

**SECTION I**

**GENERAL TERMS AND CONDITIONS**

**1. DEFINITIONS:**

The following terms and expressions shall have the meaning hereby assigned to them, except where the context otherwise requires:

- 1.1 'BHEL' shall mean Bharat Heavy Electricals Limited, a Company registered under the Indian Companies Act, 1956 with its Registered Office at BHEL House, Siri Fort, New Delhi, Pin-110049 through its office at CSU & FP-Jagdishpur or its authorized Officers or its Engineers or other employees authorized to deal with any matters with which these persons are concerned on its behalf.
- 1.2 'CONTRACTOR' or 'FIRM' shall mean the individual, firm or Company who is enlisted with BHEL for providing the services and shall include their executors, administrators, successors and permitted assigns.
- 1.3 'CONTRACT' or 'CONTRACT DOCUMENT' shall mean and include guidelines and declarations of the registration, the General Terms & Conditions and Statutory Compliances, schedules of quantities, accepted appendices of rates, if any, technical specifications, special specifications, if any, Letter of Intent, agreement & the work order, issued by BHEL. Any conditions or terms stipulated by the bidder in the tender documents or subsequent letters shall not form part of the contract unless specifically accepted in writing by BHEL and incorporated in the work order.
- 1.4 'TENDER DOCUMENTS' shall mean Instruction to Tenderers, General Terms & Conditions, Special Terms & Conditions, Tender Specifications including drawings and all other documents issued to the bidder against invitation of bid.
- 1.5 'LETTER OF INTENT' shall mean the intimation by a letter / email / fax to the bidder that the tender has been accepted in accordance with provision contained in that letter. The responsibility of the contractor commences from the date of issue of this letter and all the terms and conditions of contract are applicable from this date.
- 1.6 'APPROVED, DIRECTED or INSTRUCTED' shall mean approved, directed or instructed by BHEL Shop Engineer / Shop- in-charge/ Concerned authorities.
- 1.7 'WORK' or 'CONTRACT WORK' shall mean and include the work to be done in relevant work category by the firm or as specified in the Tender documents.

**2. OFFICIAL SECRET ACT :**

The contractor shall give an undertaking under the official secret Act for maintaining secrecy of the drawings, documents or other records connected with the work given to them. The contractor shall return all the drawings/documents given to them.

**3. MODE OF COMMUNICATIONS:**

Generally, all communications, references etc. shall be delivered through email, fax or given to the authorized supervisor. It will be undertaken that the contractor has read and understood the message, within three days of the delivery, even if they have not received / not opened/ having technical





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problems on their side. Contractor shall communicate their change of authorized supervisor, email address in advance.

#### 4. SECURITIES:

##### 4.1 EARNEST MONEY DEPOSIT (EMD):

- 4.1.1 Offer should be accompanied with Earnest Money as specified in NIT through in the form of Demand Draft (DD). The DD shall be drawn in favor of "Bharat Heavy Electricals Limited" payable at Ind. Area Jagdishpur. The EMD shall not carry any interest.
- 4.1.2 The EMD of the successful bidder will be retained towards part of Security Deposit.
- 4.1.3 In case of unsuccessful bidder, the EMD will be refunded after finalization of the tender.
- 4.1.4 BHEL reserves the right of forfeiture of EMD, in case the successful bidder who:
  - a. After opening of tender revokes/ withdraws his tender within the validity period or revises/ alters his earlier quoted rates/ conditions.
  - b. Fails to communicate unqualified acceptance of Letter of Intent with in one week from the date of issue of letter of intent.
  - c. Fails to submit 50% of the total security deposit before start of work.
  - d. Fails to submit the work as may be indicated in the Letter of Intent.

##### 4.2 SECURITY DEPOSIT (SD):

- 4.2.1 Upon acceptance of tender, the successful bidder must deposit the required amount of Security Deposit (SD) after adjusting the amount of Earnest Money duly deposited with the tender, within the time specified in the letter of intent for satisfactory completion of work.
- 4.2.2 The total amount of Security Deposit shall be as follows:
  - a. In the of work costing upto Rs.10 Lakh: 10%
  - b. Above Rs.10 lakhs upto Rs. 50 Lakhs: 1 Lakh + 7.5% of the amount exceeding Rs. 10 Lakhs.
  - c. Above Rs.50 lakhs: Rs.4 Lakhs+5% of the amount exceeding Rs.50 Lakhs.
- 4.2.3 The full or 50 % Security Deposit calculated as above shall be deposited with in one week from the date of issue of letter of intent/order but before the start of work in any of the following forms:
  - a. Demand Draft in favor of "Bharat Heavy Electricals Limited" payable at SBI, IGFC Jagdishpur.
  - b. Bank Guarantee in the prescribed Performa of BHEL. Bank Guarantee from any one of the consortium banks of BHEL. Validity of the Bank Guarantee furnished towards Security Deposit shall be valid up to the period of completion of work as stipulated in the letter of intent plus 2 months claim period and the same will be kept valid by proper renewal till the satisfactory completion of the Guarantee Period. All charges for establishing and amending the BGs, if necessary, shall be to Contractor's account.



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c. Fixed Deposit Receipt issued by Scheduled Banks/ Public Financial Institutions as defined in the Companies Act. The FDR should be in the name of the contractor, A/C BHEL, duly discharged on the back.

4.2.3 If contractor has submitted 50 % of SD, Balance shall be recovered from running @ 10% of the value of each running bill commencing from first running bill itself till the full Security Deposit made up.

4.2.4 If the value of the work done at any time exceeds the accepted Contract Value, the Security Deposit shall be correspondingly enhanced and the extra Security Deposit shall be immediately deposited by the Contractor otherwise it shall be recovered from payments due to him. Failure to deposit the security Deposit within the stipulated time may lead to forfeiture of EMD and cancellation of the award of work. BHEL reserves the right of forfeiture of Security Deposit in addition to other claims and penalties in the event of Contractor's failure to fulfill any of the contractual obligations or in the event of termination of contract as per terms and conditions of the contract.

4.2.5 If the contractor fully performs and complete the works in all respect to the entire satisfaction of BHEL and returns properties belonging to BHEL taken, borrowed or hired by him for carrying out the said work, the full amount of Security Deposit will be released to the contractor after deducting all costs, expenses and other amounts that are to be paid to BHEL under this or other contracts entered into with the Contractor/ released prior to passing of final bill.

### 5. SUBMISSION OF OFFER / TENDER:

5.1. The bid is invited in either two part or single part as specified in NIT. In case of two part bid system offer shall be submitted as per following:

5.1.1. Part I: Techno-commercial Bid: Techno-commercial bid should be filled as per FORMAT-1 to this section and should contain documents in the same order as listed there.

5.1.2 Part II (Price Bid): Price bid should contain only Price Offer to be submitted strictly as per FORMAT-2 of Price Schedule given in the tender document (Refer Section III). The Price Bid not submitted as per Price Schedule may not be considered.

5.1.3. Part I and Part II Bids should be put in separately sealed envelopes and each envelope must be marked clearly as "Techno commercial Bid" or "Price Bid" as the case may be. NIT Number and bidder's name & address should also be clearly mentioned on these envelopes. These two envelopes must be put in a bigger envelope and sealed properly. Top of the outer cover/envelope should contain following information:

- a. Tender Enquiry No. & Title of Work
- b. Bid Opening date & time
- c. Address/Venue of Bid Submission
- d. Bidder's Name & Address

Techno-commercial bid and price bid should be submitted in separate sealed envelopes. In case the bids are found in one single envelope then the "bids" are liable to be rejected.

5.1.4. In case of single part bid system, Techno-commercial bid and price bid should be submitted in single sealed envelope.

5.1.5 All papers/documents should be ink signed and rubber stamped by the bidder.

- 5.2 The bidder shall quote the rates in English Language using international numerals. These rates shall be entered in figures as well as in words. For the purpose of the tender, the metric system of units shall be used.
- 5.3 All entries in the tender shall either be typed or be written in ink. Overwriting or cutting is not acceptable.
- 5.4 The tender shall be submitted on or before the time & date specified in NIT & shall be dropped into tender box as specified in NIT.
- 5.5 Tenders can be submitted personally/courier/post. The tenders received after the due date and time of submission will be rejected.
- 5.6 Tenders shall be opened by authorized officers of BHEL at the above mentioned address at the time and date specified in the NIT in the presence of such of those bidders or their authorized representative who may like to be present.
- 5.7 The offers should be strictly in accordance with the tender specifications & General Instructions to the bidder. Should the bidder require any clarification on the tender specification, or is interested in offering any deviation from the tender specification, he shall contact the authority inviting the tender for clarification before submission of the tender. No deviation w.r.t. terms & conditions of the tender are acceptable.
- 5.8 If there are varying or conflicting provisions made in any one document forming part of the contract, the Accepting Authority shall be the deciding authority with regard to the intention of the document.
- 5.9 Before tendering, the bidder is advised to inspect the site of work and the environments and be acquainted with the actual working and other prevalent conditions, facilities available etc. No claim will be entertained later on grounds of lack of knowledge.
- 5.10 Validity of Offers: The offer should be valid at least for a period of **90 days** from the date of opening of tender. In case Bharat Heavy Electricals Limited (BHEL) calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the original offer, which shall be binding, on the bidder. All expenses for attending such negotiations are to be borne by the bidder.
- 5.11 The acceptance of tender will rest with BHEL which does not bind itself to accept the lowest tender or any tender and reserves to itself full rights to reject any or all the tenders.
- 5.12 Conditional and unsigned tenders, tenders containing absurd or unworkable rates and amounts, tenders which are incomplete or otherwise considered defective and tenders not in accordance with the tender conditions, specifications, etc., are liable to be rejected.
- 5.13 If the bidder 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 moneys due.
- 5.14 Canvassing in any form in connection with the tender is strictly prohibited and the tenders submitted by the Bidder who resorts to canvassing are liable to be rejected.
- 5.15 In case of non-conformities/errors/discrepancies are observed between the quoted prices in figures and that in words, following guidelines shall be followed:

(a) If, in the price structure quoted for the required goods / services / works, there is discrepancy between the unit price and the total price (which is obtained by multiplying the unit price by the quantity), the unit price shall prevail and the total price corrected accordingly. Unless in the opinion of the purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price corrected accordingly.

(b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected and

(c) If there is a discrepancy between words and figures, the amount in words shall prevail unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject of (a) and (b) above.

(d) If there is such discrepancy in an offer the same shall be conveyed to the bidder with target date upto which the bidder has to send his acceptance on the above lines and if the bidder does not agree to the decision of the purchaser, the bid is liable to be ignored.

5.16 BHEL reserve the right to accept or reject any of the bid/all bids or cancel/withdraw the invitation for bid without assigning any reason whatsoever and in such case no bidder/intending bidders shall have any claim arising out of such action by BHEL.

5.17 BHEL can accept/reject any or all tenders fully or partly, reduce/increase quantum of work without assigning any reasons thereof.

## 6. SIGNING OF TENDER DOCUMENTS

The tenderer shall furnish following, duly enclosing documents relating thereto:-

a) 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.

b) Power of Attorney: An attested copy of the Power of Attorney, in case an individual other than the sole proprietor signs the tender shall be submitted along with the tenders.

c) In case of an Individual, full name, address, place & nature of business and license relating to.

d) In case of Partnership Firms: The names of all the partners and their address. A copy of the partnership deed/instrument of partnership duly certified by the Notary Public shall be enclosed. The tender must be signed by all the partners of the firm or by the managing partner who has power to do.

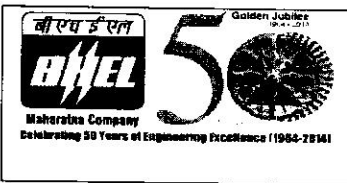
BHEL will not be bound by any other power of attorney granted or the change in composition of the firm made after the execution of the contract agreement. They may, however, recognize such power of attorney or change in status only after legal advice.

## 7. PRICE SCHEDULE (PRICE BID):

7.1 Rate should be quoted strictly as per prescribed Price Schedule.

7.2 The rate quoted by bidder is inclusive of all duties, taxes, fees, octroi, and other levies material, labor etc. except Service Tax which shall be reimbursed to the contractor on actual against documentary proof.





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- 7.3 Prices shall remain firm and no variation what so ever shall be allowed. The bidder is required to take into consideration of cost of wages, material and equipments, PPEs, uniform, shoes and other consumables and their price fluctuations in the prices of these after the submission of bid and during the period of contract before submission of bid.

### 8. EVALUATION OF OFFERS

- 8.1 Technical-cum-Commercial Bid (Part-I) shall be opened first on due date specified in NIT.
- 8.2 The bidders shall be evaluated as per qualifying requirements mentioned in the tender documents.
- 8.3 Price Bid (Part-II) shall be opened only of Technical-cum-Commercial qualified bidder.
- 8.4 The bidder shall submit complete price of the package. Total price of the package (Price Schedule) shall be compared for purpose of arriving at L1.
- 8.5 Evaluation of the offer will be strictly based on the information submitted by the bidder. In view of this the bidder is requested to go through tender document carefully and furnish all details clearly. Missing information may not be asked by BHEL.
- 8.6 In case of tie between two or more than two bidders for L1 price. Bids shall be called for discount on price offered in sealed envelope from all the L1 bidders.
- 8.7 BHEL reserve the right to split the work in two or more vendors.
- 8.8 BHEL reserves its right to negotiate with the Bidder and/ or go for Reverse Auction (RA).

### 9. REVERSE AUCTION:

- 9.1 BHEL may go for Reverse Auction (on line bidding on Internet) instead of opening the submitted sealed price bid. The decision to go for Reverse Auction will be taken after techno-commercial evaluation. Only technically and commercially acceptable bidders shall be eligible to participate in reverse auction. Information and general terms and conditions governing RA shall be communicated to technically and commercially acceptable bidders.
- 9.2 In case BHEL decides not to go for Reverse Auction procedure for this tender enquiry, the Price bids already submitted and available with BHEL shall be opened as per BHEL's standard practice.

### 10. CONTRACT AGREEMENT

The successful bidder (Contractor) has to make an agreement with BHEL in the format prescribed by BHEL on Rs. 100/- Non-Judicial Stamp Paper at his own cost.

### 11. TERMS OF PAYMENT:

- 11.1 As per Special Terms & conditions attached.
- 11.2 All payments shall be released through electronic-pay mode only.
- 11.3 BHEL shall be releasing payments against the work order after deduction of income tax at source (TDS) as per requirement of income tax rules and BHEL will issue appropriate certificates in this regard.
- 11.4 Service tax, if applicable, shall be paid, as per Govt. rules, to the contractor against running actual, on documentary evidence. The Service tax shall be paid extra and over the quoted



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rate.

- 11.5 No interest shall be payable by BHEL on Earnest Money, Security Deposit or on any money due to the firm by BHEL.
- 11.6 Firm shall arrange his own finance for smooth execution of contract, wages payment, other statutory payments to his employees and all other agreed conditions.
- 11.7 Normally, payment shall be made within 45 days of receipt of bill at BHEL.

### 12. PENALTY :

The Contractor shall commence testing within 48 hrs of intimation from BHEL, failing which; penalty shall be imposed for each call. If the contractor fails to commence test on stipulated time the penalty shall be 1.0% of the call amount for the delay per day or part thereof subject to maximum of 10 % of the total order value.

The decision of General Manager (or any official appointed by him) on the extent of penalty shall be final and binding on contractor.

### 13. SAFETY AND OCCUPATIONAL HEALTH:

The contractor has to assume full responsibility of the safety of the vehicles/ equipments, crew and to comply with the security/ safety regulations of BHEL and Government, as applicable, inside the BHEL factory. The contractor is required to keep and maintain first aid box at work place at his own cost.

### 14. FORCE MAJEURE:

Notwithstanding anything contained in this Contract, neither the Contractor and nor the BHEL shall be held responsible for total or partial non execution of any of the contractual obligations, should the obligation be made impossible due to concurrence of a Force Majeure which will include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotion's, insurgency, sabotage, act of public enemy, acts of god, epidemics and act of Govt. over which the Supplier or BHEL has no control.

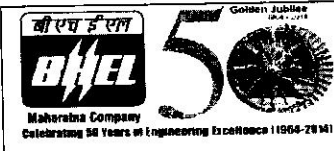
### 15. ARBITRATION:

All disputes arising in connection with the contract shall be settled by mutual consultation. If no agreement is reached the dispute shall be settled in accordance with Arbitration and conciliation Act, 1996 and the rules made there under. The dispute shall be referred for arbitration to any arbitrator to be appointed by the General Manager. The award of the arbitrator shall be final and binding on both the parties. The venue of the Arbitration shall be at Sultanpur, India. The Award to be given by the Arbitration shall be a speaking award. All questions, disputes, differences arising under, out of or in connection with this contract shall be to the exclusive jurisdiction of Sultanpur court.

### 16. RIGHTS OF BHEL :

BHEL reserves to itself, the following rights without entitling the Contractor to any compensation. Resorting to any, some, all of the actions like Contract termination, recovering the dues/ losses from the Security Deposit and the contract amount, forfeiting the Security Deposit, getting the work done through other agencies at the cost of the contractor, cancellation of registration, banning the business with BHEL etc., in any event of the followings:

- a) Contractor's repeated poor performance, withdrawal from or abandonment of the work, except in force majeure conditions.
- b) Serious lapse in performance, Persistence disregard of the BHEL instructions.
- c) Insolvency of the contractor.
- d) Assignment, transfer, subletting of the contract work without BHEL's written permission.



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e) Non-fulfilment of any contractual obligations or obligations under the law.

### 17. ABANDONING OF WORK:

If the Contractor fails to perform/execute the work within time or fail to perform as per the specification prescribed in tender or acted in violation to prescribed terms and conditions, BHEL shall be entitled to terminate the Contract and take recourse to alternate source to get the work done at the risk and cost of the Contractor. In such case Contractor shall make good the loss to

BHEL. BHEL shall be entitled to recover the difference in cost, if any incurred by BHEL due to getting the work done from alternate source. However, in such case Contractor shall not be entitled for any gain.

### 18. TERMINATION

This contract may be terminated at any time without paying any compensation whatsoever to the Contractor in case of misbehaviour, disobedience, dishonesty, clandestine insolvency, any court order or any other related activities on their part or their failure to fulfil the terms and conditions of this contract or agreement.

BHEL reserves the right to terminate contract awarded for any contravention of statutory provision or any other reasons without assigning any explanation or notice to the contractor.

### 19. EXTENSION

The contract may be extended as per BHEL's policy on mutual agreement of BHEL and the contractor.

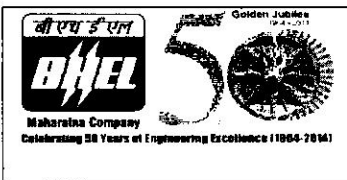
### 20. PREFERENCES FOR MSMEs:

Following preferences/benefits shall be given to MSEs in line with Public procurement policy for Micro and Small Enterprises (MSEs), 2012:

- a. The tender documents shall be issued free of cost to MSEs.
- b. MSEs are exempted from payment of Earnest Money Deposit (EMD).
- c. In tender, Micro and Small Enterprises quoting within the price band of L1+15% shall be allowed to supply the requirement up to 20% of the tender quantity subject to condition that such Enterprises bring down their price to L1 price where L1 price is from other than a Micro and Small Enterprise. If L1 offer is from a Micro / Small Enterprise, this provision will not be applicable. In case more than one Micro and Small Enterprise is there within this span, the supply shall be shared proportionate to the tender quantity. (70:30 or 50:30:20 of the eligible quantity).

Note: Special provision for Micro and small enterprises owned by SC or ST: -

Sub target of 20% (i.e. 4% out of 20%) would be earmarked for procurement from Micro and Small Enterprises owned by the Scheduled Caste or Scheduled Tribe Entrepreneurs provided that in event of failure of such Micro and Small Enterprises to participate in the tender process or meet



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the tender requirements and the L1 price, the 4% sub-target for procurement ear-marked MSE owned by Scheduled Caste or Scheduled Tribe Entrepreneurs shall be met from other MSE Enterprises/s.

MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM II certificate having deemed validity (five years from the date of issue of acknowledgement in EM II) or valid NSIC certificate or EM II certificate along with attested copy of a CA certificate (Format enclosed at Annexure -1 where deemed validity of EM II certificate of five years has expired) applicable for the relevant financial year (latest audited). Date to be reckoned for determining the deemed validity will be the date of bid opening (Part 1 in case of two part bid). Non submission of such documents will lead to consideration of their bid at par with other bidders. No benefit shall be applicable for this enquiry if any deficiency in the above required documents is not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer.

In case of any change in the MSE status of the Bidder, it shall be the responsibility of the Bidder to notify the change as a part of the Bid document. If at a later date it comes to the knowledge of BHEL, that the change in the status has not been intimated by the Bidder and the order is obtained under the premise of an MSE then BHEL would cancel the pending order against this tender and take necessary steps for suspension of the business dealing with the Bidder as per the procurement policy of BHEL.

In case after the bid opening it is seen that no MSE has become L1, then depending on the nature of the item, if it is not possible to split the tendered items / quantities on account of reasons like customer contract requirements of supplying one make for a given project or technical reasons like the tendered item being a system etc. then BHEL would not counter offer the L1 prices even though there may be MSE bidders within the +15% band of L1.

### **21. TERMS & CONDITIONS FOR CONTRACTORS FOR DEPLOYMENT OF CONTRACT LABORERS UNDER SERVICE OR WORKS CONTRACT**

#### **21.1 LABOUR LICENCE AND OTHER REQUIREMENTS**

21.1.1 Contractor should possess Labour license in case of contractors working in BHEL CSU & FP Jagdishpur and deploying 20 or more labours on any day, from the Appropriate Government (Central Govt.) for carrying out the various activities mentioned in the contract document.

21.1.2 The contractor shall deploy such number of workers in the premises of BHEL CSU & FP Jagdishpur, as required for completion of the contract. The workers such deployed shall be his own workers.

21.1.3 In case the number of labour deployed by the contractor in premises of BHEL CSU & FP Jagdishpur exceeds the number of labour allowed in the license then the contractor shall immediately inform the HR and concerned department. The contractor shall also apply to the licensing officer in the region for amendment in the license within 7 days of exceeding the number of labours mentioned in the license.

21.1.4 Labour license and other requirement in case of contractors NOT working in BHEL CSU & FP Jagdishpur or has less than 20 workers on his rolls: