such exempted vendor, Vendor cannot claim GST from BHEL, during the execution of the contract(if awarded) even if their status under GST changes to regular tax payer.)		Details to be filled and documentary evidence to be uploaded in e-procurement portal	<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
6	<b>Acceptance to Scope of work, Special and General Terms and Conditions of Contract.</b> (Duly signed and sealed copy of tender document to be uploaded)			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
7	“ <b>No deviation &amp; Declaration certificate</b> ” on bidder’s Letter head as per enclosed <b>Annexure-A2</b> of tender document (Duly signed and sealed copy to be uploaded.)			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
9	Original cancelled cheque leaf (Applicable for New vendor)			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
11	Documentary proof for company / firm / proprietorship			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
12	NEFT bank format (if applicable)			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
13	Power of Attorney for signing tender (if applicable)			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded
14	Declaration for non-cartelization			<input type="checkbox"/> uploaded / <input type="checkbox"/> Not uploaded

**ANNEXURE – 1**

**Declaration for Non-Cartelization**

To:

**Sr Manager**  
CIVIL / PLANNING  
Civil Township office  
BHEL, Trichy – 14.

Sir,

At this time of submission of this tender CF:TS:24:25-26 I / We, ----- (Company Name) declares that we will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

In case, I / We ----- (Company Name), am / are found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies / guidelines.

Thanking you,

Yours Truly,  
For and On behalf of,

Company name & seal

Date:

Place:

*(This undertaking should be issued in company letterhead & to be signed by Authorized Signatory.)*

**EMD through E-collect (Bank payment)**

This explains how to make Payments to BHEL - Tiruchirappalli and through SBI-E-collect. Vendors (EMD and SD Payments payable by others) can utilize this facility. payments can be made using Internet Banking, Debit Cards / Credit Cards etc. SBI Charges a minimum amount (Service Charges) for every transaction. This may vary according to the MODE selected.

**STEP BY STEP PROCEDURE:**

Go To <https://onlinesbi.sbi.bank.in/sbicollect/>

1. Search for “BHEL” and Select “BHEL TRICHY”
2. In the next page, Select APPROPRIATE category, fill details correctly & click “NEXT”.
3. Make payment as per your convenience. (Options available are payment of fees through SBI Net Banking, State Bank ATM cum Debit Cards / Other Bank Debit / Credit Cards and through SBI Branches).
4. Save & Keep the copy of receipt for future reference.



**No deviation and Declaration to be given by vendor in vendor's letter head**

**Name of work: Taking away of already cut or after cutting of different types of trees which are unwanted / fallen / dead / stacked / Fire wood in nature including branches within BHEL, Trichy Factory and Township complex on sale basis**

**Tender Schedule No: CF:TS:24:25-26**

We, the vendor, do hereby declare that we do not have any deviations to the tender terms and conditions as per

1. Technical Bid-Qualifying Criteria-Price bid
2. Special and General terms & Conditions of Contract

We have gone through all the tender terms and conditions; we have noted down the job content & site conditions. We have quoted our offer for all items by taking care of unit of measurement given in the Bill of quantities against individual items. In the event of observance of any deviation in any part of our offer at a later date whether implicit or explicit, the deviations shall stand null & void. We assure that no tampering was done to any part of tender document by us and if otherwise will lead to rejection of our bid. We confirm to have submitted our offer strictly in accordance with tender instructions.

We also hereby confirm the following points with ref to the above works, if ordered on us:

1. We do hereby confirm that we will pay (i) at least the minimum wages (minimum basic wages + minimum DA) to all the persons engaged (Un Skilled / Semi-Skilled / Skilled /Supervisor category) by us in the above contract as per the Tamilnadu Government Minimum Wages Act - 1948 & also as per any revisions made by the State Govt. from time to time and (ii) Bonus as per the Bonus Act-1965 along with Wage.
2. ESI, PF & Bonus (both Employer and Employee contributions) amounts are to be remitted for total wages to be paid as mentioned in (i) & (ii) of point 1 and challans to be produced along with invoices for all the respective persons engaged in the above contract.
3. The quoted amount in this tender will remain firm throughout the entire Contract period and no extra payment against service charges will be claimed from BHEL under any circumstances from our end.
4. We, the contractor, will disburse the salary/wages to all the persons engaged in the contract ONLY through nationalized banking channel in their respective accounts & the relevant Bank statement / proof for Bank payment will also be produced along with PF and ESI challans to the Welfare Section every month for processing our invoices for payment.
5. We will pay the previous month salary in full to our employees before 7th of every month and will not adjust any advance / loan / repayment due by the employee to us.
6. All the payments to the persons engaged in the contract will be paid ONLY through nationalized bank. No other mode of payment (hand payment / account transfer as advance payment or any other) is acceptable as salary.
7. In case we fail to pay the minimum wages to all the persons engaged in the contract which includes Minimum wages with ESI and PF (Employer contributions) for every month including Bonus, BHEL has the right to recover from the outstanding payments to us either under this Contract or in any other Contract(s) or from CAUTION Deposit or from both. In case this amount is insufficient for such recoveries, we shall make good the balance amount by actual payment. In addition, BHEL, Trichy may recover the said amounts through other running contracts from BHEL's sister units.
8. We also confirm to all the Terms & Conditions as per your above referred Enquiry & as per our offer submitted against the same.
9. We also declare that, we have not been suspended or black listed or issued with Show Cause Notice by BHEL Trichy-14 or any other BHEL Unit or any PSU / Government organization.

The tender must be signed digitally / physically by Propreitor / Managing Partner / Director of the Firm. If any other person is authorized to sign the tender, this copy of Power of Attorney must accompany the tender.

**POWER OF ATTORNEY**

**(To be typed on company's letter head)**

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I / We do hereby make, nominate, constitute and appoint Mr ..... , whose signature given below herewith to be true and lawful Attorney of M/s ..... hereinafter called 'Company', for submitting Tender and inter alia, sign, execute all papers and to do necessary lawful acts on behalf of our Company with M/s Bharat Heavy Electricals Ltd, HPBP, TRICHY-620 014, in connection with (Name of work)

.....  
vide Tender Schedule No: \_\_\_\_\_, dated \_\_\_\_\_. And the Company do hereby agree to ratify and confirm all acts, deeds, things or proceedings as may be lawfully done by the said attorney and by or on behalf of the company and in the name of the company, by virtue of the powers conferred herein and the same shall be binding on the company and shall have full force and effect.

Director / CMD / Partner / Proprietor

Signature of Mr.....(Attorney)

Attested by: Director / CMD / Partner / Proprietor

**E FORMAT**  
**THE PURCHASE/CONTRACT EXECUTING AGENCY/BHEL**  
**ACCEPTANCE FOR ELECTRONIC FUND TRANSFER / RTGS TRANSFER**

01	Name & Address of the Supplier / Sub-contractor											
02	VENDOR CODE assigned by BHEL											
	Details of Bank Account:											
03	NAME & ADDRESS OF THE BANK											
04	NAME OF THE BRANCH											
05	BRANCH CODE											
06	MICR CODE	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>										
07	ACCOUNT NUMBER											
08	TYPE OF ACCOUNT	CURRENT A/C / OD / CASH CREDIT										
09	BENEFICIERY'S NAME											
10	IFSC CODE OF THE BRANCH	<table border="1" style="display: inline-table; vertical-align: middle;"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>										
11	PAN											
12	EMAIL ID											
13	TELEPHONE/MOBILE NO.											

**CERTIFICATE**

I / We hereby agree to receive the payments due from BHARAT HEAVY ELECTRICALS LIMITED by the National Electronic Funds Transfer and/or RTGS Transfer mode by credit to my / our above mentioned Bank Account. I / We also agree that payments made to the above mentioned Account is a valid discharge of the liability of Bharat Heavy Electricals Limited. I / We also agree to bear the applicable Bank Charges for the above mode of transfer.  
**A copy of the cheque leaf / cancelled cheque leaf of the above account is sent herewith.**

AUTHORISED SIGNATORY WITH NAME SEAL  
**Banker's Certification**

We confirm that we are enabled for receiving RTGS and NEFT credits and we further confirm that the account number of \_\_\_\_\_ (name of account holder), the signature of the authorized signatory and the MICR and IFSC codes of our Branch mentioned above are correct.

**PLACE:**

**DATE:**

(Manager / Officer's)  
**Signature Under Bank stamp and Name Seal**  
**With Membership No.**  
  
**(Telephone / Mobile No.                      )**

Forwarded to Accounts Dept.

We confirm the above details are verified with the records available with us.

Signature of the BHEL Executive with Name Seal (Operating the Contract/Services)

SIGNATURE OF THE APPLICANT

## **SECTION 2 - PREAMBLE**

1. The scope of work includes **Taking away of already cut or after cutting of different types of trees which are unwanted / fallen / dead / stacked / Fire wood in nature including branches within BHEL, Trichy Factory and Township complex on sale basis.** The brief description of items of work is given in the bill of quantities provided in the Price Bid. Contract shall be awarded to the H1 vendor whoever quotes the highest rate.
2. Time is the essence of the contract. Being a time bound works, the contractor should make all efforts to complete the work in time. Even though the overall completion period is indicated in the tender, works shall be completed progressively and handed over as per agreed schedule.
3. Tender Value is only approximate and liable for variation without entitling the tenderer to any compensation, till the total value of contract does not vary more than 30%. The contractor has to execute any item of work irrespective of the quantity available in the tender without any reservation till the contract value does not vary more than 30%.
4. Circulating advance will be 10% of work order value. First circulating advance shall be paid within 15 days of release of sale order and the work is to be commenced on the same day while submitting First circulating advance. Circulating advance is to be recuperated every 45 days thereafter. If the contractor wants to pay early and execute the work early, he/she can complete the contract at the earliest
5. **Quoted percentage/rate for all items shall be firm throughout the contract period including extended period if any and no cost escalation is allowed on any account.**

Some changes are likely in the quantities furnished as well as in the layout, design and specifications of the work. The rates quoted shall be deemed to be inclusive of all such contingencies.

6. **Taxes & Duties:**  
The percentage rate offered is for finished item of works and shall provide for the complete cost towards fuel, tools, tackles, plant & machinery, temporary works, labour, materials, levies, taxes, transport, lay-out, repairs, rectifications, maintenance till handing over, supervision, establishment, services, revenue expenses, overheads, profits & all other incidentals etc., complete Rate quoted shall include all royalties, terminal taxes, Octroi duties, and any other taxes leviable under the State or Central Government rules. The Bharat Heavy Electricals Ltd., will not entertain any claim whatever in this respect.
7. **The percentage / rate quoted shall not include applicable GST.**
8. Response to Tenders will be entertained only if the contractor has a valid GST registration number which should be clearly mentioned in the offer. IF GST Number is not available, declaration for "GST Exemption" shall be furnished. The contract price shall be inclusive of all (save the specific exclusions as enumerated in this contract) taxes, fees, license charges, deposits, duties, tools, royalty, Octroi, commissions or other charges which may be levied on the input goods consumed and output goods delivered in the course of Works Contract. In case BHEL is forced to pay any of such taxes, BHEL shall have the right to recover the same from the contractors bills or otherwise as deemed fit.
9. The tenderers are advised to visit BHEL at Tiruchirappalli and get themselves acquainted with the site conditions before submitting the offer.

10. Usually, working hours are limited to day time only. In emergency cases to carryout works during nights, it may be done so with the specific prior permission of BHEL. In such case, it is to be carried out in the presence of BHEL officials or their authorized persons.
11. The percentage rate offered is for finished item of works and shall provide for the complete cost fuel, tools, tackles, plant & machinery, temporary works, labour, levies, taxes, transport, lay-out, repairs, rectifications, maintenance till handing over, supervision, labour colony Establishment, services, revenue expenses, overheads, profits & all other incidentals etc., complete.
12. **New Taxes / Levies**  
In the event the Government imposes any new tax, levy, duty, cess, or statutory charge on the goods sold after the award of the Sale Order, the same shall be borne and paid by the Buyer at actuals. Further, if any such tax, levy, duty, cess, or statutory charge becomes applicable after the date of submission of the Buyer's bid, the Buyer shall assess and factor the impact of the same in its quoted price and shall submit duly substantiated documentary evidence in support thereof prior to the opening of the Price Bid. Any claim for reimbursement, adjustment, or reassessment of price on account of such taxes or levies made after the opening of the Price Bid shall not be entertained by BHEL
13. For any clarification on the tender document, the bidder may seek the same in writing or through email, as per specified format, within the scheduled date for seeking clarification, from the office of the undersigned. BHEL shall not be responsible for receipt of queries after due date of seeking clarification due to postal delay or any other delays. Any clarification / query received after last date for seeking clarification may not be normally entertained by BHEL and no time extension will be given.
14. In the event of any conflict between requirement of any clause of this specification / documents / drawings / data sheets etc. or requirements of different codes/standards specified, the same to be brought to the knowledge of BHEL in writing for clarification before due date of seeking clarification (whichever is applicable), otherwise, interpretation by BHEL shall prevail. Any typing error / missing pages / other clerical errors in the tender documents, noticed must be pointed out before submission of offer, else BHEL's interpretation shall prevail.
15. **Order of Precedence**  
In the event of any ambiguity or conflict between the Tender Documents, the order of precedence shall be in the order below:
  - a. Amendments / Clarifications / Corrigenda / Errata etc. issued in respect of the tender documents by BHEL
  - b. Notice Inviting Tender (NIT)
  - c. Price Bid
  - d. Qualification Bid
  - e. General Conditions of Contract
16. The decision of Engineer-in-charge shall be final and binding on the contractor regarding clarification of items in this tender schedule.
17. Documentary evidences (self-attested) for all the above qualification norms like works experience, PAN, GST all as required & indicated in the tender document should be furnished, without which it will not be taken into account. The tenderers shall produce original document for verification if so decided by BHEL.
18. The contractor may be required to undertake works at remote places and in such cases the contractor should make own arrangement for safety of BHEL materials, water required for the work and power etc. without extra claim from BHEL.
19. The decision of Engineer-in-charge shall be final and binding on the bidder regarding clarification of items in this tender schedule.

20. The bidder shall follow norms of BHEL security system for movement of men & material including bio-metric system & materials within the complex.
21. Bidders are requested to furnish the duly filled in E format (attached as separate in the Qualification Bid) sheet along with a cancelled cheque leaf to accept Electronic Fund Transfer / R T G S transfer for any payment from BHEL, Trichy.
22. The contractor has to submit the organization chart of their set up for the works and any change thereafter in the organization set up shall have the prior approval of BHEL.
23. The sale order will be governed by the BHEL General Conditions of Contract in force.
24. Contractor's materials and tools & plants shall have to be brought inside BHEL with proper invoice / voucher and make necessary entry in the security gate. They should maintain proper record for tools and plants, materials, etc., brought inside BHEL complex.
25. To safeguard the persons working at height in roof, wall etc., sufficient number of Industrial Safety nets shall be provided at tenderer's cost in appropriate level and locations. The working hand including Supervisors, Engineers should wear the personal protective items and safety measures such as helmets, safety belts, shoes, etc., before entering into working place.
26. The contractor should extend full co-operation to the other contractors who may be doing other works in the same areas to enable them to execute their portions of work without any delay or difficulty.
27. On the written request from the contractor **Water required for the work may be provided by this organization at only one point at the site of the work at free of cost.** In case of failure of water supply, the Contractor will have to make his own arrangements for water without any extra claims until supply is restored. BHEL does not accept any liability whatsoever for non-supply or delay in the supply of water under any circumstances. The contractor shall ensure that there is no wastage of water otherwise supply of water is liable to be stopped at contractor's risk and cost.
28. On the written request from the contractor **Electrical energy required for the work may be given by this organization at any one point at the site of work at free of cost.** BHEL does not accept any liability whatsoever for non-supply, delay in supply or failure of supply of electrical energy. Contractor shall ensure that there is no wastage of electrical energy otherwise supply is liable to be stopped at contractor's risk and cost. The contractor shall make leak proof / fire proof shed and provide control panel board of required capacity and lay the required cables at their own cost for further distribution.
29. Penalty clause is applicable as per General Conditions of Contract in force.
30. In all matters of dispute, the decision of the General Manager, Bharat Heavy Electricals Ltd., Tiruchirappalli – 620 014. shall be final and binding on the tenderer / contractor.
31. Any claim or dispute arising from the tender stage, till/after completion of the work under the terms and conditions stipulated in the tender document/contract agreement shall only be enforced or settled in the courts at Tiruchirappalli, Tamil Nadu only.

32. **Force Majeure clause:** If at any time during the continuance of this contract the performance in whole or in part by either party of any obligations under this contract shall be prevented or delayed by reason, of any war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, explosions, epidemics, quarantine, restrictions or acts of GOD (hereinafter referred to as events) then provided notice of happening of any such events is given by either party to other within twenty one days from the date of occurrence thereof neither party shall reason of such events be entitled to terminate this contract nor shall either party have any such nonperformance and delay is resumed as soon as practicable after such events has come to an end or ceased to exist. If the performance in whole or part of any obligation under this contract is prevented or delayed by reason or any such event claims for extension of time shall be granted for period considered reasonable by BHEL subject to prompt notification by the tenderer to BHEL of the particulars of the events and supply to the BHEL if required of any supporting evidence. Any waiver of time in respect of partial installment shall not be deemed to be a waiver of time in respect of remaining deliveries.
33. The correspondence exchanged against the tender from both tenderer and BHEL through email are considered as valid document legally though it is not signed. It is treated as valid confirmations made on behalf of the respective company and very much comes under the legal ambit of the business transaction and hence it is binding on both the parties to the business.
34. Any transaction pertaining to the tender from both the parties of business done round the clock irrespective of the office or business hours of the companies, are valid legally and binding on both the parties. This applies to the extent only in such cases where deadline time for transaction is not specifically declared by either or both the parties to the business.
35. In case Letter of Intent (LOI) is issued through email, the PC generated time and date of mail shall be construed as the official time and date of release of LOI. In as much as this date is within the last date of validity given by the bidder the LOI is said to have been issued within the validity period and shall be binding on both the parties to the business.
36. Tenderers participating in the tender should declare in their technical bid that whether they have been black-listed / kept on hold for a specified period / given Business holiday for a specified period by any Public sector undertaking or Government departments. The reasons for such action with details and the current status of such hold shall be clearly furnished to BHEL. If no such details are mentioned in the offer then it will be construed that the subject bidder is not under any such hold. But at a later date if it comes to the notice of BHEL about any such hold under enforcement on the subject bidder, BHEL will have every right to reject the offer of such vendors at any point of time and also under any stage of the finalisation of the subject tender irrespective of the status of the subject bidder in that tender. Such bidders will not be permitted to participate in the further tender proceedings and will be communicated suitably. They will not be also considered for any ongoing tenders even if participated till the hold is officially lifted and confirmed in writing.
37. *The bidder along with its associate/ collaborators / sub-contractors / sub vendors / consultants / service providers shall strictly adhere to BHEL fraud prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of the management about any fraud or suspected fraud as soon as it comes to their notice*
38. **Deviations**  
*The contractor shall not make any alteration in addition to or omission from the work as described in the tender documents except in pursuance of the written instructions of the Engineer-in-charge. No such deviation from the work described in the tender documents shall be valid unless the same has been specifically confirmed and accepted by the Accepting Officer in writing and incorporated in the contract.*  
*The Accepting Officer may deviate either by way of addition or deduction, from the work so described, provided that the contract sum be not thereby varied on the whole by more than the percentage set out in the tender documents. The value of all addition and deductions will be*

added to, or deducted from the contract sum. Whenever the Accepting Officer intends to exercise such a right, his intention shall specify the deviations which are to be made, the lumpsum assessment or the proposed basis of payment, the extra time allowed, if any, and the date for completion of the entire contract.

Any objection by the Contractor to any matter concerning the order shall be notified by him in writing to the Engineer-in-charge within **Seven days** from the date of such order, but under no circumstances shall the work be stopped (unless so ordered by the Engineer-in-charge) owing to differences or controversy that may arise from such an objection. In the absence of such a notification of objection by the contractor, he will be deemed to have accepted the order and the conditions stated therein. In the event of the contractor failing to agree with the Engineer-in charge regarding the terms of the proposed deviation, the objection shall be referred to the Project Manager whose decision shall be final conclusive and binding on the Contractor.

**For Arbitration and Conciliation, Refer Section 4B in this document**



## **SECTION 3 - IMPORTANT POINTS TO BE TAKEN CARE OF WHILE SUBMITTING OFFER**

### **INSTRUCTIONS TO TENDERERS**

#### **EARNEST MONEY DEPOSIT**

1. Every tender must be accompanied by the prescribed amount of Earnest Money Deposit (EMD) in the manner described herein.
  - i. EMD shall be furnished before tender opening / along with the offer in full as per the amount indicated in the NIT.
  - ii. The EMD is to be paid only in the following forms:
    - a. Electronic Fund Transfer credited in BHEL account (before tender opening).
    - b. Demand draft, in favour of 'Bharat Heavy Electricals Limited' and payable at Trichy
  - iii. No other form of EMD remittance shall be acceptable to BHEL.
  - iv. Proof of EMD: Bidder shall upload the scanned copy of EMD along with bid submission through GeM Portal. However, for the purpose of realization, the bidder shall send the demand draft/ banker's cheque/ pay order/ Bank Guarantee/ FDR/ Insurance Surety Bonds, in original, to the designated officer through post/courier or by hand within reasonable time.
- 1.1 EMD by the Tenderer will be forfeited as per NIT conditions, if:
  - i. After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL. OR
  - ii. The successful bidder, on whom the sale order has been awarded, fails to deposit the required caution deposit or commence the work within the period as per LOI/ LOA/ Contract or refuse to accept the LIO/LOA/Contract.
  - iii. EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" of BHEL and forfeited/ released based on the action as determined under these guidelines.
- 1.2 EMD shall not carry any interest.
- 1.3 EMD given by all unsuccessful tenderers shall be refunded normally within fifteen days of award of work.
- 1.4 Cash portion of EMD of successful tenderer will be retained as part of Caution Deposit.
- 2) Bharat Heavy Electricals Limited will not be bound by any power of attorney granted by the tenderer or by changes in the composition of firm made subsequent to the execution of the contract. They may however recognize such power of attorney and changes after obtaining proper legal advice the cost of which will be chargeable to the contract concerned.
- 3) ***If the tenderer deliberately gives wrong information in his tender or creates conditions favorable for the acceptance of this tender, the Bharat heavy Electricals Limited, reserves the right to reject such tender at any stage.***
- 4) Words importing the singular number shall also be deemed to include the plural number and vice versa where the context so requires.

- 5) The General and special conditions are complementary to each other and where they are conflict the Special Conditions shall prevail. In regard to matters not covered by the General and Special Conditions of Contract, those contained, those contained in the Tamil Nadu Building Practice Standard Specifications or other specifications approved by the Bharat Heavy Limited, shall apply.
- 6) Tenderers shall not increase their quoted rates in case the Bharat Heavy Electricals Limited, negotiates for negotiation for reduction of rates. Such negotiation shall not amount to cancellation or withdrawal of the original offer and the rates originally quoted shall be binding on the tenderers for a period of three months from the date of opening of tenders.
- 7) Canvassing in any form in connection with tenders is strictly prohibited and the tenders submitted by the contractors who resort to canvassing will be liable to rejection.
- 8) *"In the course of evaluation, if more than one bidder happens to occupy H-1 status, effective H-1 will be decided by soliciting premium from the respective H-1 bidders. In case more than one bidder happens to occupy the H-1 status even after soliciting premium, the H-1 bidder shall be decided by a toss / draw of lots, in the presence of the L-1 bidder(s) or their representative(s). Ranking will be done accordingly. BHEL's decision in such situations shall be final and binding."*
- 9) *Any deviation to this tender terms & conditions, and schedules of this tender will lead to total rejection of the offer submitted.*
- 10) *Tenderer who have been suspended or black listed or issued with "Show Cause Notice" by BHEL, Tiruchirappalli - 620014 or any other unit or GOI will not be allowed to participate in the tender, and bidder should declare the same in the tender. Even during the course of evaluation / finalization of tender if it is found that some of the parties are black listed/ barred from business transaction / under business hold, BHEL will not consider them for further participation in the tender.*
- 11) *Amount should be quoted as per the Work schedule (Price bid / Part –II). Amount quoted in any other form will not be accepted, and will be rejected.*
- 12) *The tender must be signed digitally / physically by Partner/ Director of the Firm or by the person holding the Power of Attorney on behalf of the Firm concerned. In the latter case, a copy of Power of Attorney, duly attested by a Notary Public must accompany the tender (As per annexure-A4) If a tenderer deliberately gives wrong information in his tender or creates conditions favorable for the acceptance of his tender, the BHEL will reject such tender at any stage.*
- 13) *Canvassing in any form in connection with tenders is strictly prohibited and the tenders submitted by the Contractors who resort to canvassing will be liable for rejection.*
- 14) *Should a Tenderer's or a Contractor's or in the case of a firm or company of contractors/any of its shareholder's or shareholder's relative is employed in BHEL, the authority inviting the tenders shall be informed in writing of this fact at the time of submission of the tender, failing which the tender may be disqualified, or if such fact subsequently comes to light, the contract may be cancelled.*
- 15) *The tender schedule, and the tender shall be deemed to form an integral part of the contract to be entered into for this work.*
- 16) *Tenderer shall sign the tender documents for having accepted the conditions and upload in e-procurement portal.*
- 17) *Tender can be cancelled at any stage due to unavoidable circumstances.*
- 18) *Kindly ensure that the total size of the scanned documents to be uploaded remains minimum. If required, documents may be scanned at lower resolutions say at 150 dpi.*

- 19) *However, it shall be sole responsibility of bidder that the uploaded documents remain legible.*
- 20) *If there is a discrepancy between words and figures quoted by bidder, the amount in words shall prevail. If there is such discrepancy in an offer, the same shall be conveyed to the bidder with target date upto which the bidder has to send his acceptance on the above lines and if the bidder does not agree to the decision of the purchaser, the bid is liable to be ignored.*
- 23) TENDERERS should fill in all the required particulars in the blank spaces provided for this purpose in the tender documents and also sign each and every page of Tender Documents including the drawings attach there to before submitting their tender.
- 24) In quoting their percentage rate, the tenderers are advised to take account all factors including any fluctuations in the market rates etc. No claim will be entertained on this account after acceptance of the tender or during the currency of the contract.
- 25) Before tendering, the tenderers are advised to inspect the site of work and its environments and be well acquainted with the actual working and other Prevalent conditions position of materials and labour, General and Special Conditions of Contract. Instructions to tenders, drawings and Specifications and all other documents which form part of the Agreements to be entered into.
- 26) The percentage rate quoted in the tender shall remain valid for a period THREE MONTHS from the date of opening of tenders.
- 27) In the event of tender being submitted by firm the tender must be signed separately and legibly by each partner of member of the firm or in their absence, by the person holding the power of attorney on behalf of the firm concerned in the latter case a copy of the power of attorney duly attested by a Gazetted Officer must accompany the tender.
- 28) The Bharat Heavy Electricals Limited reserve the right to reject any or all the received or accept any tender or part thereof without assigning any reason thereof. In the case acceptance of part of tender, time for completion may also be reduced to the extent considered appropriate by the Accepting Authority.
- 29) Conditional and Unwitnessed tenders, tender containing absurd rates and amounts tenders which are incomplete or otherwise considered defective and tenders not in accordance with the tender conditions laid down by the Accepting Officer are liable to be rejected.
- 30) Should a Tenderer find discrepancies or omissions in the Tender documents or should there any doubt as to their meaning, he should at once address the authority inviting the Tender, for clarification well before the due date, so as to submit his Tender in time. (No extension of time shall be given for submission of the Tender on any account) Every Endeavour is made to avoid any error which can materially affect the basis of the tender but the successful tenderer shall take upon himself to provide for the risk of any error which may be subsequently by discovered and shall make no subsequent claim on account thereof.
- 31) Conditional Tenders, Tenders containing prima-facie absurd rates and amounts, Tenders which are incomplete or otherwise considered defective and Tenders not in accordance with the Tender conditions herein contained and the Tenders not in original are liable to be rejected.
- 32) Vendors are advised to get themselves acquainted with the site conditions, the scope / work details before submitting the offer.
- 33) The contractor shall quote only the highest possible amount, excluding all taxes (applicable taxes such as Goods & Service Tax, TCS etc.,) that can be offered for the intended quantity.

- 34) If a Tenderer deliberately gives wrong information in his Tender or creates conditions favorable for the acceptance of his Tender, BHEL will REJECT SUCH TENDER AT ANY STAGE.
- 35) Words imparting singular number shall be deemed to include plural number and vice-versa where the context so requires.
- 36) Canvassing in any form in connection with Tenders is strictly prohibited and the Tenders submitted by the Contractors who resort to canvassing will be liable for rejection. The Tender schedule and the Tender shall be deemed to form an integral part of the Contract to be entered into for this work
- 37) Late and Delayed Tenders will be summarily rejected and under no circumstances it will be considered and accepted.
- 38) All corrigenda/addenda/amendments/time extensions/clarifications, etc. to the tender will be hosted on BHEL & Govt. Tenders websites only (i.e. <http://www.bhel.com>, & <https://eprocure.gov.in> ) and will not be published in any other media. Bidders should regularly visit above website(s) to keep themselves updated.
- 39) BHEL may reject the bid or in case the contract has been awarded, then terminate the contract apart from taking any other suitable action under the contract or applicable legal provisions or BHEL guidelines including Guidelines for suspension of Business Dealings, without any liability for any compensation to the bidder if, BHEL discovers at any time that any statement made by the bidder in the affidavit cum undertaking is false, fraudulent or Any document submitted by the bidder was fake and forged Or If BHEL determines in the sole discretion that any statement was aimed at deliberately misleading BHEL with a view to ensure award of the subject contract to the bidder.
- 40) The workmen to be deployed by the contractor shall adhere to the safety / security rules and regulations of the Company and any person who is found to be violating the security / safety rules of the company shall be replaced immediately at the cost of the contractor.
- 41) The contractor shall strictly adhere to various labour laws in force.
- 42) The decision of In-charge for this contract shall be final and binding on the contractor regarding clarification of items of works.
- 43) Highest prices received against BHEL tenders need not be the technically acceptable one, and in that case, BHEL reserves the right not to consider the same.
- 44) BHEL would negotiate or re-float the Tender opened if H1 price is not the acceptable price to them inter-alia other reasons. Tenderers shall not increase their quoted rates in case BHEL, negotiates for reduction of rates. Such negotiation shall not amount to cancellation or withdrawal of the original offer.
- 45) In all matters of disputes, the decision of the General Manager, BHEL, Tiruchirappali-14 shall be final and binding on the Contractor.
- 46) Care should be taken to ensure only correct bid for the corresponding enquiry is placed in appropriate cover super scribing the same, failing which the bid will be liable for rejection.
- 47) No bidder shall be allowed to use any electronic gadgets viz., mobile phones, tablets etc during tender opening/ or at any other meeting with BHEL for the purpose of this tender, which if found would be liable for rejection of their bid.
- 48) The amount offered shall provide for the complete cost towards labour, consumables, tools, plants & machinery, transport, supervision, profits & overheads, and all other incidentals, etc. complete.

- 49) The works contract to be entered into with the successful tenderer will be governed by BHEL General Conditions of Contract in force.
- 50) The tenderer shall carry out health performance test at his cost for all the workmen engaged in the work through a registered medical practitioner and produce certificate on demand.
- 51) The contractor has to make his own arrangements to provide refreshment for the workmen deployed by him.
- 52) If any of the workers employed by the contractor is found to indulge in acts subversive of discipline, the same will be brought to the knowledge of the contractor and he shall arrange for replacement of such personnel.
- 53) Contractor/Authorized representative must be present at site to supervise the activities on day-to-day basis and for giving necessary instructions regarding the work to be carried out.
- 54) All the consumables, Tools & Plants used in the work shall be of approved quality and will be subject to periodical inspection by BHEL officials.
- 55) The contractor has to carry-out the work in production shops without affecting the day to-day production activities.
- 56) Contractor's materials and tools & plant shall have to be brought inside the factory with proper invoice / voucher and make necessary entry in the Security gate. They should maintain proper record for materials, tools & plants, etc., brought inside the factory complex.
- 57) The contractor should extend fullest co-operation with the third party agencies engaged, if any by BHEL to adhere the Quality Control Procedures ensuring quality.
- 58) The labour engaged under this contract cannot be deployed in any other works. Violation of this rule will be viewed seriously.
- 59) No contract labour will be allowed to enter into BHEL premises without PPEs (i.e. Safety Shoes etc.)
- 60) GST will be charged on the forfeited EMD/SD amount from the bidder at the applicable rates. GST tax Invoice will be issued to the vendor on receipt/recovery of GST amount from the vendor.

61) **Signing the Tender:**

The Tender shall be signed by the Authorized Signatory Only. Authorized signatory shall be the Person holding 'power of attorney' on behalf of the firm/company/bidder-concerned Authorized / empowered to act on behalf for the specific purpose. Authorized signatory should have Power of Autonomy issued by MD or Board of Directors or authorized person for this purpose for quoting Tender and all procedures connected with, till finalization and execution of the Contract.

In case the Bidder is a Partnership Firm under Partnership Act, the Tender shall be signed by all the Partners of the firm or by the Managing Partner who have Signature and Seal of the Contractor authorized to do so or by a person holding the Power of Attorney on behalf of the Partnership Firm.

**A copy of the Partnership Deed and / or a copy of the Power of Attorney, Self-attested shall accompany the Proprietor or Partner of the Company.**

**BHEL will not be bound by any other Power of Attorney granted or the change in the composition of the firm made, subsequent to the execution of the Contract agreement. They may however recognize such Power of Attorney or change in status after obtaining legal advice and the cost involved in that connection shall be chargeable to the bidder concerned.**

**If tenderer expires after the submission of his tender or after the acceptance of his tender the BHEL may, at their discretion, cancels such tender. If a partner of a firm expires after submission of tender or after the acceptance of the Tender, BHEL may cancel such Tender at their discretion unless the firm retain its character. The works executed in the own name of the tenderer only will be considered for eligibility criteria.**

- 62) Expenses incurred by bidder towards preparation of bid incidental to tender irrespective of whether it is accepted or not, shall be borne by vendor only.
- 63) The offers of the tenderer / bidders who are on the banned list and 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](http://www.bhel.com) → Tender Notification → List of Banned Firms).  
The Parties who have been suspended or black listed or issued with "Show Cause Notice" by BHEL Trichy-14 or any other BHEL Unit will not be allowed to participate in the Tender and the bidder should declare the same in the Tender. Even during the course of evaluation / finalization of Tender if it is found that some of the parties are black listed / barred from business transactions / under business hold, BHEL will not consider them for further participation in the Tender.
- 64) Similarly, the offers of the bidders who are suspended (under hold/ delist) for business dealings by BHEL shall not be considered. Please note that lifting/ restoration of suspension (Ban/Hold/ De-list) of business dealing is not automatic after expiry of specified suspension period. Hence, vendor shall be considered as suspended for business till suspension is lifted by BHEL in writing on specific request of the vendor as per extant guidelines.
- 65) The contractor should extend full co-operation to the other contractors who may be doing other works in the same areas to enable them to execute their portions of work without any delay or difficulty.
- 66) **Contractor has to ensure that the employees deployed in the premises of BHEL are physically and mentally fit and do not have any criminal record. Such employees should possess requisite skill, experience etc. acceptable to concerned department.**
- 67) **Contractors are advised that contract labours must be employed without any discrimination on caste or creed or religion or gender basis.**
- 68) **The contractor shall submit police verification certificate in respect of the persons, engaged for first time by the contractor, for delivering services.**
- 69) **The contractor by submitting the tender undertakes that, they had never been found guilty by a court of law in India for any offence in involving fraud, dishonesty and moral turpitude. If at a later date, if it comes to the notice of BHEL about any such occurrences on the subject bidder, BHEL will have every right to reject the offer of such vendors at any point of time.**
- 70) **The Contractor shall ensure that his workmen movement is restricted to their relevant work areas only & shall vacate the premises after the shift is over.**
- 71) **If a tender provides relaxation for vendors, and if a vendor fails to submit supporting documents, they will be treated at par with other vendors or their bid would be liable for**

rejection, wherever as the case may be.

- 72) In order to avoid unforeseen delay, it is advised that, any correspondence by vendor to BHEL shall be emailed to all the addressees as mentioned in tender. The correspondence through email wherever sought by BHEL shall be replied with all the addressees in 'cc' of the mail. Vendor shall furnish valid email id's in the tender and regularly verify the same.
- 73) The tenderer/Bidder or any of his authorized personnel or agents will be granted permission by the BHEL to enter upon its premises and lands for the purpose of site visit. However, the bidder shall undertake that he, his personnel, and agents will be responsible against all liability in respect thereof, including death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 74) In general, Bidders shall themselves obtain all necessary information. A Bidder shall be deemed to have full knowledge of the Site, whether he inspects it or not and no extra claims due to any misunderstanding or otherwise shall be allowed. The cost of visiting the Site shall be at the Bidders' own expense.
- 75) The Bidder, at his own responsibility and risk & cost, is encouraged to visit, inspect and survey the Site and its surroundings and satisfy himself before submitting his bid as to the form and nature of the Site, the means of access to the Site, the accommodation he may require, etc.
- 76) **BENEFITS TO STARTUPS:** Start-up companies will be provided benefits and relaxation as per the latest government norms. For availing start-up benefits, relevant certificates issued by Department for Promotion of Industry and Internal Trade shall be submitted along with the tender.
- 77) The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.
- 78) **Conflict of interest.**

"A bidder shall not have conflict of interest with other bidders. Such conflict of interest can lead to anti-competitive practices to the detriment of procuring Entity's interests. The bidder found to have a conflict of interest shall be disqualified. A bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if:

- a) they have controlling partner (s) in common; or
- b) they receive or have received any direct or indirect subsidy/ financial stake from any of them; or
- c) they have the same legal representative/ agent for purposes of this bid; or
- d) they have relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
- e) Bidder participates in more than one bid in this bidding process. Participation by a bidder in more than one bid will result in the disqualification of all bids in which the parties are involved. However, this does not limit the inclusion of the components/ sub-assembly/ Assemblies from one bidding manufacturer in more than one bid: or

- f) In cases of agents quoting in offshore procurements, on behalf of their principal manufacturers, one agent cannot represent two manufacturers or quote on their behalf in a particular tender enquiry. One manufacturer can also authorize only one agent/dealer. There can be only one bod from the following:

The principal manufacturer directly or through one Indian agent on his behalf; and

Indian/foreign agent on behalf of only one principal;

or

- g) A Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the contract that is the subject of the Bid; or
- h) In case of a holding company having more than one independently manufacturing units, or more than one unit having common business ownership/management, only one unit should quote. Similar restrictions would apply to closely related sister companies. Bidders must proactively declare such sister/ common business/ management units in same/ similar line of business.”

#### **CRITERIA FOR AWARD OF WORK :**

1. Evaluation of the offer shall be done on H1 basis. The H1 position based on the quoted values (subject to calculations) excluding applicable Goods & Services tax (GST), will not necessarily mean H1 for a vendor, but the net liability to BHEL, after considering the Goods & Services tax (GST) criteria for all the vendors who had participated in the tender. In case of exemption from the payment of Goods & Services tax (GST), the vendor has to submit a declaration along with the tender. For such exempted vendor, Vendor cannot claim GST from BHEL, during the execution of the contract (if awarded) even if their status under GST changes to regular tax payer. The Evaluation currency for this tender shall be INR.
2. If the contractor back outs after opening of tender, the contractor is liable for forfeiture of the EMD paid.
3. BHEL reserves the right to increase or decrease the tendered quantity.
4. BHEL does not guarantee ordering of any minimum quantity.
5. Income Tax deduction at source as applicable in the IT Act from time to time will be made on the value of the bills in the absence of Income Tax Exemption Certificate from the concerned IT officer.
6. All the Statutory Obligations such as ESI, PF, Labor Acts, Factories Act, Goods & Services tax (GST), etc. will have to be taken care of by the vendor. BHEL will have no liability on them. Notwithstanding the above, if any demand notice is served by the concerned Statutory Authorities for recovery of any of their dues on BHEL, the same would be paid to the statutory authorities without notice to the vendor and recovered as a due from any pending / future bills.
7. BHEL reserves the right to reject the tender, if it contains any tampering to the tender documents submitted by the bidder, at any stage.
8. The labors engaged under this contract cannot be deployed in any other work. Violation of this rule will be viewed seriously.
9. BHEL reserves the right to cancel the tender or reject the highest or any tender in full or in part without assigning any reasons whatsoever.



10. Other than the bidder, none of its group concerns or affiliates etc. are participating in the tender either directly or indirectly through any other agency under same proprietor / common director(s) / common partner(s). The bidder should declare the same in the Tender. Even during the course of evaluation /finalization of Tender/ at any stage, if it is found that some of the parties are not fulfilling the above clauses, BHEL will not consider them for further participation in the Tender/ reject such tender/contract.
11. The contractor's responsibility under this shall commence from the date of receipt of the contract order. The Contractor will have to plan his work accordingly to complete the work within the scheduled period of completion.

## **SECTION 4 – PROCEDURES & GUIDELINES**

### **Section 4A - Guidelines for Suspension of Business Dealings with Suppliers/ Contractors**

#### **PREAMBLE**

In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers/ contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business/ money/ reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding process or influence the price etc. Suspension of Business Dealings could be in the form of Debarring a supplier/ contractor or a bidder or an applicant for registration as a registered supplier. For this purpose, the following guidelines shall be followed across all BHEL units/ divisions/ regions (here in after referred to as Units). These guidelines are not exhaustive but enunciate broad principles governing action against such suppliers/ contractors.

#### **SCOPE**

- a. For the purposes of these Guidelines, Company means the Bharat Heavy Electricals Limited.
- b. These Guidelines will be applicable to Supplier (which will include vendors, suppliers and contractors) i.e. to say:
  - i. An entity that has applied for registration in any Unit of the Company for any material/service category.
  - ii. A bidder in a tender notified by the Company;
  - iii. An entity which has been awarded a contract.

Note: The term “Tender” or “Contract” referred to in sub-clause (ii) and (iii) as above, refers to tender or contract notified or awarded, as the case may be, by the Company, in terms of the Purchase Policy or the Works Policy of the Company.

For the bid(s) floated on GeM, the action for suspension will be dealt as per the incident management policy of GeM.

- c. Any action under these Guidelines shall be without prejudice to all remedies available under the contracts with the Suppliers or other legal provisions.
- d. If a Supplier, who has participated in a tender/ entered into a contract with BHEL as an Agent/ Trader/ Dealer/ Stockist/ Distributor/ Channel partner etc. (hereinafter referred to as Agent) of an identified Principal/ OEM/ Mills/ Works/ Plants (hereinafter referred to as Principal) for that bid/ contract, then action as per these guidelines can be undertaken against the Principal as well as Agent as appropriate.
- e. In case of the supplier being a Sole Proprietorship firm or a Partnership firm, action under these Guidelines shall be taken against both:
  - i. The Sole Proprietorship firm and the Sole Proprietor; or, as the case may be;
  - ii. The Partnership firm and all the partners thereof.

Accordingly, action will be taken under these guidelines against any other Sole Proprietorship firm owned by the same Sole Proprietor. Similarly, action under these guidelines will also be taken against another Partnership firm comprising of the same or some of the same Partners (but not including any new Partner) or a Sole Proprietorship firm owned by the same Partner(s).

f. In respect of consortiums and unincorporated Joint Ventures/ Association of Persons (AOP)/ Body of Individuals (BOI), action under these guidelines shall be taken against the defaulting consortium partners and defaulting members of the unincorporated Joint ventures/ Association of Persons (AOP)/ Body of Individuals (BOI).

### **1.0 Suspension of business dealing with Suppliers**

The following category of suspensions have been provided in these guidelines depending upon the gravity of the omission or commission by the Supplier.

- a. Debarment within the unit for specific item(s)/ material category(ies)/ type of work(s) for six months.
- b. Debarment within the unit for all item(s)/ material category(ies)/ type of work(s) for one year
- c. Debarment across BHEL for all items/ material category(ies)/ type of work(s) for two years.

The Supplier may be debarred, as detailed hereinafter on the basis of one or more of the category wise reasons as enumerated hereunder:

1.1. Debarment within the unit for a specific item(s)/ material category(ies)/ type of work(s) shall be imposed for six months in the following cases, if

i. In the last three consecutive supplies of a specific material category, average quality rating, as provided in the supplier performance rating (SPR) as per SEARP, falls below 80% of the quality weightage. This is irrespective of supplies against PO(s) having single/ multiple delivery schedules.

Note: Not applicable in cases for erection works of Power Sector Regions, where separate guidelines for evaluation of capacity of bidders is being followed.

ii. Two consecutive delays, for reasons of delay attributed to the Supplier, in execution of the contracts where delay occurred is such that

- a. prescribed maximum LD time limits of the contracts is exceeded or
- b. delay period has equaled/ exceeded half the original delivery period specified in the contracts whichever among the above is earlier.

iii.

a. Overall SPR (Supplier Performance Rating) in that particular Unit in line with SEARP falls below 60% of the specific material category.

b. Bids of contractors (in PS-MSX portal) shall not be considered (if average score of last six months falls 60% or below as per guidelines for evaluation of capacity of bidders formula).

Note: – for (b), No specific period of Debarment shall be applicable.

iv.

a. Supplier works are under strike/ lockout for a period of more than three months.

b. Contractor has resorted to wanton stalling of work, strikes, picketing etc. during currency of the contract.

1.2. Debarment within the unit for all item(s)/material category(ies)/ type of work(s) shall be imposed for One year in the following cases, if

- i. Supplier tampers with tendering procedure affecting ordering process.
- ii. Supplier has misused BHEL documents/ drawings/ technical information or has breached the confidentiality agreement with BHEL.
- iii. after placement of order, Supplier fails to execute the contract.
- iv. within warranty period as per contract, Supplier continues to supply low/ less/ non-performing equipment/ services, repetitive failures, remains non-responsive.
- v. Wherever any part or full scope of supply/ work/ service has been awarded at the Risk and Cost of the defaulting vendor and the unexecuted value of scope for which the Risk and Cost action taken is more than 5% of the contract value.
- vi. After price bid opening but before placement of order, Supplier withdraws his offer or varies it in any manner within the validity period.
- vii. In spite of warnings, the Supplier persistently violates or circumvents the provisions of labour laws/ regulations/ rules or other statutory requirements.
- viii. Violation of Section 2, read with Section 3 of Integrity Pact, which are not covered in the list of defaults as per guidelines.

1.3. Debarment across BHEL shall be imposed for two years in following cases, if

- i. Supplier has made false declaration and/ or provided false information and/ or forged documents or has forged BHEL documents, certificates etc. for securing business, meeting PQR or for enlistment in BHEL or with other customers.
- ii. Supplier is found to be involved in cartel formation or in any other act so as to influence the bidding process or influence the price of the tender.
- iii. The Supplier has indulged in malpractices or misconduct such as bribery, corruption and fraud, pilferage, coercion, etc.
- iv. The Supplier is found guilty by any court of law for criminal activity/ offences involving moral turpitude in relation to business dealings.
- v. Supplier is found to have obtained any internal information/ documentation of BHEL by unauthorized means.
- vi. The foreign Principals along with the representing Agent shall be debarred together if information submitted jointly by them about their precise relationship, commission/ remuneration etc. payable/ receivable and other particulars as asked by BHEL, as per the extant guidelines regarding dealing with Agents of Foreign Suppliers is found false/ incorrect, at any stage.
- vii. Supplier has, damaged, failed to return free issue materials/ tools etc. of BHEL, for which recovery could not be effected against such materials, or substituted free issue materials/ tools etc. of BHEL.
- viii. Supplier has been declared insolvent or is under dissolution/ insolvency proceedings so as to affect the execution of work.
- ix. The Supplier has tarnished/ maligned the image of BHEL or unfairly acted in a manner prejudicial to the commercial interest of BHEL or breached the confidentiality of the vital information with an intent to prejudice the interest of BHEL.

1.4. A Supplier can also be debarred with the approval of Director (E, R&D) provided a direction to this effect has been received from the administrative ministry of the Government.

**2.0 Reason(s) for debarring a Supplier as above are only illustrative and not exhaustive. Depending upon the gravity, the competent authority may decide to debar a Supplier for any other adequate and sufficient reason.**

### **3.0 Procedure**

3.2 If prima-facie evidence or sufficient grounds exist for suspension, a 'show-cause notice' shall be issued to the Supplier giving a notice period of 15 days.

#### **3.4 Interim Suspension:**

In appropriate cases for justifiable reasons, fresh enquiries (including consideration of existing offers) can be stopped by the Unit with the approval of the authorities mentioned as follows from the date of issue of show-cause notice pending final decision by the competent authority. In case a Supplier submits a representation requesting for lifting of the Interim Suspension, then, the same shall be considered.

Note: Amongst others, in cases where recommendation for suspension of a supplier has been received from CBI/ Vigilance or any other investigating agency, the supplier may be immediately put on Interim Suspension for all fresh enquiries in the concerned unit pending final decision.

3.6 If no response to the show-cause notice is received from the Supplier within 15 days, the committee may decide to recommend suspension of business dealings or otherwise on the basis of the available evidence on record.

3.7 If the Supplier responds, the committee will consider the reply and recommend suspension or otherwise.

3.8 Personal hearing by the Committee would be provided to the Supplier, if so requested by the Supplier or if so required. The minutes of the discussions shall be signed immediately with the supplier after conclusion of such discussions and placed in the file. In case, the supplier does not sign the minutes or, as the case may be, does not attend the personal hearing, then, record notes of discussion shall be issued to the Supplier on the same day duly recording such facts.

3.10 In case more than one act or omission is alleged to have been committed by the Supplier, then, the case shall be dealt with for all such acts or omissions together as a case of higher category of suspension (as applicable) and will be accordingly placed before the Committee competent to deal with the higher type of suspension. However, the suspension to be imposed on the Supplier will be as per the highest category of act or omission that is/are established ultimately.

#### **3.13**

Note 2: In cases of Fraud (as defined in the Fraud Prevention Policy), unit may consider appropriate action as per BHEL's Fraud Prevention Policy.

Note 3: Wherever it comes to notice that the supplier considered for suspension in a given category, was earlier debarred by BHEL in the same category, in such cases, the period of debarment for the given supplier will be doubled for the given category.

#### **4.0 The suspension order shall become effective from the earlier of the following events:**

a. the date of its issuance;

Or,

b. In case fresh enquiries have been put on Interim Suspension as stipulated in para 3.4 then, from the date when the Interim Suspension was implemented.

#### **5.0 Contractual obligations:**

5.1 Treatment of Contracts with Suppliers in Debarment (specific to unit level debarment cases) (applicable for the user unit only):

5.1.1 Contracts already entered into with a Supplier before the date of issue of the order of debarment shall not be affected.

5.1.2 Depending upon the type of debarment, in ongoing cases where Techno-commercial Bids are under evaluation and any of the participant Supplier has been debarred, then the tender may be processed excluding the bid of that Supplier. However, if Price Bid has been opened and that Supplier happens to be L-1, then re-tendering is to be resorted to, excluding the Supplier.

5.1.3 The case of running framework agreement (FA) where multiple POs are placed against a single FA and if the Supplier has been debarred, further purchase orders against this FA are not to be placed on the Supplier during the period of debarment depending on the type of debarment.

5.2 Treatment of Contracts with Suppliers Debarred across BHEL:

5.2.1 Contracts already entered into with a Supplier before the date of issue of the order of debarment across BHEL shall not be affected.

Once the order for debarment across BHEL is passed, existing offers/ new offers of the Supplier shall not be entertained.

#### **6.0 Lifting of Suspension**

Lifting of Suspension is to be automatic after the period of suspension is over. As the debarment Order across BHEL will result in automatic cancellation of registration, re-registration will be required as per Clause 12.0 of the Guidelines. In cases where BHEL has suffered direct financial loss like, supplier has damaged, failed to return free issue material of BHEL etc., such suppliers shall not be considered in the procurement process of BHEL unless the loss is recovered from the supplier.

9.0 List of Suppliers debarred across BHEL shall be hosted on BHEL's website.

12.0 Registration of supplier debarred across BHEL shall be deemed to have been cancelled automatically. Supplier once debarred across BHEL shall have to seek fresh registration in the respective BHEL unit(s) on lifting of debarment across BHEL.

# SECTION 5 - General Conditions of Contract (GCC)

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## **CHAPTER -1**

### **1. GENERAL INSTRUCTION TO TENDERERS**

#### **1.1. DESPATCH INSTRUCTION**

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

#### **1.2. SUBMISSION OF TENDERS**

- 1.2.1. The tenderers must submit their tenders to Officer inviting tender as per instructions in the NIT. Tenders shall be submitted through GeM portal as per instruction in NIT.
- 1.2.2. Tenderers to upload offers well in advance in order to avoid last minute congestion in GeM website. However, after submission of the tender, the tenderer can re-submit revised tender but before due date and time of submission of tender as notified.
- 1.2.3. Tenders shall be opened by Officer of BHEL at the time and date as specified in the NIT ( or as per Corrigendum issued subsequently). For this tender, bidders may attend through online mode, if provisions are available in GeM portal.
- 1.2.4. Tenderers whose bids are found techno commercially qualified shall be notified through GeM system about the date and time of opening of the Price Bids. BHEL's decision in this regard shall be final and binding.
- 1.2.5. The information given in the tender documents is for general guidance and shall not be construed as contractually binding on BHEL/ Owner. All relevant site data/ information as may be necessary for bidding shall have to be obtained/ collected by the Tenderer.
- 1.2.6. The Tenderers are advised to physically visit the site to acquaint and satisfy themselves about the weather conditions, working culture in the area, socio- political environment, safety & security aspects, law & order situation, law of the land, transportation routes, various distances, surroundings of plant/ project premises together with all statutory, obligatory, mandatory requirements of various authorities and obtain for themselves all necessary information as to the risks, contingencies and all other circumstances, which may influence or



affect the discharge of various obligations under the Contract during contract period including extended period (if any).

1.2.7. The submission of bid will tantamount to due diligence having been done and it shall be deemed that:

- a) the Tenderer has obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Works
- b) the Tenderer accepts total responsibility for having foreseen all difficulties and costs of successfully completing the Works
- c) the Tenderer accepts that, the Contract Price shall not be adjusted to take account of any unforeseeable or unforeseen difficulties or costs and the Tenderer shall not raise any claims/ disputes against BHEL and/ or Owner at later date in any manner whatsoever.

### **1.3. LANGUAGE**

1.3.1 The tenderer shall quote the rates in English language and international numerals. These rates shall be entered in figures as well as in words. Tenderers are requested to refer the clauses of NIT/ Vol-II "Price Bid" for more details. For the purpose of the tenders, the metric system of units shall be used.

1.3.2 All entries in the tender shall either be typed or written legibly in ink. Erasing and overwriting is not permitted and may render such tenders liable for rejection. All cancellations and insertions shall be duly attested by the tenderer.

1.13.3 The language for Communication shall be "ENGLISH" with respect to all correspondence between the tenderer and BHEL

1.13.4 All orders, letters, eMails, notices served under this contract shall be in "ENGLISH" only

### **1.4 PRICE DISCREPANCY:**

1.4.1 Price Bid opening: During opening of price bids, if there is any difference between the amount in figures and in words, the amount quoted by the bidder in words shall be taken as correct.

1.4.2 Reverse Auction: In case of Reverse Auction, the successful bidder shall undertake to execute the work as per overall price offered by him during the Reverse Auction process. (Guidelines as available on [www.bhel.com](http://www.bhel.com) on "supplier registration page".)

### **1.5 QUALIFICATION OF TENDERERS**

- i. Only tenderers who have previous experience in the work of the nature and description detailed in the Notice Inviting Tender and/or tender specification are expected to quote for this work duly detailing their experience along with offer.
- ii. Offers from tenderers who do not have proven and established experience in the field shall not be considered.
- iii. The offers of the bidders who are on the debarred list shall be rejected. Further, offer of the bidders, who engage the services of the debarred firms or associated with the debarred firm, for present bid, shall also be rejected. The list of debarred firms is available on BHEL web site [www.bhel.com](http://www.bhel.com).
- iv. Offers from tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt. of India shall not be considered.

## **1.6 EVALUATION OF BIDS**

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

## **1.7 DATA TO BE ENCLOSED**

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

### **i) INCOME TAX PERMANENT ACCOUNT NUMBER**

Certified copies of Permanent Account Numbers as allotted by Income Tax Department for the Company/Firm/Individual Partners etc. shall be furnished along with tender.

ii) An attested copy of the Power of Attorney, in case the tender is signed by an individual other than the sole proprietor.

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

**iv) IN CASE OF INDIVIDUAL TENDERER:**

His / her full name, address, PAN and place & nature of business.

**v) IN CASE OF PARTNERSHIP FIRM:**

The names of all the partners and their addresses, copy of self attested PAN of all the individual partners, copy of the partnership deed/ instrument of partnership duly certified by the Notary Public shall be enclosed.

**vi) IN CASE OF COMPANIES:**

- a) Date and place of registration including date of commencement certificate in case of Public Companies (certified copies of Memorandum and articles of Association are also to be furnished).
- b) Nature of business carried on by the Company and the provisions of the Memorandum relating thereof.

**1.8 AUTHORIZATION AND ATTESTATION**

Tenders shall be signed by a person duly authorized/empowered to do so, for which a Power of Attorney is to be submitted along with the tender offer. For company, a Power of Attorney (as per format in Annexure-15) shall be submitted.

**1.9 EARNEST MONEY DEPOSIT**

1.9.1 Every tender must be accompanied by the prescribed amount of Earnest Money Deposit (EMD) in the manner described herein.

- v. EMD shall be furnished before tender opening / along with the offer in full as per the amount indicated in the NIT.
- vi. The EMD up to an amount of Rs. 2 Lakh is to be paid only in the following forms:
  - c. Cash deposit as permissible under the extant Income Tax Act (before tender opening).
  - d. Electronic Fund Transfer credited in BHEL account (before tender opening).
  - e. Banker's cheque / Pay order / Demand draft, in favour of 'Bharat Heavy Electricals Limited' and payable at Regional HQ issuing the tender (along with offer).
  - f. Fixed Deposit Receipt (FDR) issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL) duly marking lien in favour for BHEL (along with offer). The Fixed Deposit in such cases shall be valid for at least six months from the due date of tender submission.
  - h. Insurance Surety Bonds
  - i. In case EMD amount is more than Rs. Two Lakhs, Tenderer has the option to submit the amount in excess of Rs. Two lakhs in the forms described above in clause no. 1.7.1. ii) (a) to (e) or in the form of Bank Guarantee from Scheduled Bank (along with the Offer). The Bank Guarantee in such cases shall be valid for at least six months from the due date of tender submission. The Bank Guarantee format for EMD shall be in the prescribed formats.
- vii. No other form of EMD remittance shall be acceptable to BHEL.
- viii. Proof of EMD: Bidder shall upload the scanned copy of EMD along with bid submission through GeM Portal. However, for the purpose of realization, the bidder shall send the demand draft/ banker's cheque/ pay order/ Bank Guarantee/ FDR/ Insurance Surety Bonds, in original, to the designated officer through post/courier or by hand within reasonable time.

1.9.2 EMD by the Tenderer will be forfeited as per NIT conditions, if:

- iv. After opening the tender and within the offer validity period, the tenderer revokes his tender or makes any modification in his tender which is not acceptable to BHEL. OR
- v. The successful Contractor, on whom the work has been awarded, fails to deposit the required Security deposit or commence the work within the period as per LOI/ LOA/ Contract or refuse to accept the LIO/LOA/Contract.

EMD by the tenderer shall be withheld in case any action on the tenderer is envisaged under the provisions of extant "Guidelines on Suspension of business dealings with suppliers/ contractors" of BHEL and forfeited/ released based on the action as determined under these guidelines.

1.9.3 EMD shall not carry any interest.

1.9.4 EMD given by all unsuccessful tenderers shall be refunded normally within fifteen days of award of work.

1.9.5 Cash portion of EMD of successful tenderer will be retained as part of Security Deposit. EMD submitted in the form of Bank Guarantee/ FDR shall be retained by BHEL until the receipt of the Security Deposit.

#### **1.10 SECURITY DEPOSIT**

~~1.10.1 Upon acceptance of Tender, the successful bidder shall be required to deposit the 5% of the contract value as Security Deposit towards fulfilment of any obligations in terms of the provisions of the contract.~~

~~1.10.2 The Security Deposit shall be furnished before start of the work by the contractor.~~

~~1.10.3 The required Security Deposit may be accepted in the following forms.~~

- ~~i) Cash (as permissible under the extant Income Tax Act).~~
- ~~ii) Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL.~~
- ~~iii) Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated/ pledged, as applicable, in favour of BHEL).~~
- ~~iv) Bank Guarantee from Scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The Bank Guarantee format for Security Deposit shall be in the prescribed formats.~~
- ~~v) Fixed Deposit Receipt issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL). Specific lien in favour of BHEL on the FDR shall be marked and letter from the Bank having created such lien in the format shall be submitted along with FDR.~~
- ~~vi) Insurance Surety Bonds.~~

#### **Note:**

- ~~i) BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.~~
- ~~ii) In case of delay in submission of Security Deposit, enhanced security deposit which would include interest (Repo rate + 4%) for the delayed period, shall be submitted by the bidder before submission of first bill~~

~~1.10.4 The Security Deposit shall not carry any interest.~~

~~1.10.5 In case the value of work exceeds the awarded / accepted value, the Security Deposit shall be correspondingly enhanced as given below:~~

- ~~i) The enhanced part of the Security Deposit shall be immediately deposited by the Contractor or adjusted against payments due to the Contractor.~~

- ~~ii) Contract value for the purpose of operating the increased value of Security Deposit due to Quantity Variation, shall be exclusive of Price Variation Clause, Over Run Compensation and Extra works done on man-day rates.~~
- ~~iii) The recoveries made from running bills can be released against submission of equivalent Bank Guarantee in acceptable form, but only once, before completion of work, with the approval of competent authority of BHEL.~~

~~1.10.6 The validity of Bank Guarantees towards Security Deposit shall be valid till actual completion of work + Maintenance Period + 3 months.~~

~~1.10.7 BHEL reserves the right of forfeiture of Security Deposit in addition to other claims, damages and remedies in the event of the Contractor's failure to fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of contract. BHEL reserves the right to set off the Security Deposit against any claims of other contracts with BHEL by giving prior notice to the contractor.~~

### **1.11 RETURN OF SECURITY DEPOSIT**

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

~~The Security Deposit will be refunded to the contractor in respect of all contracts on completion of work and after payment of final bill and on expiry of the maintenance period, provided the contractor shall have rendered a "No-Demand" Certificate. In case of works where maintenance period is not involved 100% of the Security Deposit may be refunded after payment of final bill provided that the contractor shall have rendered a "No-Demand Certificate"~~

### **1.12 BANK GUARANTEES**

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

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

### **1.13 VALIDITY OF OFFER**

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

#### **1.14 EXECUTION OF CONTRACT AGREEMENT**

~~The successful tenderer's responsibility under this contract commences from the date of issue of the Letter of Award by Bharat Heavy Electricals Limited. The successful tenderer shall be required to execute an agreement in the prescribed form, with BHEL, within a reasonable time after the acceptance of the Letter of Award, and in any case before releasing the first running bill. The contract agreement shall be signed by a person duly authorized through /empowered by the tenderer. The expenses for preparation of agreement document shall be borne by BHEL. The contractor shall furnish a "Non Judicial Stamp Paper" of appropriate value (as of now Rs 100/-) for execution of the agreement~~

#### **1.15 REJECTION OF TENDER AND OTHER CONDITIONS**

1.15.1 The acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender nor any tender and reserves to itself full rights for the following without assigning any reasons whatsoever:

-

- a) To reject any or all of the tenders.
- b) To split up the work amongst two or more tenderers as per NIT.
- c) To award the work in part if specified in NIT.
- d) In case of either of the contingencies stated in (b) and (c) above, the time for completion as stipulated in the tender shall be applicable.

1.15.2 Conditional tenders, unsolicited tenders, tenders which are incomplete or not in the form specified or defective or have been materially altered or not in accordance with the tender conditions, specifications etc. are liable to be rejected.

1.15.3 Tenders are liable to be rejected in case of unsatisfactory performance of the tenderer with BHEL or tenderer under suspension (debarred) by any unit / region / division of BHEL or tenderers who do not comply with the latest guidelines of Ministry/Commissions of Govt of India.

1.15.4 If a tenderer who is a proprietor expires after the submission of his tender or after the acceptance of his tender, BHEL may at their discretion, cancel such tender. If a partner of a firm expires after the submission of tender or after the acceptance of the tender, BHEL may then cancel such tender at their discretion, unless the firm retains its character. In case BHEL resolves to cancel the tender under this clause, BHEL will issue a notice in this regard containing reasons as to the cancellation of tender. The contractor shall be required to furnish his response to such notice within a period of 14 days from the date of receipt of such notice through any means (BHEL reserves the right to decrease the period upto 05 days). BHEL after due consideration of the representation made by contractor shall communicate its final decision within a reasonable period.

In case contractor fails to submit any response to the notice issued by BHEL within the period stipulated in the notice, BHEL at its discretion may proceed to cancel the contract.

Contractor shall not be eligible for any compensation whatsoever for the cancellation of contract under this clause

1.15.5 BHEL will not be bound by any Power of Attorney granted by changes in the composition of the firm made subsequent to the execution of the contract. BHEL may, however, recognize such power of Attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the contractor concerned.

1.15.6 If the tenderer deliberately gives wrong information in his tender, BHEL reserves the right to reject such tender at any stage or to cancel the contract if awarded and forfeit the Earnest Money/Security Deposit/any other money due.

1.15.7 Canvassing in any form in connection with the tenders submitted by the Tenderer shall make his offer liable to rejection.

1.15.8 In case the Proprietor, Partner or Director of the Company/Firm submitting the Tender, has any relative or relation employed in BHEL, the authority inviting the Tender shall be informed of the fact as per specified format, along with the Offer. Failing to do so, BHEL may, at its sole discretion, reject the tender or cancel the contract and forfeit the Earnest Money/Security Deposit.

1.15.9 The successful tenderer (Contractor) shall not sub-contract any portion of work detailed in the tender specification undertaken by him without written permission of BHEL's Construction Manager/Site in charge. BHEL, at its discretion, may consider the written request from the Contractor and permit subletting of part scope. However, the Contractor is solely responsible to BHEL for the work awarded to him.

1.15.10 The Tender submitted by a techno commercially qualified tenderer shall become the property of BHEL who shall be under no obligation to return the same to the bidder.

1.15.11 Unsolicited premium received after the due date and time of Bid Submission shall not be considered for evaluation. However, if the party who has submitted the unsolicited premium becomes the H-1 party, then the awarded price i.e. contract value shall be worked out after considering the premium so offered.

1.15.12 BHEL shall not be liable for any expenses incurred by the bidder in the preparation of the tender irrespective of whether the tender is accepted or not.

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

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

## CHAPTER-2

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

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



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

## **2.2 LAW GOVERNING THE CONTRACT AND COURT JURISDICTION**

The contract shall be governed by the Laws of India. Subject to clause 2.15 of this contract, the Civil Court having original Civil Jurisdiction at Tiruchirappalli, shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

## **2.3 ISSUE OF NOTICE**

### **2.3.1 Service of notice to the Contractor**

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

### **2.3.2 Service of notice to BHEL**

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

## **2.4 USE OF LAND**

No land belonging to BHEL shall be occupied by the contractor without written permission of BHEL.

## **2.5 COMMENCEMENT OF WORK**

2.5.1 The contractor shall commence the work as per the time indicated in the Letter of Intent/Award from BHEL and shall proceed with the same with due expedition without delay.

2.5.2 If the contractor fails to start the work within stipulated time as per LOI/ LOA or as intimated by BHEL, then BHEL at its sole discretion shall have the right to cancel the contract. The Earnest Money and/or Security Deposit furnished by the contractor to under this tender will stand forfeited without any further reference to him and without prejudice to BHEL's other rights and remedies under this contract and the applicable laws in this regard.

2.5.3 All the work shall be carried out under the direction and to the satisfaction of BHEL.

## **~~2.6 MEASUREMENT OF WORK AND MODE OF PAYMENT:~~**

~~2.6.1 All payments due to the contractors shall be made by e mode only, unless otherwise found operationally difficult for reasons to be recorded in writing and approved by contract executing department.~~

~~2.6.2 All items having a financial value shall be entered in the B.H.E.L Measurement Book so that a complete record is obtained of all works performed under the Contract. Buildings, etc., priced in Schedule 'A' as a unit lumpsum will be entered by number at the unit lumpsum. Work carried out for agreed lumpsum will be described and similarly recorded. Lumpsum omissions will be entered for deduction. Measurement shall be restricted to that required to ascertain the financial liability of B.H.E.L under the contract. Work which fails to be measured in detail shall be measured physically, without reference to any local custom that may obtain excepting where it may otherwise be directed in the tender documents. The measurements shall be taken jointly by any person duly authorized on the part of the BHEL and by the Contractor.~~

- ~~1. The contractor shall give not less than seven days' notice to the Engineer-in-Charge or his/her authorized representative in charge of the work before covering up or otherwise placing beyond the reach of checking and/or test checking the measurement of any work in order that the same may be checked and/or test checked and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of checking and/or test checking measurement and shall not cover up and place beyond reach of measurement any work without consent in writing of the Engineer-in-Charge or his/her authorized representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of checking and/or test checking measurements without such notice having been given or the Engineer-in-Charge's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was executed.~~
- ~~2. All measurements and levels recorded by the contractor or his authorized representative from time to time, during the progress of the work, shall be got checked by the contractor from the Engineer-in-Charge or his/her authorized representative as per interval or program fixed in consultation with Engineer in Charge or his/her authorized representative.~~
- ~~3. Measurement shall be restricted to that portion of work for which it is required to ascertain the financial liability of BHEL under this contract.~~
- ~~4. It is also a term of this contract that checking and/or test checking the measurements/ levels of any item of work in the measurement book and/or its payment in the interim, on account of final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the contractor from liabilities from any over measurement or defects noticed till completion of the defects liability period.~~
- ~~5. All such measurements and levels of work done during previous month shall be recorded by the contractor and printed in pages of A-4 size as per the format of the department so that a complete record is obtained of all the items of works executed under the contract during the said period.~~
- ~~6. These measurement sheets shall be prepared jointly with BHEL Engineers and signed by both the parties. The basis of arriving at the quantities, weights shall be relevant documents and drawings released by BHEL.~~
- ~~7. Based on the above measurement sheets, contractor shall work out the financial value of the same as per the agreed price schedule in a prescribed format and submit the same as an abstract.~~
- ~~8. The Measurement sheets and abstracts, of work done during previous month (along with soft copy in MS-Excel in prescribed format) shall be computerized and submitted in triplicate through letter of transmittal to the Engineer-in-charge by seventh day of succeeding month. One copy shall be acknowledged & returned.~~
- ~~9. On submission of documents mentioned above, upon verification by the Engineer-in-charge and/or his/her authorized representative, if any change is required, then the same shall be done by the Engineer-in-charge and/or his/her authorized representative in the same under the dated initials signature, name and designation of the person seeking the change in two copies of such documents. All changes are to be finally authorized by the Engineer-in-Charge.~~
- ~~10. Thereafter one copy of the corrected Measurement sheets & Abstract shall be sent by the Engineer-in-charge to the contractor and the other copy shall be retained by the Engineer-in-charge in his office. If there is no correction, the same shall be recorded by the Engineer-in-charge and sent to the contractor.~~

11. The contractor shall then have to submit final Measurement sheets & abstract without any corrections, in triplicate through letter of transmittal signed by the authorized signatory of the contractor to the Engineer-in-Charge who shall get it cross checked from the already corrected Measurement sheets & Abstract.
12. During submission of final Measurement sheets & abstract, the contractor shall have to submit GST Complaint Invoice copies (5 Originals) in a prescribed format along with supporting documents such as
- a) Two copies of Statutory compliance details such as
    - I. Attendance register,
    - II. Wage register,
    - III. Bank statement as a proof for remitting wages to Labors/persons engaged,
    - IV. ESI, PF & Bonus (both Employer and Employee contributions) amounts which are to be remitted for total wages to be paid and respective challansare to be produced along with invoices for all the respective Labors/persons engaged in the contract for the particular service period.
  - b) Details of bought out items by contractor
  - c) Quality documents as per Quality Assurance Plan
13. Once the Engineer-in-charge is satisfied that all measurements and abstract are free from any corrections, modifications, over writings, and insertions etc., Final corrected measurements shall be entered in the E-Measurement Book, the same shall be printed & pasted in BHEL Measurement Book, signed and dated by both parties in such a manner that part of the signature appear on the computer generated statement and part on the Measurement Book sheet.
14. If the contractor fails to submit the measurements along with abstract of measurements for the work done continuously for two months, then the Engineer-In-charge shall get the executed work measured ex-parte after giving a notice of seven working days to the contractor in writing either through site order book or any other mode of correspondence. The ex-parte measurements so undertaken by the Engineer-in-Charge shall be final and binding on the Contractor outside the purview of Arbitration & reconciliation clause mentioned in the tender documents.
15. Resources deployed by the Engineer-in-charge for ex-parte measurements, subject to minimum of Rs 7500.00 per such two monthly cycle of ex-parte measurement, shall be at the risk and cost of the contractor and shall be recovered from his bill. A copy of such ex-parte measurements shall be sent to the contractor for his record.
16. Upon the submission of the documents mentioned above and on completion of signing of BHEL Measurement Book by the authorized signatory of the contractor, the contractor's invoice will become eligible for payment processing.
17. Payment shall be made by BHEL after effecting the recoveries due from the contractor. All recoveries due from the contractor for the month/period shall be effected in full from the corresponding running bills unless specific approval from the competent authorities is obtained to the contrary.
18. The contractor shall, once every month, submit to the Engineer-in-charge with a copy to the Section-In-charge/Department head details of his claims for the work done by him up to and including the previous month which are not covered by his Contract Agreement in any of the following respects;
- a) Deviation from the items and Specifications provided in the contract documents.
  - b) Extra Items/New Items of work
  - c) Quantities in excess of those provided in the contract schedule.

- d) ~~Items in respect of which rates have not been settled. contractor should, in addition furnish a clear certificate to the effect that the claims submitted by him as aforesaid cover all his claim and that no further claims shall be raised by him in respect of the work done up to and including the period under report.~~

~~2.6.3 Except where any general or detailed description of the work in quantities expressly shows to the contrary, schedule of quantities shall be deemed to have been prepared and measurements shall be taken in accordance with the procedure set forth in the schedule of rates specification notwithstanding any provision in the relevant standard method of measurement or any general or local custom. In the case of items which are not covered by the schedule of rates / specification, measurements shall be taken in accordance with relevant standard method of measurement issued by the Indian Standard Institution or as per standard engineering practice.~~

~~2.6.4 All recoveries due from the contractor for the month/period shall be effected in full from the corresponding running bills unless specific approval from the competent authorities is obtained to the contrary.~~

~~2.6.5 The Contractor shall bear the expenditure involved if any, in making the measurements and testing of materials to be used/ used in the work. The contractor shall, without extra charges, provide all the assistance with appliances and other things necessary for measurement.~~

~~2.6.6 If at any time due to any reason whatsoever, it becomes necessary to re-measure the work done in full or in part, the expenses towards such re-measurements shall be borne by the contractor unless such re-measurements are warranted solely for reasons not attributable to contractor.~~

~~2.6.7 Passing of bills covered by such measurements does not amount to acceptance of the completion of the work measured. Any left out work has to be completed, if pointed out at a later date by BHEL.~~

~~2.6.8 Final measurement bill shall be prepared in the final bill format prescribed for the purpose based on the certificate issued by BHEL Engineer that entire works as stipulated in tender specification has been completed in all respects to the entire satisfaction of BHEL. The Contractor shall submit the final bill in line with WAM 7 format as per tender documents with an additional recording of the dispute, if any and shall sign with the following declaration:~~

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

- ~~a).....  
b).....  
c).....~~

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

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

## **2.7 RIGHTS OF BHEL**

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

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

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

## **2.7.2 BREACH OF CONTRACT, REMEDIES AND TERMINATION**

**2.7.2.1** The following shall amount to breach of contract:

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

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

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

### **2.7.2.2 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.

### **2.7.2.3 Remedies in case of Breach of Contract.**

- i. Wherein the period as stipulated in the notice issued under clause 2.7.2 has expired and Contractor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
- ii. Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Contractor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the contractor, retention amount, from the money due to the Contractor etc. with BHEL) or the other legal remedies shall be pursued.
- iii. wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed. In case no security instruments are available or the value of the security instruments available is less than 10% of the contract value, the 10% of the contract value or the balance amount, as the case may be, will be recovered in all or any of the following manners:
- iv. In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Contractor.
- v. If Contractor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
  - a. from dues available in the form of Bills payable to defaulted Contractor against the same contract.
  - b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Contractor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.
  - c. In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted Contractor.
- vi. It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Contractor for the purpose of estimation of damages.

- vii. In addition to the above, imposition of liquidated damages, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

1) The defaulting contractor shall not be eligible for participation in any of the future enquiries floated by BHEL to complete the balance work. The defaulting contractor shall mean and include:

- (a) In case defaulted contractor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.
- (b) In case defaulted contractor is The Partnership Firm, any firm comprising of same partners/ some of the same partners (but not including any new partner); or sole proprietorship firm owned by any partner(s) as a sole proprietor.

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

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

2.7.6 Whenever any Claim or Claims for payment of any sum of money(s) arises under this or any other contract against the contractor, BHEL shall be entitled to withhold and also have a lien to retain such sum of money(s) in whole or in part from any money(s) payable to contractor and/or security deposits furnished or deducted in cash from the bills of contractor, (if any) under this contract. In the event of the securities or the amounts payable to Contractor, being insufficient to cover BHEL claims, then BHEL shall be entitled to withhold and have a lien to the extent of such claims from any sum or sums found payable or which at any time thereafter may become payable to the contractor under this or any other contract with BHEL.

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



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

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

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

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

2.7.9 In the unforeseen event of inordinate delay in receipt of materials, drawings, fronts etc. due to which inordinate discontinuity of work is anticipated, BHEL on its own or contractor's request at its discretion may consider to short close the contract in any of the following cases:

- a. The balance works (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 shut down or on other facilities of customer or any other such reasons not attributable to the contractor.

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

**Note:** The Contractor shall not be eligible for any compensation on account of Quantity Variation arising out of short-closure of contract as per clause no. 2.79 (b) above.

## **2.7.9 LIQUIDATED DAMAGES – Refer Clause 46, Section 5 - of Special Conditions of Contract**

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

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

2.8.1 As far as possible, Unskilled Workers shall be engaged from the local areas in which the work is being executed.

2.8.2 The contractor at all times during the continuance of this contract shall, in all his dealings with local labour for the time being employed on or in connection with the work, have due regard to all local festivals and religious and other customs.

2.8.3 The contractor shall comply with all applicable State and Central Laws, Statutory Rules, Regulations, Notifications etc. such as Payment of Wages Act, Minimum Wages Act, Workmen Compensation Act, Employer's Liability Act, Industrial Disputes Act, Employers Provident Fund and Miscellaneous Provisions Act, 1952, Employees State Insurance Scheme, Contract Labour (Regulation and Abolition) Act, 1970, Payment of Bonus & Gratuity Act, Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996, The Building and Other Construction Workers' Welfare Cess Act 1996 and other Acts, Rules, and Regulations for labour/workers as applicable and as may be enacted by the State Government and Central Govt. during the tenure of the Contract and having force or jurisdiction at Site. The Contractor shall also comply with provisions of and give all such notices to the local Governing Body, Police and other relevant Authorities as may be required by the Law. The Contractor shall without any fail maintain all the registers/records in proper formats as per all the Acts, Rules and Regulations mentioned in this clause 2.8.3.

2.8.4 The Contractor shall obtain independent License under the Contract Labour (Regulations and Abolition) Act, 1970 for engaging contract labour as required from the concerned Authorities based on the certificate (Form- V or as applicable) issued by the Principal Employer/Customer.

2.8.5 The contractor shall pay and bear all taxes, fees, license charges, Cess, duties, deposits, tolls, royalties, commission or other charges which may be leviable on account of his operations in executing the contract.

2.8.6 While BHEL would pay the inspection fees and Registration fees of Boiler/Electrical Inspectorate, all other arrangements for site visits periodically by the Inspectorate to site, Inspection certificate etc. will have to be made by contractor. However, BHEL will not make any payment to the Inspectorate in connection with contractor's Welders/Electricians qualification tests etc.

2.8.7 Contractor shall be responsible for provision of Health and Sanitary arrangements (more particularly described in Contract Labour Regulation & Abolition Act), Safety precautions etc. as may be required for safe and satisfactory execution of contract.

2.8.8 The contractor shall be responsible for proper accommodation including adequate medical facilities for personnel employed by him.

2.8.9 The contractor shall be responsible for the proper behavior and observance of all regulations by the staff employed by him.

2.8.10 The contractor shall ensure that no damage is caused to any person/property of other parties working at site/company" premises. If any such damage is caused, it is responsibility of the contractor to make good the losses or compensate for the same.

2.8.11 All the properties/equipments/components of BHEL/their Client/Customer loaned with or without deposit to the contractor in connection with the contract shall remain properties of BHEL/their Client/Customer.

2.8.12 The contractor shall use such properties for the purpose of execution of this contract. All such properties/equipments/components shall be deemed to be in good condition when received by the contractor unless he notifies within 48 hours to the contrary. The contractor shall return them in good condition as and when required by BHEL/their Client. In case of non-return, loss, damage, repairs etc. the cost thereof as may be fixed by BHEL Engineer will be recovered from the contractor.

2.8.13 In case the contractor is required to undertake any work outside the scope of this contract, the rates payable shall be those mutually agreed upon if the item rates are not mentioned in existing contract.

2.8.14 Any delay in completion of works/or non-achievement of periodical targets/or non-execution of contract due to the reasons attributable to the contractor, the same may have to be compensated by the contractor either by increasing manpower and resources or by working extra hours and/or by working more than one shift. All these are to be carried out by the contractor at no extra cost.

2.8.15 The contractor shall arrange, coordinate his work in such a manner as to cause no hindrance to other agencies working in the same premises.

2.8.16 All safety rules and codes applied by the Customer /BHEL at site shall be observed by the contractor without exception. The contractor shall be responsible for the safety of the equipment/material and works to be performed by him and shall maintain all light, fencing guards, slings etc. or other protection necessary for the purpose. Contractor shall also take such additional precautions as may be indicated from time to time by the Engineer with a view to prevent pilferage, accidents, fire hazards. Due precautions shall be taken against fire hazards and atmospheric conditions. Suitable number of Clerical staff, watch and ward, store keepers to take care of equipment/materials and construction tools and tackles shall be posted at site by the contractor till the completion of work under this contract.

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

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

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

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

2.8.19 Also, no idle charges will be admissible in the event of any stoppage caused in the work resulting in contractor's labour and Tools & Plants being rendered idle due to any reason at any time.

2.8.20 The contractor shall take all reasonable care to protect the materials and work till such time the plant/equipment has been taken over by BHEL or their Customer whichever is earlier.

2.8.21 The contractor shall not stop the work or abandon the site for whatsoever reason of dispute, excepting force majeure conditions. All such problems/disputes shall be separately discussed and settled without affecting the progress of work. Such stoppage or abandonment shall be treated as breach of contract and dealt with accordingly.

2.8.22 The contractor shall keep the area of work clean and shall remove the debris etc. while executing day-to-day work. Upon completion of work, the contractor shall remove from the vicinity of work, all scrap, packing materials, rubbish, unused and other materials and deposit them in places specified by the Engineer. The contractor will also demolish all the hutments, sheds, offices etc. constructed and used by him and shall clean the debris. In the event of his failure to do so, the same will be arranged to be done by the Engineer and the expenses recovered from the contractor.

2.8.23 The contractor shall execute the work in the most substantial and workman like manner in the stipulated time. Accuracy of work and timely execution shall be the essence of this contract. The contractor shall be responsible to ensure that the quality, assembly and workmanship conform to the dimensions and clearance given in the drawings and/ or as per the instructions of the Engineer.

2.8.24 The Contractor to note that some of BHEL's T&Ps/MMDs may not be insured. The Contractor will take necessary precautions and due care to protect the same while in his custody from any damage/ loss till the same is handed over back to BHEL. In case the damage / loss is caused due to carelessness/ negligence on the part of the contractor, the Contractor is liable to get them repair/ replaced immediately

and in case of his failure to do so within a reasonable time, BHEL shall recover the loss from the contractor.

2.8.25 For all works having contract value of Rs. 5,00,000/- or above, BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life/ permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below.

a) Victim: Any person who suffers permanent disablement or dies in an accident as defined below.

b) Accident: Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious occurrence caused during the manufacturing/ operation and works incidental thereto at BHEL factories/ offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving, overhaul, renovation and retrofitting, trial operation, performance guarantee testing undertaken by the company or during any works/ during working at BHEL Units/ Offices/ townships and premises/ Project Sites.

c) Compensation in respect of each of the victims:

i) In the event of death or permanent disability resulting from Loss of both limbs: Rs. 10,00,000/- (Rs. Ten Lakh).

ii) In the event of other permanent disability: Rs.7,00,000/- (Rs. Seven Lakh)

d) Permanent Disablement: A disablement that is classified as a permanent total disablement under the proviso to section 2 (I) of the Employee's Compensation Act, 1923.

2.8.26 Contractor shall be fully responsible for the safety of their T&Ps and other material mobilized at site. In any case, BHEL shall not be liable for any damage/loss/misuse of any item(s) belong to the contractor.

2.8.27 Contractor will ensure that the work/job is executed through his/her employees on and under no circumstances, the contractor shall subcontract the job without prior written permission from BHEL.

2.8.28 The liability for any compensation on account of injury sustained by an employee of the contractor will be exclusively that of the contractor.

## **~~2.9 EXECUTION PLAN, PROGRESS MONITORING, MONTHLY REVIEW AND PERFORMANCE EVALUATION~~**

~~2.9.1 A tentative plan/ programme for completion of the contractual scope of work as per the time schedule given in the contract shall be made jointly by BHEL and Contractor, before commencement of work. The above programme shall be supported by month wise deployment of resources viz Manpower, T&P, Consumables, etc. Progress will be reviewed periodically (Daily/Weekly/Monthly) vis à vis this jointly agreed programme.~~

~~Subsequently, every month, quarterly rolling plan will be made by BHEL based on budgeted targets.~~

~~Monthly plan in F-14 format shall be drawn from this Quarterly plan. Monthly plan shall necessarily include activities required for achieving targets/ milestones unless inputs/ fronts are not available. While planning and arriving on asking rate all available inputs shall be taken into consideration.~~

~~Vendor will be required to execute the monthly plan in that month in addition to make full efforts to minimize the cumulative shortfall attributable to him up to the month.~~

~~BHEL may require monthly work plan up to one and half times of average monthly value and demand matching manpower.~~

~~Where, Average Monthly Value = Total Contract Value (as per latest revision) / Period of Contract (in months)~~

~~Provided, this requirement is reflected in the rolling quarterly plan two months in advance. If the Contractor refuses to sign the F-14 format, those F-14 formats requiring Contractor's signature shall be deemed to have been signed and accepted by the Contractor, if communicated to the Contractor through email or any other mode as stated in clause~~

### ~~2.3.1.~~

~~The Contractor shall submit periodical progress reports (Daily/Weekly/Monthly) and other reports/information including manpower, consumables, T&P mobilization etc. as desired by BHEL.~~

~~**2.9.2 Monthly progress review between BHEL and Contractor shall be based on the agreed programme as above, availability of inputs/fronts etc., and constraints if any, as per prescribed formats (i.e. Form F-14). Manpower, T&P and consumable reports as per prescribed formats shall be submitted by contractor every month. Release of RA Bills shall be contingent upon certification by BHEL Site Engineer of the availability of the above prescribed formats duly filled in and signed.**~~

~~2.9.3 The burden of proof that the causes leading to any shortfall is not due to any reasons attributable to the contractor is on the contractor himself. The monthly progress review shall record shortfalls attributable to (i) Contractor, (ii) Force Majeure Conditions, and (iii) BHEL~~

~~2.9.4 Performance of the Contractor shall be assessed as per prescribed formats and shall form the basis for 'Assessment of Capacity of Bidder' for Tenders where the Contractor is a bidder. BHEL reserves the right to revise the evaluation formats during the course of execution of the works.~~

## **2.10 TIME OF COMPLETION**

2.10.1 Time is the essence of the contract and is specified in the tender document or in each individual Work Order. As soon as possible after the contract is let or any substantial Work Order is placed and before work under is to begin, the Engineer-in-charge and the Contractor shall agree to a Time and Progress Chart. The Chart shall be prepared in direct relation to the time stated in the Tender Documents or the Work Order for the completion of the individual items thereof and/the contract or order as a whole. It shall indicate the forecast of the dates for the commencement of the various trade processes or sequences of the work, and shall be amended as may be required by agreement between the Engineer-in-charge and the Contractor within the limitation of the time imposed in the Tender Documents or Order

2.10.2 In the absence of any specific Time and Progress chart to be agreed to between the Contractor and the Engineer-in-charge, the contractor shall ensure and maintain uninterrupted progress of the work such that the entire work shall be completed within the time imposed in the Tender Documents or Order and that the proportion of work completed upto any time in relation to the entire work to be under the Contractor Order shall not be less than the proportion that the time elapsed bears to the total time of completion provided in the Tender Documents or Order.

2.10.3 The contractor shall suspend the execution of the work, or any part or parts thereof whenever called upon in writing by the Engineer-in-charge to do so, and shall not resume work thereon until so directed in writing by the Engineer -in-charge. The Contractor will be allowed an extension of time for completion not less than the period of suspension. However, no other claim in this respect for compensation or otherwise however will be admitted. Provided the cause for suspension is not attributable to any default on the contractor's part to proceed with or fulfill the contractual obligations. This may also be extended to allow for alteration of work made by the deviation order

2.10.4 The works shall be completed to the entire satisfaction of the Engineer-in-charge and in accordance with the Contractor's forecast of Time and Progress where operative, and all unused stores and materials, tools, plants, equipments, temporary buildings and things shall be removed and the site and work cleared of rubbish and all waste materials and delivered up clean and tidy to the satisfaction of the Engineer-in-charge at the Contractor's expense and/or before the Scheduled date of completion.

2.10.5 The B.H.E.L shall have power to take over from the Contractor from time to time each sections of the work as have been completed to the satisfaction of the Engineer-in-charge.

2.10.6 In case the Contractor fails to remove any of his properties, assets or fails to clear the rubbish and waste materials within 30 days of the completion of the contract, it is lawful for the contractee, that is BHEL

to take such action as it deems fit to clear dispose of such properties, assets or such waste materials and charge the contractor any expenses incurred thereon.

2.10.7 The Engineer-in-charge shall certify to the Contractor the date on which the work is completed and the state thereof.

2.10.8 The Engineer-in-charge shall also certify to the Contractor the state of the work at the end of maintenance period, where applicable.

## **2.11 EXTENSION OF TIME FOR COMPLETION**

*2.11.1 The Scheduled Completion Date will not be extended due to inclement weather conditions which are normal to the general locality of the work site as evidenced by the 10-year average climatic data recorded by the local or national weather bureau or stations. Time for performance of this Agreement includes an allowance for calendar days which, according to historical data, may not be suitable for construction work. It is the Contractor's responsibility to protect the work site from inclement weather to avoid delays, rework, or inefficient Work.*

If the completion of work as detailed in the scope of work gets delayed beyond the contract period, the contractor shall request for an extension of the contract and BHEL at its discretion may extend the Contract.

If the completion of work gets delayed for reasons **not attributable to the contractor**, the contract period may be suitably extended at the sole discretion of BHEL only under the following circumstances.

- i) by reason of abnormally bad weather (abnormally bad weather means conditions that exceed the 10-year average minimum or maximum condition in temperature, rain, snow, hail, sleet, wind, etc., as established by the Weather Bureau for the area where the project is located  
**OR**
- ii) by reason of serious loss or damage by fire, **OR**
- iii) by reason of Civil commotion, local combination of workmen strikes or lockout, affecting any of the trades employed on the work **OR**.
- iv) by delay on the part of the agency or tradesman engaged by BHEL in executing work **not forming part of this contract**, **OR**
- v) by reason of any other cause which in the absolute discretion of the Engineer-in-charge is (when he is the Accepting Officer of the Contract) beyond the Contractor's reasonable control, then in such case the Accepting Officer on the recommendation of the Engineer-in-charge (or higher authority) may make fair and reasonable extension in the completion dates of the individual items of work or the contract as a whole. Such extension which will be communicated to the Contractor by the Engineer-in-charge in writing shall be final and binding on the Contractor. No other claim in this respect for compensation or other-wise howsoever is admissible. Upon the happening of any such event causing delay, the Contractor shall immediately give notice thereof in writing to the Engineer-in-charge but shall nevertheless use constantly his best endeavour to prevent or make good the delay and shall do all that may reasonably be required to the satisfaction of the Engineer-in-charge to proceed with the work.

2.11.2 Based on the F-14 formats, the works balance at the end of original contract period less the backlog attributable to the contractor shall be quantified, and the number of months of 'Time extension' required for completion of the same shall be jointly worked out. Within this period of 'Time extension', the contractor is bound to complete the portion of backlog attributable to the contractor. Any further 'Time extension' or 'Time extensions' at the end of the previous extension shall be worked out similarly.

2.11.3 However, if any 'Time extension' is granted to the contractor to facilitate continuation of work and completion of contract, due to backlog attributable to the contractor alone, then it shall be without

prejudice to the rights of BHEL to impose penalty/LD for the delays attributable to the contractor, in addition to any other actions BHEL may wish to take under Clause 2.7.2 of GCC i.e. Breach of Contract, Remedies and Termination.

2.11.4 Planning, progress monitoring, monthly review and performance monitoring shall be carried out as per clause 2.9 of GCC.

## **2.12 INSURANCE**

2.12.1 BHEL/their customer shall arrange for insuring the materials/properties of BHEL/customer covering the risks during transit, storage, erection and commissioning.

2.12.2 It is the sole responsibility of the contractor to insure his materials, equipment, workmen etc. against accidents and injury while at work and to pay compensation, if any, to workmen as per Workmen's compensation Act. The work will be carried out in a protected area and all the rules and regulations of the client /BHEL in the area of project which are in force from time to time will have to be followed by the contractor.

2.12.3 If due to negligence and or non-observation of safety and other precautions by the contractors, any accident/injury occurs to the property / manpower belong to third party, the contractor shall have to pay necessary compensation and other expense, if so decided by the appropriate authorities.

2.12.4 The contractor will take necessary precautions and due care to protect the material, while in his custody from any damage/ loss due to theft or otherwise till the same is taken over by BHEL or customer. For lodging / processing of insurance claim, the contractor will submit necessary documents. BHEL will recover the loss including the deductible franchise from the contractor, in case the damage / loss is due to carelessness / negligence on the part of the contractor. In case of any theft of material under contractor's custody, matter shall be reported to Police by the contractor immediately and copy of FIR and subsequently police investigation report shall be submitted to BHEL for taking up with insurance. However, this will not relieve the contractor of his contractual obligation for the material in his custody.

## **2.13 STRIKES & LOCKOUT**

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

2.13.2 For all purposes whatsoever, the employees of the contractor shall not be deemed to be in the employment of BHEL.

## **2.14 FORCE MAJEURE**

2.14.1 "Force Majeure" shall mean circumstance which is:

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

And

Prevents the performance of the contract,

Such circumstances include but shall not be limited to:

- i) War, hostilities, invasion, act of foreign enemies.
- ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.

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

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

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

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

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

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

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

## **2.15 Settlement of Dispute**

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

If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Contractor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per Clause 2.15.1

### **2.15.1 Conciliation:**

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



statutory modification thereof and as provided in - "Procedure for conduct of conciliation proceedings" (as available in [www.bhel.com](http://www.bhel.com))).

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

## **2.15.2 ARBITRATION**

2.15.2.1 Except as provided elsewhere in this Contract, in case Parties are unable to reach amicable settlement (whether by Conciliation to be conducted as provided in Clause 14.1 herein above or otherwise) in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract (hereinafter referred to as the 'Dispute'), then, either Party may, refer the disputes to Madras High Court, Arbitration Centre (MHCAC) and such dispute to be adjudicated by Sole Arbitrator appointed in accordance with the Rules of said Arbitral Institution.

2.15.2.2 A party willing to commence arbitration proceeding shall invoke Arbitration Clause by giving notice to the other party in terms of section 21 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the 'Notice') before referring the matter to arbitral institution. The Notice shall be addressed to the Head of the Unit, BHEL, executing the Contract and shall contain the particulars of all claims to be referred to arbitration with sufficient detail and shall also indicate the monetary amount of such claim including interest, if any.

2.15.2.3 After expiry of 30 days from the date of receipt of aforesaid notice, the party invoking the Arbitration shall submit that dispute to the Arbitral Institution- Madras High Court, Arbitration Centre (MHCAC)- and that dispute shall be adjudicated in accordance with their respective Arbitration Rules. The matter shall be adjudicated by a Sole Arbitrator who shall necessarily be a Retd Judge having considerable experience in commercial matters to be appointed/nominated by the respective institution. The cost/expenses pertaining to the said Arbitration shall also be governed in accordance with the Rules of the respective Arbitral Institution. The decision of the party invoking the Arbitration for reference of dispute to Madras High Court, Arbitration Centre (MHCAC)- for adjudication of that dispute shall be final and binding on both the parties and shall not be subject to any change thereafter. The institution once selected at the time of invocation of dispute shall remain unchanged.

2.15.2.4 The fee and expenses shall be borne by the parties as per the Arbitral Institutional rules.

2.15.2.5 The Arbitration proceedings shall be in English language and the seat of Arbitration shall be Trichy.

2.15.2.6 Subject to the above, the provisions of Arbitration & Conciliation Act 1996 and any amendment thereof shall be applicable. All matters relating to this Contract and arising out of invocation of Arbitration clause are subject to the exclusive jurisdiction of the Court(s) situated at Trichy.

2.15.2.7 Notwithstanding any reference to the Designated Engineer or Conciliation or Arbitration herein, a, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree. Settlement of Dispute clause cannot be invoked by the Contractor, if the Contract has been mutually closed or 'No Demand Certificate' has been furnished by the Contractor or any Settlement Agreement has been signed between the Employer and the Contractor.

2.15.2.8 It is agreed that Mechanism of resolution of disputes through arbitration shall be available only in the cases where the value of the dispute is less than Rs. 10 Crores.

2.15.2.9 In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory

modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

2.15.2.10 In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of clause 14.2.9. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

**2.15.3 In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:**

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution)

**2.15.4 NO INTEREST PAYABLE TO CONTRACTOR**

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

**2.16 RETENTION AMOUNT**

~~2.16.1 Retention Amount shall be 5% of contract value and shall be furnished before the first RA Bill becomes due for payment. In case of increase in contract value, additional 5% of differential amount shall be submitted by Contractor before payment of next RA Bill due.~~

~~The Retention amount of 5% of the contract value may be accepted in the following forms:-~~

- ~~1. Cash (as permissible under the extant Income Tax Act).~~
- ~~2. Local cheques of Scheduled Banks (subject to realization)/ Pay Order/ Demand Draft/ Electronic Fund Transfer in favour of BHEL.~~
- ~~3. Securities available from Indian Post offices such as National Savings Certificates, Kisan Vikas Patras etc. (held in the name of Contractor furnishing the security and duly endorsed/ hypothecated / pledged, as applicable, in favour of BHEL).~~
- ~~4. Bank Guarantee from Scheduled Banks/ Public Financial Institutions as defined in the Companies Act and in line with clause 1.12 of GCC. The Bank Guarantee format for Retention Amount shall be in the prescribed formats. The validity of BG shall be initially for the contract period & shall be extended up to acceptance of final bill if the final bill is not settled during the contract period.~~
- ~~5. Fixed Deposit Receipt issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act (FDR should be in the name of the Contractor, a/c BHEL).~~
- ~~6. vi. Insurance Surety Bonds~~

~~Alternatively, on successful bidder's request, the Retention Amount can also be recovered at the rate of 10% of the gross amount, progressively, from each of the running bills of the contractor till the total amount of the required retention amount is collected. In case, contractor opts cash deduction from RA bills in the beginning & subsequently submit 5% of the Contract Value as Retention amount in any form as mentioned above, then refund of deducted retention amount may be permitted to contractor.~~

Note: BHEL will not be liable or responsible in any manner for the collection of interest or renewal of the documents or in any other matter connected therewith.

#### **2.16.2 Refund of Retention Amount shall be as follows:**

100% of Retention Amount/ BG shall be released along with Final Bill after deduction all expenses/ other amounts due to BHEL under the contract/ other contracts entered into with them (contractor) by BHEL provided that.

#### **2.16.3 In case of short closure of contract**

- a) due to the premature termination of BHEL contract with customer for any reason whatsoever;
- b) upon the request of contractor for any reason, prior to completion and acceptance of Trial Run by the end customer

The retention money equivalent to the 5% of contract value executed by the contractor shall not be refundable and the contractor shall be discharged of his liabilities as provided in the clause 2.16.1

#### **2.17 PAYMENTS**

Payments to Contractors are made in any one of the following forms:—

##### **2.17.1 Running Account Bills (RA Bills)**

~~1.8 These are for interim payments when the contracts are in progress. The bills for such interim payments are to be prepared by Contractor in prescribed formats (RA Bill forms).~~

~~1.9 Payments shall be made according to the extent of work done as per measurements taken up to the end of the calendar month and in line with the terms of payments described in the Tender documents.~~

~~1.10 Recoveries on account of electricity, water, statutory deductions etc. are made as per terms of contract.~~

~~1.11 Full rates for the work done shall be allowed only if the quantum of work has been done as per the specifications stipulated in the contract. If the work is not executed as per the stipulated specifications, BHEL may ask the contractor to redo the work according to the required specifications, without any extra cost. However, where this is not considered necessary 'OR' where the part work is done due to factors like non-availability of material to be supplied by BHEL 'OR' non-availability of fronts 'OR' non-availability of drawings, fraction payment against full rate, as is considered reasonable, may be allowed with due regard for the work remaining to be done. BHEL decision in this regard will be final and binding on the contractor.~~

~~1.12 In order to facilitate part payment, BHEL at its discretion may further split the contracted rates/percentages to suit site conditions, cash flow requirements according to the progress of work, subject to following:~~

- ~~a) Provided no 'part' payment is recommended till 25% of work in the item rate is executed.~~
- ~~b) Payment of item rate to be made in not more than three instalments, last stage payment~~
- ~~— to be not lower than 20% of the item rate.~~

##### **2.17.2 Final Bill**

Final Bill' is used for final payment on closing of Running Account for works or for single payment after completion of works. 'Final Bill' shall be submitted as per prescribed format after completion of works as per scope and upon material reconciliation, along with the following:

Clearance certificates where ever applicable viz. various Statutory Authorities like Labour department, PF Authorities, Commercial Tax Department etc.

BHEL shall settle the final bills after deducting all liabilities of Contractor to BHEL

## **2.18 PERFORMANCE GUARANTEE FOR WORKMANSHIP**

~~2.18.1 Even though the work will be carried out under the supervision of BHEL Engineers the Contractor will be responsible for the quality of the workmanship and shall guarantee the work done for a period of 6 months from the date of commencement of guarantee period as defined in Technical Conditions of Contract, for good workmanship and shall rectify free of cost all defects due to faulty erection detected during the guarantee period. In the event of the Contractor failing to repair the defective works within the time specified by the Engineer, BHEL may proceed to undertake the repairs of such defective works by itself, without prejudice to any other rights and recover the cost incurred for the same along with 5% overheads from the Security Deposit~~

## **2.19 — CLOSING OF CONTRACTS**

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

## **2.20 SUSPENSION OF BUSINESS DEALINGS**

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

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

If any bidder / supplier / contractor during pre-tendering / tendering / post tendering / award / execution / post-execution stage indulges in any act, including but not limited to, mal-practices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or tampers the tendering process or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, or does anything which is actionable under the Guidelines for Suspension of Business dealings, action may be taken against such bidder / supplier / contractor as per extant guidelines of the company available on [www.bhel.com](http://www.bhel.com) and / or under applicable legal provisions. Guidelines for suspension of business dealings is available in the webpage: [http://www.bhel.com/vender\\_registration/vender.php](http://www.bhel.com/vender_registration/vender.php)

## **2.21 LIMITATION ON LIABILITY:**

Notwithstanding anything to the contrary in this Contract or LOA or Work Order or any other mutually agreed document between the parties, the maximum liability, for damages, of the contractor, its servants or agents, shall under no circumstances exceed an amount equal to the Price of the Contract or the Work Order. The Contractor shall not in any case be liable for loss of profit or special, punitive, exemplary, indirect or consequential losses whatsoever. This shall not be applicable on the recoveries made by Customer from BHEL on account of Contractor, any other type of recoveries for workmanship, material, T&P etc. due from the contractor.

## **2.22 Cartel Formation**

The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines

## **2.23 Fraud Prevention Policy**

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

#### **2.24 Order of Precedence**

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

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

#### **~~2.25 OTHER ISSUES~~**

~~2.22.1 Value of Non judicial Stamp Paper for Bank Guarantees and for Contract Agreement shall be not less than Rs 100/- unless otherwise required under relevant statutes.~~

~~2.22.2 In case of any conflict between the General Conditions of Contract and Special Conditions of Contract, provisions contained in the Special Conditions of Contract shall prevail.~~

~~2.22.3 Unless otherwise specified in NIT, offers from consortium/ JVs shall not be considered.~~

**Part B- Price Bid - BILL OF QUANTITIES**

**Name of work:** Taking away of already cut or after cutting of different types trees which are unwanted / fallen / dead / stacked / fire wood in nature including branches within BHEL, Trichy Factory and Township Complex on sale basis

**(No rate shall be written here. Quote based on this BOQ should be given online in xl-format, only in eProcurement portal)**

Sl. No.	Qty	Description of work	Unit	Estimate Rate	Estimate Amount	Applicable GST
<b>1</b>		Trimming and taking away of already <b>cut/uprooted / fallen trees</b> of the following items of trees within BHEL, Trichy Factory and Township Complex, making them into pieces, loading and conveying the entire lots irrespective of size to contractor's destination by his own lorry, as per the instruction of Engineer-in-charge. The scope of the work includes cleaning of all wastage generated during the above operations and disposing them within a distance of 100m in the specified areas nearby as per the instruction of Engineer-in-charge. The tenderer / auctioneer shall quote the rate on weighment basis (i.e. per M.T.) that they could offer to BHEL. The rate shall also include cost of all labour, tools & equipment for cutting, sizing into pieces, loading, leading, to weighment and taking away to their destination, conveyance by contractor's own lorry for all distances etc. complete. Material to be taken away from BHEL area will be weighed and charged for each items as per quoted rate.				
a	5	Tree branches of less than 2" dia. waste cut wood and twigs of all trees other than teak.	M.T.	584.22	2,921.10	18%
b	200	Tree branches /stems of size more than 2" and upto 12" dia. of Konnai, Karuvel, , Gulmohar, Alamaram, Arasu Asoka ,vaagai,naval,tamrind,mango,and neem.	M.T.	1362.81	2,72,562.00	18%
c	10	Tree branches /stems of size more than 12" dia. of Konnai, Karuvel, , Gulmohar, Alamaram, Arasu Asoka ,vaagai,naval,tamrind,mango,and neem.	M.T.	2724.49	27,244.90	18%

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Sl. No.	Qty	Description of work	Unit	Estimate Rate	Estimate Amount	Applicable GST
2		<b>Cutting, Trimming and taking away of unwanted / fallen / dead trees</b> of the following items of trees within BHEL, Trichy Factory and Township Complex , making them into pieces, loading and conveying the entire lots irrespective of size to contractors destination by his own lorry, as per the instruction of Engineer-in-charge. The scope of the work includes cleaning of all wastage generated during the above operations and disposing them within a distance of 100m in the specified areas nearby as per the instruction of Engineer-in-charge. The tenderer / auctioner shall quote the rate on weightment basis (i.e. per M.T.) that they could offer to BHEL. The rate shall also include cost of all labour, tools & equipments for cutting, sizing into pieces, loading,leading, to weightment and taking away to their destination, conveyance by contractor's own lorry for all distances etc. complete. Material to be taken away from BHEL area will be weighed and charged for each items as per quoted rate .				
a	5	Tree branches of less than 2" dia. waste cut wood and twigs of all trees other than teak.	M.T.	486.48	2432.40	18%
b	1000	Tree branches /stems of size more than 2" and upto 12" dia. of Konnai, Karuvel, , Gulmohar, Alamaram, Arasu Asoka ,vaagai,naval,tamrind,mango,and neem.	M.T.	778.59	7,78,590.00	18%
c	100	Tree branches /stems of size more than 12" dia. of Konnai, Karuvel, , Gulmohar, Alamaram, Arasu Asoka ,vaagai,naval,tamrind,mango,and neem.	M.T.	1945.90	1,94,590.00	18%

Sl. No.	Qty	Description of work	Unit	Estimate Rate	Estimate Amount	Applicable GST
3		Trimming and taking away of <b>already cut/uprooted / fallen Karuvellam trees</b> of the following items of trees within BHEL, Trichy Factory and Township Complex, making them into pieces, loading and conveying the entire lots irrespective of size to contractors destination by his own lorry, as per the instruction of Engineer-in-charge. The scope of the work includes cleaning of all wastage generated during the above operations and disposing them within a distance of 100m in the specified areas nearby as per the instruction of Engineer-in-charge. The tenderer / auctioner shall quote the rate on weightment basis (i.e. per M.T.) that they could offer to BHEL. The rate shall also include cost of all labour, tools & equipments for cutting, sizing into pieces, loading, leading, to weightment and taking away to their destination, conveyance by contractor's own lorry for all distances etc. complete. Material to be taken away from BHEL area will be weighed and charged for each items as per quoted rate.				
a	5	Tree branches /stems of size more than 2" and upto 12" dia. of Karuvellam	M.T.	1362.81	6814.05	0%
b	2	Tree branches /stems of size more than 12" dia. of Karuvellam	M.T.	2724.49	5448.98	0%



Sl. No.	Qty	Description of work	Unit	Estimate Rate	Estimate Amount	Applicable GST
4		<b>Cutting,Trimming and taking away of unwanted / fallen / dead Karuvellam trees</b> of the following items of trees within BHEL, Trichy Factory and Township Complex , making them into pieces, loading and conveying the entire lots irrespective of size to contractors destination by his own lorry, as per the instruction of Engineer-in-charge. The scope of the work includes cleaning of all wastage generated during the above operations and disposing them within a distance of 100m in the specified areas nearby as per the instruction of Engineer-in-charge. The tenderer / auctioner shall quote the rate on weighment basis (i.e. per M.T.) that they could offer to BHEL. The rate shall also include cost of all labour, tools & equipments for cutting, sizing into pieces, loading,leading, to weighment and taking away to their destination, conveyance by contractor's own lorry for all distances etc. complete. Material to be taken away from BHEL area will be weighed and charged for each items as per quoted rate .				
a	400	Tree branches /stems of size more than 2 inchs and upto 12 inchs dia of Karuvellam	M.T.	778.59	3,11,436.00	0%
b	5	Tree branches /stems of size more than 12" dia. of Karuvellam	M.T.	1945.90	9729.50	0%
		<b>TOTAL</b>			<b>16,11,768.93</b>	

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	<b>NOTE</b>
1	Rate is exclusive of GST.
2	Applicable GST 18% extra for item 1a,1b,1c , 2a,2b, &2c
3	GST 0% for item 3a,3b,4a & 4b.

<b>SI NO</b>	<b>Special Conditions</b>
1	<b>For item SI No 1 &amp; 3 -The taking away</b> works shall be done only for the cut trees / branches identified by the Engineer-in-charge areas in BHEL factory & township premisses wherever necessary.
2	<b>For items SL NO 2 &amp; 4 -The Cutting and taking away</b> works shall be done only for the trees / branches identified by the Engineer-in-charge areas in BHEL factory & township premisses wherever necessary.
3	The scope of the work includes cleaning of all wastage generated during the above operations and disposing them within a distance of 100m in the specified areas nearby as per the instruction of Engineer-in-charge. The rate shall also include cost of all labour, loading, leading to weighment and taking away to their destination, conveyance by contractor's own lorry for all distances etc. complete. Material to be taken away from BHEL area will be weighed and charged for each items as per quoted rates plus applicable <b>GST @ 18% (or) NIL</b>
4	EMD remitted will be retained as Caution deposit. If the contractor fails to remit the first instalment by the specified period, the caution deposit shall be forfeited. The default of contractor in remittance of 1 <sup>st</sup> instalment shall be construed as failure to execute the sale order/contract and actions shall be initiated as per the BHEL's Guidelines for Suspension of Business Dealings with Suppliers Contractors.
5	Circulating advance will be 10% of work order value. First circulating advance shall be paid within 15 days of release of sale order and the work is to be commenced on the same day. Consecutive circulating advance is to be recurred within every 45 days or less thereafter. If the contractor wants to pay early and execute the work early, he/she can complete the contract at the earliest.
6	If the consecutive instalments other than 1 <sup>st</sup> instalment are not remitted within the specified period, the particular instalment amount shall be paid along with interest at Repo rate + 4 % for the delayed period.
7	If circulating advance are defaulted for more than 90 days from the date of previous remittance, the caution deposit shall be forfeited. The default of contractor in remittance of instalment shall be construed as failure to execute the sale order/contract and actions shall be initiated as per the BHEL's Guidelines for Suspension of Business Dealings with Suppliers Contractors
8	The contractor shall approach for security witness and staff of weigh bridge with prior intimation to us for loading, weighment and taking away the wood with necessary gate passes.

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SI NO	Special Conditions
9	The sale order shall be executed between 06.00 Hrs. and 18.00 Hrs. on any working day, but the gate passes should be made ready with the materials to be taken away before 17.00 Hrs. on that particular day
10	To cater our emergency needs as and when required the contractor or his duly authorized agent shall be available at any time or shall inform his whereabouts for our urgent needs if necessary.
11	The contractor shall follow all safety regulations
12	The place of work may be at anywhere in BHEL Trichy premises and the weighment shall be done only at weigh bridge near East Gate and entry through East Gate. In case of any break down at east gate alternatively it will be weighed either at SSTP or at RPS.
13	Contractor should make his own arrangement for taking the items from the places as shown by us, loading, transporting, weighing and taking from our area and other connected activities including the debris clearance for the concerned areas thereof at contractor's own cost. In case of failure to do so, same shall be carried out by BHEL and the cost with additional penalty shall be recovered and adjusted against the advance
14	The item rates indicated in this list of items are only basic price. The <b>GST @18%</b> (or) <b>NIL</b> as applicable and any other taxes if any shall be paid by the contractor extra at the rates applicable from time to time. In case of concessional tax is applicable, it can be charged provided the required forms are submitted to BHEL. Also Income Tax at source at applicable rate with surcharge shall be collected and remitted to the Income Tax department and TCS shall be issued. In case of any exemption from TCS, same may be produced in Original for not collecting the Income Tax.
15	The rate quoted should be valid for a minimum period of 180 days from the due date of Tender opening. No bidder is permitted to withdraw their offer within the validity period of the tender or before finalization of the order. In such case EMD will be forfeited and bidder will be blacklisted.
16	The delivery of the material will be given only during General shift working hours on working days.
17	The buyer is not permitted to resell the material within BHEL premises. The buyer has to take delivery of the material by them.
18	All taxes due under provisions of local law as applicable at the time of collection and transportation of the materials shall be payable by the contractor.
19	BHEL shall not be responsible for any accident. Contractor shall provide all amenities to the workmen as per statutory requirement at their cost. Contractor should strictly follow the security, safety rules and regulations of BHEL.
20	BHEL reserves the right to withdraw from sale without assigning any reasons.