



**BHARAT HEAVY ELECTRICALS LIMITED
HEEP HARIDWAR INDIA-PIN 249403
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Tender No: 67Q/NIT/E/E243/2015/6105/Q1

Due Date: 08.06.2016

Sub: BHEL-HEEP/OPEN-TENDER (Differential Pressure Regulator & Equalising Valve)

Dear Sir

The Heavy Electricals Equipment Plant (HEEP) located at Haridwar, India is one of the major manufacturing plants of Bharat Heavy Electricals Ltd. The core business of HEEP includes design and manufacture of large steam and gas turbines, turbo generators and so on.

Sealed tenders, with the **Tender No.** and **opening date** clearly super scribed on the cover (refer ANNEXURE-C) are invited from manufacturers (registered as well as unregistered) for the supply of the following items.

Tender No	Item Description	Qty (Nos.)
67Q/NIT/E/E243/2015/6105/Q1	Equalising Valve, Drawing no. 41493601061 REV:02, Size: NB50, Material code: W90414902572	06
	Differential Pressure Regulator, Spec no. TG60662 REV:01, Size: NB65, PN16, Material code: W90414905474	05

The tender documents can be downloaded from our web site www.bhel.com or www.bhelhwr.co.in or www.tenders.gov.in or <http://eprocure.gov.in> and to be submitted with requisite EMD and tender fee. Relevant specifications & drawings of the above items could be made available prior to due date against copy of NDA & proof of draft of the tender fee in favor of BHEL, Haridwar, however, originals must be submitted with Part-I. **Only those vendors who fulfill the Minimum/Pre Qualifying Requirements & Quality Requirements (as per Annexure-A) will be considered for further technical evaluation.**

This notification shall be published in Indian Newspaper. **The last date for taking tender documents shall be 07.06.2016 & opening of each tender shall be 08.06.2016.** Tenders will be received up to 1:45 PM on **08.06.2016** and opened on the same day at 2:00 PM in the Tender Room. **Please note that tender received after due date & time (1.45 PM on 08.06.2016) will not be opened.** BHEL will not be responsible for any type of postal / courier delay.

Interested vendors must remit the tender fee of Rs. 2,000/- for indigenous vendors (Rupees Two Thousand or equivalent amount in foreign currency for foreign vendors) against each tender along with the requisite EMD Rs. 1,50,000/- (One Lac fifty thousand or equivalent amount in foreign currency for foreign vendors) in the form of bank draft while submitting the tender documents as detailed in **“GENERAL TERMS & CONDITIONS” (ANNEXURE-B)**, after downloading from either of these web sites. Tender fee will be applicable if hardcopy of documents is provided on vendor’s demand. As per BHEL practice, we provide soft copy of documents and in such cases no tender fee will be applicable. Estimated value of tender is approximately **Rs 75 Lacs**.

- **The tenders shall be submitted in two parts, as described below, on or before the due date. (Refer Annexure-C for bid composition and marking of envelope)**
 - **Part I – EMD, Tender Fee, Pre-qualification requirement (PQR), NDA & Techno -Commercial Bid along with Annexure-D**
 - **Part II – Price Bid**
- **(Refer Annexure-C for bid composition and marking of envelope, bids not in line with this will not be considered)**

- **Relevant specifications & drawings** of the above items will be made available only *against copy of NDA & proof of draft of the tender fee in favor of BHEL, Haridwar*, however, originals must be submitted with Part-I. Other cross referred documents can either be physically collected from BHEL, Haridwar or can be obtained by email hariom@bhelhwr.co.in , bhojraj@bhelhwr.co.in or nandalal@bhelhwr.co.in against proof of draft of the tender fee in favor of BHEL, Haridwar. This Tender fee draft & NDA are to be submitted along with Part-I (Techno-commercial) bid. Amendments/Corrigendum, if any, will be hosted on our web site only. Other terms and conditions will be as per tender documents.
- **The total quantity may undergo change at the time of ordering.** The details of each item with required deliveries are given in **ANNEXURE-E (Details of Items)**

PRICE BIDS SHALL BE OPENED OF THOSE VENDORS ONLY WHO SHALL SUBMIT EMD AND TENDER FEE (ENVELOP A). [Please submit separate drafts for EMD and tender fee drawn in favor of BHEL, Haridwar in envelope (called A) super-scribed with bold letters "EMD & Tender Fee" to be submitted with Part-I bid before 1:45 PM on the due date]. The authorized representative should bring authority letter from their parent company (Manufacturer) for attending the bid opening.

KINDLY FOLLOW "GENERAL TERMS & CONDITIONS" (ANNEXURE-B).

REFERENCE

PRE-QUALIFYING REQUIREMENT & QUALITY REQUIREMENTS	ANNEXURE-A	PAGE – (3-5)
GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS	ANNEXURE-B	PAGE – (6-21)
COMPOSITION OF BIDS & MARKING OF ENVELOPE	ANNEXURE-C	PAGE – (22-23)
TECHNO-COMMERCIAL T & C	ANNEXURE-D	PAGE – (24-27)
DELIVERY REQUIREMENT	ANNEXURE-E	PAGE –(28)
QUALITY PLAN FORMAT		PAGE – (29)
NON-DISCLOSURE AGREEMENT (NDA) FORMAT		Attached separately

Annexure-A**Mandatory Pre-Qualification requirements for Equalizing Valve, Material Code W90414902572; Drg. No. 41493601061**

- 1.0** The Equalizing Valve is used in the Seal oil skid for hydrogen cooled generators. Equalizing Valve is utilized for maintaining the seal oil pressure at a constant differential to the Hydrogen gas pressure. It should be of very reliable and proven design to maintain the required seal parameters under all conditions, so that hydrogen gas cannot escape.
- 2.0** The vendor should be a regular manufacturer/authorized supplier of Equalizing Valve and should have manufactured/supplied Equalizing Valve for above mentioned application of at least NB50; PN16; Flow rate 0-1.58dm³/sec. during the past 3 years, with at least 10 nos. over this period.
- 3.0** In support of above, vendor shall furnish their credential list, as per the following format:

S. No.	Size (NB) & NP	Brief technical details	Application	Name & address of customer	Year of supply
		For Equalizing Valve: <ul style="list-style-type: none"> • Flow rate • DP range 			

- 4.0** Test certificate shall be submitted of valve testing as per VD1/VDE2174 for any of the PO's executed under clause 2.0 above.
- 5.0** Acceptance certificate is required from one of the vendor's customer of Equalizing Valve supplied to them (Original Certificate or through e-mail directly from the customer). Acceptance certificate should contain information like item details and its application.
- 6.0** BHEL reserves the right to verify information submitted by vendor. In case the information is found to be false / incorrect, the offer shall be rejected.
- 7.0** Vendors to confirm specific compliance of clause 2.0, 3.0, 4.0 and 5.0, else offer will not be considered.

**Mandatory Pre-Qualification requirements for Differential Pressure
Regulating Valve, Material Code W90414905474, SPEC. TG60662**

- 1.0 The DPR is used in the Seal oil skid for hydrogen cooled generators. DPR is utilized for regulating the seal oil pressure being supplied to shaft seals in relation to gas pressure in generator keeping a constant differential pressure between seal oil and gas under all regimes of operation. It should be of very reliable and proven design to maintain the required seal parameters under all conditions, so that hydrogen gas cannot escape
- 2.0 The vendor should be a regular manufacturer/authorized supplier of such items and should have manufactured/supplied DPR's for above mentioned application of size NB65; PN16; Flow coefficient 50, during the past 3 years, with at least 10 nos. over this period.
- 3.0 In support of above, vendor shall furnish their credential list, as per the following format:

S. No.	Size (NB) & NP	Brief technical details	Application	Name & address of customer	Year of supply
		-DP range -Flow coefficient (Kvs)			

- 4.0 Test certificates for hydraulic/leakage/functional test as per relevant standard shall be submitted for any of the PO's executed under clause 2.0.
- 5.0 Acceptance certificate is required from one of the vendor's customer of DPR supplied to them (Original Certificate or through e-mail directly from the customer). Acceptance certificate should contain information like item details and its application.
- 6.0 BHEL reserves the right to verify information submitted by vendor. In case the information is found to be false / incorrect, the offer shall be rejected.
- 7.0 Vendors to confirm specific compliance to clause 2.0, 3.0, 4.0 and 5.0, else offer will not be considered.

QUALITY REQUIREMENTS FOR OPEN TENDER

Quality Requirements for open tender enquiry are as below:-

- (i) Vendor to submit quality plan in enclosed QP format for BHEL approval.
- (ii) In case of indigenous vendors, 'Inspection by BHEL nominated inspection agency SGS as per BHEL approved QP'.
- (iii) In case of foreign vendors, 'Inspection by third party inspection agency (LRS/TUV/BV) as per BHEL approved QP'.
- (iv) Scope of inspection agency will be witnessing of hydraulic test, seat leakage test & performance test and review of remaining test certificates including material test certificates as called in ordering specification/drawing.

*Vendors must fulfill above quality requirements for ordering in addition to above **Minimum Qualifying Requirements**.*



BHARAT HEAVY ELECTRICALS LIMITED

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General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)
For Indian Bidders (Version April-2016)

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1. GENERAL.

These general terms & conditions shall apply to all the Tender Enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd., HEEP, Haridwar (hereinafter referred to as BHEL or the Purchaser).

2. ORIGIN OF QUOTATION.

- a) The quotation should preferably be from the principal bidder. However tender specific authorized registered dealer/agent can also submit the bid on their behalf, failing which the quotation is liable to be ignored. BHEL prefers to deal directly with the principal manufacturers.
- b) An agent cannot quote on behalf of more than one principal in the same Tender Enquiry.

3. SUBMISSION OF TENDER.

- a) Bid/Quotation must be enclosed in sealed cover on which tender enquiry number and the due date MUST BE written and be invariably sent under REGISTERED POST / SPEED POST / COURIER/Dropped in the Tender Box: addressed as follows:-

Quotation Against Enquiry No. _____

Dated: _____

Due on: _____

To,
THE HEAD OF MATERIAL MANAGEMENT,
Heavy Electrical Equipment Plant,
Bharat Heavy Electricals Limited,
HARIDWAR-249403 (Uttarakhand), INDIA.

- b) In case of Three/Two Part Bid, technical bid containing technical offer, duly signed; and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.
- c) The bid/quotation must be posted before due date, keeping allowance for postal transit time. Alternatively, the tenders duly sealed and super-scribed as above may be deposited in the Tender Box. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer/bid shall be signed and stamped in each page by authorized representative of the bidder.
- d) Any additional documents submitted by supplier/bidder, during processing of registration application / tender or after placement of order shall not be accepted unless it is submitted with forwarding letter and duly signed and stamped as mentioned above in clause c.



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- e) The bids of the bidders who are on the banned list and also the bids of the bidders, who engage the services of the banned firms, shall be rejected. The cutting/overwriting in the bid/offer must be duly attested by the signatories to the bid. The list of firms banned by BHEL is available on BHEL web site www.bhel.com.
- f) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion such PMD vendor from BHEL's approved vendor list.
- g) The bidders will submit Integrity Pact, duly signed by its authorized signatory, along with their bids wherever estimated tender value is Rs. 5 Crore or more.
- h) In case of open tender, the unregistered bidder shall submit inter alia duly filled-in Supplier Registration Form (SRF) along with the bid. Bidders can download the SRF from www.bhel.com
- i) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL can also consider awarding of part of the tendered quantity to other than L-1 bidder at L1 counter offered rates, if the quantity offered by the L-1 bidder is less than the quantity tendered for.

4. TENDER OPENING.

Tender opening is scheduled to start in the Tender Room at 2:00 PM, on the due date. Therefore bid/quotations must reach this office / tender Box latest by 1:45 PM on due date. Only participating bidders are allowed to attend tender opening. TENDERS RECEIVED AFTER THE SPECIFIED TIME OF THEIR 'SUBMISSION' WILL BE TREATED AS LATE TENDERS AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES. The bidders or their authorized representatives may be allowed to attend tender opening if duly authorized by their principals, through a tender specific letter, for price bid opening on that particular day. General authorization letter is not acceptable.

5. SPECIFICATION, DRAWINGS & STANDARD.

- a) Bidders must give their detailed specification in the quotation along with relevant technical literature/catalogue etc. against the tender enquiry.
- b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry. If these documents are not furnished, the offer is liable to be rejected.
- c) Wherever national/international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.
- d) All Drawings and Standards are proprietary of BHEL. It must not be used in anyway detrimental to the interest of the company.

6. PRICE SCHEDULE.

- a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.
- b) Prices quoted should not be more than the prices quoted to any other BHEL units/offices/divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid. In case no order has been placed on such items, specific confirmation that no order has been placed on such items should be provided.
- c) Prices should be quoted on F.O.R. Destination basis. Transit insurance shall be arranged by BHEL and not to be included in the prices. The offers quoted on other than F.O.R destination basis may result in non consideration of such bids.
- d) In case BHEL accepts the EX-Works prices such offers will be loaded by 1.5% of EX-Works value towards freight or with actual freight charges as per BHEL freight rate contract whichever is higher.



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<p>e) In case of Indigenous items covered by DGS & D Rate Contract, the bidders should submit latest valid copy of the rate contract along with bid / quotation</p> <p>f) Applicable Sales Tax, Excise Duty and any other statutory levy should be indicated separately and clearly in the bid/quotation.</p> <p>g) Bidders can despatch goods through any Indian Bank Association approved transporters having their branch at HARIDWAR/destination. If material is despatched through other than Indian Bank Association approved transporter, material to be delivered on door delivery BHEL Stores basis.</p> <p>h) In case of despatch of material through any other unapproved transporter, payment shall be made only after receipt of material and any additional charges payable to the transporter shall be to the bidder's account.</p> <p>i) No demurrage/ godown rent will be payable to the vendor / vendor's transporter for any delay in payments attributable to the vendor.</p>	<p>8. DELIVERY TERMS.</p> <p>a) Goods shall be delivered on 'FOR Destination' basis to the named destination unless otherwise called for in the tender enquiry.</p> <p>b) Loading on account of 3rd party inspection charges in case of Indian bidders shall be 0.20%.</p>
<p>7. REVERSE AUCTION.</p> <p>a) BHEL reserves the right to go for Reverse Auction (RA) instead of opening the sealed envelope price bid, submitted by the bidder. This will be decided after Techno-Commercial Evaluation. All bidders to give their acceptance for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids, in case BHEL decides for RA. Detailed guidelines available at our site www.bhel.com</p> <p>b) In case BHEL decides to go for Reverse Auction, only those bidders who have given their acceptance to participate in RA will be allowed to participate in the Reverse Auction. Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'online sealed bid' in the Reverse Auction. Non-Submission of 'online sealed bid' by the bidder will be considered as tempering of the tender process and will invite action by BHEL as per extant guidelines in vogue.</p>	<p>9. PENALTY FOR LATE DELIVERY.</p> <p>a) Date of delivery will be considered as per the delivery terms mentioned in the Purchase Order. Penalty will be applicable on total order value @0.5% per week or part thereof subject to maximum of 10% of the PO value unless otherwise specified in Special Conditions of tender enquiry. Acceptance / Non Acceptance of this CONDITION must be specifically mentioned in your quotation. Any deviation from this will be loaded accordingly i.e. BHEL shall load maximum penalty under penalty for late delivery Clause, to the extent the same is not agreed by the bidder, for the purpose of evaluation.</p> <p>b) Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.</p> <p>c) Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.</p> <p>d) Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.</p> <p>e) DELIVERY IN CASE OF REJECTION: In case the material is rejected, then date of replacement will be considered as the actual date of delivery.</p> <p>f) DELIVERY AGAINST BANK DOCUMENTS: In case payment terms quoted by bidder are documents through bank, and the delivery terms being "FOR Haridwar/FOR Transporter Godown", then date of delivery will be date of intimation by transporter/bidder of delivery of material at Haridwar for the penalty purpose.</p>



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g) Where the payments are through bank, the documents may be presented for negotiation to BHEL authorized/nominated bank.

10. PAYMENT TERMS.

- a) BHEL's standard payment term is Payment After Receipt and Acceptance of Material/Item at HEEP, BHEL-Store or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.
- b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.
- c) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.

11. TAXES & DUTIES.

- a) If PAN (Permanent Account Number) of the recipient is not available, tax is deductible either at the normal rate or at the rate of 20 percent, whichever is higher. As per Section 206AA of Indian Income Tax Act 1961.
- b) The bidder shall clearly indicate extent of taxes as applicable in his technical bid.
- c) All forms as required by Law to avail concessional tax benefits are to be submitted within the stipulated time. BHEL reserves the right to withhold the payment due to the bidder or deduct the payment equivalent to additional tax and other liability on BHEL due to non/late submission of above forms.
- d) Bidder to quote place from where supply of goods is expected, to evaluate us applicable Value Added Tax input credit. Any subsequent changes in this may affect availability of input credit to BHEL; the same will be on bidder's account.
- e) In case of intra-state sale, bidder to ensure quoting TIN Number of BHEL applicable in the state of transaction and same should be asked by bidder in time.
- f) Rate of Excise Duty, CST/VAT and Service Tax must be indicated in offer even if it is inclusive.

g) Taxes & duties as applicable at the time of supply shall be payable.

h) IMPORTED GOODS OFFERED BY INDIAN BIDDERS AGAINST DEALER INVOICE: Wherever the material being offered is imported, bidder must quote the prices inclusive of CVD. The rate & value of CVD as included in the price must be indicated separately. In case quantum of CVD is not mentioned by the bidder the same will not be considered for evaluation. However bidder will have to pass on the benefit of CVD to BHEL at the time of actual supply.

12. BANK GUARANTEE.

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of this tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branch of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website www.bhelhwr.co.in. However, in case the bank guarantee is not from BHEL consortium banks, then the bidder has to get the bank guarantee confirmed from one of the Indian branch of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

13. GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS.

a) Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 12 months from the date of receipt. If the delivery is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) (FOR - BHEL Stores / designated destination basis) (Contd.--)



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(-- Contd.) within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate, including Repair / Replenish rejected goods & disposal of rejections, at the risk & cost of the Seller. In case the defects attributable to Seller are detected during processing of the goods at BHEL or our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.

- b) **RETURN OF REJECTED MATERIAL FOR REPLACEMENT:** The bidder shall have to pay 5% incidental charges while taking back supplied material if it is found rejected on receipt. The rejected material shall be sent back only after receipt of replacement / submission of BG/refund of amount paid.

14. QUALITY REQUIREMENT.

Your bid/quotation should have specific confirmation regarding meeting all our quality requirements such as. (i) Test Certificate (TC), (ii) Guarantee Certificate (GC) / Warranty Certificate (WC), (iii) Quality Plan (QP) (if applicable); and (iv) Pre-Dispatch Inspection at your works (if applicable).

15. VALIDITY.

The quotation should be valid for a minimum period of 90 days effective from the date of opening of tender, unless otherwise specified in the tender enquiry.

16. RIGHT OF ACCEPTANCE.

- a) BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR reserves the right to reject any or all the bids/quotations without assigning any reason thereof. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.
- b) Any discount/revised offer/bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer/bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.

- c) Unsolicited discounts/revised offers/bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.

- d) In case of changes in scope and/or technical specification and/or commercial terms & conditions having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for, then latest price bid shall prevail. However in both situations, original price bid will be necessarily opened.

- e) The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.

- f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.

17. TRANSIT INSURANCE.

- a) Transit Insurance will be covered by BHEL under its open Marine Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR/GR/BL/AWB, Invoice value etc.) to "Finance department (Store bill Section), BHEL Ranipur Haridwar (Uttarakhand -India) with value of consignment to the Purchaser within 07 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages / losses suffered by the Purchaser.

- b) If Quoted Prices are inclusive of transit insurance, no weightage shall be given while evaluating the bids for Cost of Insurance, being in BHEL Scope.



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18. RISK PURCHASE.

In case of abnormal delays (beyond the maximum late delivery period as per Penalty clause) in supplies / defective supplies or non-fulfillment of any other terms and conditions given in Purchase Order, BHEL may cancel the Purchase Order in full or part thereof, and may also make the purchase of such material from elsewhere / alternative source at the risk and cost of the supplier. BHEL will take all reasonable steps to get the material from alternate source at optimum cost. If bidder does not agree to the above Risk Purchase Clause, BHEL reserves the right to reject the offer. In case for compelling reasons BHEL accepts the offer without acceptance of this clause by the bidder and in the eventuality of Risk Purchase, appropriate action will be taken as per BHEL extant rules. This will be without prejudice to any other right of BHEL under the contract.

19. FORCE MAJEURE CLAUSE.

- a) Either party shall be entitled to suspend/cancel performance of his obligations under the contract without any cost to the other party, to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: fire, war, flood, riots, earthquake, any other act of God, change in Government Policies, terrorist attack etc. or any other circumstances beyond the control of either party which inter alia include cancellation, suspension of order by end customer due to Force Majeure conditions.
- b) The party claiming to be affected by force majeure shall notify the other party in writing immediately without delay on the intervention and on the cessation of such circumstances.
- c) Regardless of what might otherwise follow from these general conditions, either party shall be entitled to terminate the contract by notice in writing to the other party if performance of the contract remains suspended under Clause Force Majeure for more than six months.

20. NON-DISCLOSURE AGREEMENT.

All Drawing and Technical Documents relating to the product or it's manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the submitting party. Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. Patterns supplied by BHEL will remain BHEL's property which shall be returned by the bidder on demand to BHEL. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others. BHEL reserves the right to claim damages from the bidder, or take appropriate penal action as deemed fit against the bidder, for any infringement of the provisions contained herein.

21. SETTLEMENT OF DISPUTES/ARBITRATION.

In all cases of dispute the matter shall be referred for ARBITRATION by sole arbitrator to be appointed by the Unit Head of Bharat Heavy Electricals Ltd., at HARIDWAR. The award of the Arbitrator shall be final and binding on both the parties. The place of Arbitration shall be Haridwar.

JURISDICTION: The courts of Haridwar, India, shall have exclusive jurisdiction.

22. WHARFAGE / DEMURRAGE RESPONSIBILITY.

In the event of delay in receipt of documents by Manager (Stores-Shipping) BHEL-Haridwar and in case where dispatches are made through Unapproved Transporter the sole responsibility for wharfage /demurrage for such delay shall be that of supplier.



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23. CONDITIONS FOR AVAILING MICRO & SMALL ENTERPRISES (MSE'S) BENEFITS.

- a) "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 found or the requisite documents are not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then the above require document are to be uploaded on the portal. Documents should be notarized or attested by a Gazetted officer."
- b) Any new supplier will be eligible for registration with BHEL as MSE supplier provided at least any one of the following documents are submitted along with application for registration :-
- c) Valid NSIC Certificate or
- d) Entrepreneurs Memorandum part II (EM II) certificate (valid based on deemed validity of 5 years) or
- e) EM II certificate along with attested copy of CA Certificate (as per prescribed format at annexure-A) applicable for the relevant financial year (latest audited), where the deemed validity of EM II is over.
- f) However, credentials of all MSE suppliers will be verified before advancing the intended benefits.
- g) MSE bidders claiming SC/ST status will have to submit SC/ST certificate of the Proprietor from competent authority. Attested (notarized or attested by Gazetted officer) copy to be submitted along with the offer.
- h) In case techno-commercial accepted bidders include MSE source and their prices (based on landed cost – considering quoted prices) are within the price band of 15% w.r.t. L-1 bidder, then BHEL can offer 20% of quantity of respective item (rounded off to nearest number) to MSE bidders at L-1 price and in case, more than one MSE bidder is in 15 % band and the same is accepted by more than one MSE bidders then 20% quantities of respective items will be considered for ordering on proportionate basis amongst MSE bidders.
- i) While distributing the 20% quantity amongst MSE bidders the decimal points in quantity shall be ignored for all the bidders except the L-1 amongst MSE bidders. Balance quantity after allocating the quantity to other MSE bidders ignoring the quantities in decimal, shall be given to L-1 (amongst MSE) bidder. However if there are more than one MSE bidder at the same price level than preference for additional quantities due to ignoring off the decimal (as mentioned above) shall be given to the bidder offering favorable terms to BHEL and if the conditions offered are also same then preference will be given to the bidder having high SPR rating.
- j) In case there are more than one MSE bidders (with different landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given to the MSE bidder with lowest landed cost .
- k) In case there are more than one MSE bidders (with same landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given first, based on the favorable terms in the bid and in case terms are also same, the bidder with high SPR rating shall be given preference.
- l) If L1 bidder is MSE bidder, entire quantity will be given to such MSE bidder only.



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24. INFORMATION TO THE BIDDERS.

- a) Purchase related information is available at our Business-to-Business (B2B) Portal available on our website www.bhelhwr.co.in The user ID & password can be obtained by sending a request to concerned purchase executives.
- b) Intimate your change in mail address or communication address or changes, if any, by email to pplx_idx@bhelhwr.co.in giving your bidder Code.
- c) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site www.bhelhwr.co.in
- d) Copy of this Tender Enquiry is being sent through the post.

25. NOTE.

- a) Special conditions of enquiry, if enclosed, will supersede the standard/general terms of enquiry.

Any other Standard terms and Conditions of the bidder attached/referred against the tender enquiry will be treated as null and void ab initio.

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23. NOTE.

1. GENERAL.

These general terms & conditions shall apply to all the Tender Enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd., HEEP, Haridwar (hereinafter referred to as BHEL or the Purchaser).

2. ORIGIN OF QUOTATION.

- a) The quotation should preferably be from the principal bidder. However tender specific authorized registered dealer/agent can also submit the bid on their behalf, failing which the quotation is liable to be ignored. BHEL prefers to deal directly with the principal manufacturers.
- b) An agent cannot quote on behalf of more than one principal in the same Tender Enquiry.

3. SUBMISSION OF TENDER.

- a) Bid/Quotation must be enclosed in sealed cover on which tender enquiry number and the due date MUST BE written and be invariably sent under REGISTERED POST / SPEED POST / COURIER/Dropped in the Tender Box: addressed as follows:-

Quotation Against Enquiry No. _____

Dated: _____

Due on: _____

To,
THE HEAD OF MATERIAL MANAGEMENT,
Heavy Electrical Equipment Plant,
Bharat Heavy Electricals Limited,
HARIDWAR-249403 (Uttarakhand), INDIA.

- b) In case of Three/Two Part Bid, technical bid containing technical offer, duly signed; and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.
- c) The bid/quotation must be posted before due date, keeping allowance for postal transit time. Alternatively, the tenders duly sealed and super-scribed as above may be deposited in the Tender Box. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer/bid shall be signed and stamped in each page by authorized representative of the bidder.
- d) Any additional documents submitted by supplier/bidder, during processing of registration application / tender or after placement of order shall not be accepted unless it is submitted with forwarding letter and duly signed and stamped as mentioned above in clause c.

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<p>e) The bids of the bidders who are on the banned list and also the bids of the bidders, who engage the services of the banned firms, shall be rejected. The cutting/overwriting in the bid/offer must be duly attested by the signatories to the bid. The list of firms banned by BHEL is available on BHEL web site www.bhel.com.</p> <p>f) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion such PMD vendor from BHEL's approved vendor list.</p> <p>g) The bidders will submit Integrity Pact, duly signed by its authorized signatory, along with their bids wherever estimated tender value is Rs. 5 Crore or more.</p> <p>h) In case of open tender, the unregistered bidder shall submit inter alia duly filled-in Supplier Registration Form (SRF) along with the bid. Bidders can download the SRF from www.bhel.com</p> <p>i) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL can also consider awarding of part of the tendered quantity to other than L-1 bidder at L1 counter offered rates, if the quantity offered by the L-1 bidder is less than the quantity tendered for.</p> <p>j) BHEL may also reduce the Tender Quantity for offering it to Micro & Small Enterprise (MSE) Indian Vendors as per applicable Government of India rules whose prices are within 15% of L1 prices as per directives of Government of India.</p> <p>4. TENDER OPENING.</p> <p>Tender opening is scheduled to start in the Tender Room at 2:00 PM, on the due date. Therefore bid/quotations must reach this office / tender Box latest by 1:45 PM on due date. Only participating bidders are allowed to attend tender opening. <u>TENDERS RECEIVED AFTER THE SPECIFIED TIME OF THEIR 'SUBMISSION' WILL BE TREATED AS LATE TENDERS AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.</u> The bidders or their authorized representatives (contd. --)</p>	<p>(-- contd.) may be allowed to attend tender opening if duly authorized by their principals, through a tender specific letter, for price bid opening on that particular day. General authorization letter is not acceptable.</p> <p>5. SPECIFICATION, DRAWINGS & STANDARD.</p> <p>a) Bidders must give their detailed specification in the quotation along with relevant technical literature/catalogue etc. against the tender enquiry.</p> <p>b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry. If these documents are not furnished, the offer is liable to be rejected.</p> <p>c) Wherever national/international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.</p> <p>d) All Drawings and Standards are proprietary of BHEL. It must not be used in anyway detrimental to the interest of the company.</p> <p>6. PRICE SCHEDULE.</p> <p>a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.</p> <p>b) Prices quoted should not be more than the prices quoted to any other BHEL units/offices/divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid. In case no order has been placed on such items, specific confirmation that no order has been placed on such items should be provided.</p> <p>c) Bidders need to quote their prices on CFR any sea port in Mumbai or FCA basis to the named airport in Euro/USD/JPY/UK Pound/SF/Singapore Dollar or any other Internationally freely tradable currency only. The name of the currency should be clearly indicated in your bids.</p>
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<p>d) Offers received other than CFR basis may result in non consideration of such bids.</p> <p>e) However if BHEL agrees to accept the FOB condition, to arrive at landed cost at our plant/site, the FOB prices shall be loaded for 3% (of FOB Value) towards marine insurance, port handling charges & inland freight or actual freight / port handling charges as per BHEL contract whichever is higher .</p> <p>f) Basis of Evaluation for Bid/Quotation in foreign currency:</p> <ol style="list-style-type: none">I. Currency exchange rate (TT selling rates of SBI) for evaluation of the bid/quotation received in foreign currency will be as follows:II. Single part bid – Date of tender opening.III. Two / Three part bid – Date of part 1 opening.IV. Reverse auction – Date of part-1 opening. <p>g) Evaluation of Indian Agents Commission:</p> <ol style="list-style-type: none">I. BHEL prefers to deal directly with foreign bidder, wherever required, for procurement of Goods. However if the Foreign Principal desires to avail services of an Indian Agent then the Principal should ensure compliance to applicable guidelines.II. The FOB / CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission if payable shall be converted to Indian Rupees at TT buying rates of exchange ruling on tender opening date which shall not be subjected to any further exchange rate variation, as disclosed by the bidder in his quoted FOB / CIF price will be paid in Indian Rupees on receipt & acceptance of Materials or it's installation at destination, as the case may be. The lower of the TT buying rate prevailing on the date of technical bid opening shall be considered for computation of Agency commission.III. In a tender either the Indian Agent on behalf of Principal / OEM or the Principal / OEM itself can bid, but both cannot bid simultaneously for same item / product in the same Tender. If both OEM and its authorized agent submit their bids separately in that case only the offer of OEM can be considered as an exception.	<p>h) While submitting your bids please clearly indicate:</p> <ol style="list-style-type: none">I. Expected weight of goods (lots wise).II. The size of packed goods.III. Whether the goods can be dispatched in containers?IV. Port of Loading.V. Port of Discharge. <p>7. REVERSE AUCTION.</p> <p>a) BHEL reserves the right to go for Reverse Auction (RA) instead of opening the sealed envelope price bid, submitted by the bidder. This will be decided after Techno-Commercial Evaluation. All bidders to give their acceptance for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids, in case BHEL decides for RA. Detailed guidelines available at our site www.bhel.com</p> <p>b) In case BHEL decides to go for Reverse Auction, only those bidders who have given their acceptance to participate in RA will be allowed to participate in the Reverse Auction. Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'online sealed bid' in the Reverse Auction. Non-Submission of 'online sealed bid' by the bidder will be considered as tempering of the tender process and will invite action by BHEL as per extant guidelines in vogue.</p> <p>8. DELIVERY TERMS.</p> <p>a) Goods shall be dispatched by sea, unless stated otherwise in the tender enquiry or purchase order.</p> <p>b) In the event of bidder offering CFR delivery terms for delivery in FCL (Full Container Load), the bidder shall provide 21 days' time free of detention for General Purchase Container/High Cube Container and 14 days for the other types from the date of delivery at delivery port. Wherever the detention free period offered is less than the above specified period, the consequential cost at port of clearance shall be to the account of the bidder. Number of detention free days must be mentioned on Bill of Lading (BL).</p>
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<p>c) In case of CFR delivery, Port congestion charges or any additional charges claimed by shipping line till delivery at destination port shall be to the bidder's account.</p> <p>d) Specifically confirm your agreement to change the mode by Air at BHEL's request as per mutually agreed terms even after placement of Purchase Orders.</p> <p>e) The Trans-shipment is not permissible in case of Break Bulk Cargo. In rest of the case Trans-shipment condition in BHEL purchase order / letter of credit will be as per Uniform Custom and Practice for documentary credits, UCP 500 of International Standard Bank proceed re-issued by International chamber of Commerce (ICC).</p> <p>f) No demurrage/ godown rent will be payable to the vendor / vendor's transporter for any delay in payments attributable to the vendor.</p> <p>g) The shipping line should be ready to move the containers to consignees nominated CFS (Container Freight Station) yard and Indian agent of shipping line should issue Cargo Arrival Notice (CAN) 7 days in advance to filing the IGM (Import General Manifest) at discharge port.</p> <p>h) In case of CFR contract, bidder to supply the material through a Certified Sea worthy vessel.</p> <p>i) A certificate of origin (COO) sanctioned in country of origin from chamber of commerce of the manufacturing country is mandatory to be provided. However a certificate of origin (COO) from the countries under the restricted list of Govt. of India will not be acceptable.</p> <p>j) For reasons of delay in receipt of documents from suppliers or due to the same being found to be incomplete, and/or faulty, the suppliers shall be responsible to reimburse in all demurrages/ wharfages. if any; paid by BHEL (for stated reasons).</p> <p>k) The invoices being issued by shipping lines must be in the name of BHEL. Otherwise, BHEL will have to forego Input Credit on Service tax.</p>	<p>l) While booking the shipment, bidder to also finalize <u>destination charges</u> and the same should appear over BL or agreed tariff to be provided to BHEL before arrival of shipment.</p> <p>m) If cargo is stuffed in container then the same should be allowed to be moved to CFS of importers choice without any additional charges.</p> <p>n) Load port charges shall be settled by the supplier and not be passed on to BHEL in form of destination charges.</p> <p>o) NNDs (preferably with OBLs) should be sent at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to JWC CFS.</p> <p>p) Information related to OBL/AWB Documents:</p> <p>I. Consignee name and address should be same as mentioned in the Purchase order.</p> <p>II. Notify party : Name and address will be as follows:(For discharge port Mumbai or Nhava Sheva) Bharat Heavy Electricals Limited 14th Floor World Trade Centre-1, Cuffe Parade, Colaba, Mumbai -400005 Email: msseahwr@bhel.in and ppximx@bhelhwr.co.in (in case of Sea Shipments) Email: kkant@bhel.in; salvi@bhel.in, Sunil.patil@bhel.in (in Case of Air shipments) For latest updation please refer our web site: www.bhelhwr.co.in</p> <p>III. OBL should clearly mention the Indian agent address and contact details.</p> <p>IV. OBL should be issued as per UCP 600.</p> <p>V. In case of incoterms other than FOB, OBL should mention the container detention free period.</p>
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9. PENALTY FOR LATE DELIVERY.

- a) Date of delivery will be considered as per the delivery terms mentioned in the Purchase Order. Penalty will be applicable on total order value @0.5% per week or part thereof subject to maximum of 10% of the PO value unless otherwise specified in Special Conditions of tender enquiry. Acceptance / Non Acceptance of this CONDITION must be specifically mentioned in your quotation. Any deviation from this will be loaded accordingly i.e. BHEL shall load maximum penalty under penalty for late delivery Clause, to the extent the same is not agreed by the bidder, for the purpose of evaluation.
- b) Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.
- c) Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.
- d) Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.
- e) The delivery date for penalty purpose will be the Bill of Lading Date/Air way bill.

10. PAYMENT TERMS.

- a) BHEL's standard payment term is Payment After Receipt and Acceptance of Material/Item at HEEP, BHEL-Store or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.
- b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.
- c) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.
- d) Where the payments are through bank, the documents may be presented for negotiation through BHEL designated banks which will be specified in Purchase order. Documents should be submitted within 5 day of vessel sailing and receipt of OBL from shipping line.

- e) In case BHEL agrees for payment through LC, the same shall be irrevocable, unconfirmed and will be opened 60 days prior to the scheduled delivery and will be valid for a period of 90 days.

11. BANK GUARANTEE.

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of this tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branch of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website www.bhelhwr.co.in. However, in case the bank guarantee is not from BHEL consortium banks, then the bidder has to get the bank guarantee confirmed from one of the Indian branch of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

12. GUARANTEE / WARRANTY AND CORRESPONDING REPAIRS / REPLACEMENT OF GOODS.

- a) Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 12 months from the date of receipt. If the delivery is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) (FOR - BHEL Stores / designated destination basis) within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate, including Repair / Replenish rejected goods & disposal of rejections, at the risk & cost of the Seller. In case the defects attributable to Seller are detected during processing of the goods at BHEL or our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.

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<p>b) In case the material is rejected, then date of replacement will be considered as the actual date of delivery.</p> <p>c) The bidder shall have to pay 5% incidental charges while taking back supplied material if it is found rejected on receipt. The rejected material shall be sent back only after receipt of replacement /submission of BG/refund of amount paid.</p> <p>13) QUALITY REQUIREMENT.</p> <p>Your bid/quotation should have specific confirmation regarding meeting all our quality requirements such as. (i) Test Certificate (TC), (ii) Guarantee Certificate (GC) / Warranty Certificate (WC), (iii) Quality Plan (QP) (if applicable); and (iv) Pre-Dispatch Inspection at your works (if applicable).</p> <p>14. VALIDITY.</p> <p>The quotation should be valid for a minimum period of 90 days effective from the date of opening of tender, unless otherwise specified in the tender enquiry.</p> <p>15. RIGHT OF ACCEPTANCE.</p> <p>a) BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR reserves the right to reject any or all the bids/quotations without assigning any reason thereof. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.</p> <p>b) Any discount/revised offer/bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer/bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.</p> <p>c) Unsolicited discounts/revised offers/bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.</p>	<p>d) In case of changes in scope and/or technical specification and/or commercial terms & conditions having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for, then latest price bid shall prevail. However in both situations, original price bid will be necessarily opened.</p> <p>e) The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.</p> <p>f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.</p> <p>16. TRANSIT INSURANCE.</p> <p>a) Transit Insurance will be covered by BHEL under its open Marine Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR/GR/BL/AWB, Invoice value etc.) to "Finance department (Store bill Section), BHEL Ranipur Haridwar (Uttarakhand -India) with value of consignment to the Purchaser within 07 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages / losses suffered by the Purchaser.</p> <p>b) If Quoted Prices are inclusive of transit insurance, no weightage shall be given while evaluating the bids for Cost of Insurance, being in BHEL Scope.</p> <p>17. PHYTOSANITARY CERTIFICATE:</p> <p>a) As per the Indian Law, all consignments being imported into India by air/sea require a phytosanitary certificate from the country of origin-if articles have been packed with wooden packaging materials. This is mandatory. Please confirm in your offer/dispatch documents that the required phytosanitary certificate will be submitted.</p>
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b) Packaging material means any kind of material of plant origin used for packing which include hay, straw wood shavings, wood chips, saw dust, wood waste, wooden pallets, dunnage mats, wooden packages, coir pith, peat or sphagnum moss etc.

18. RISK PURCHASE.

In case of abnormal delays (beyond the maximum late delivery period as per Penalty clause) in supplies / defective supplies or non-fulfillment of any other terms and conditions given in Purchase Order, BHEL may cancel the Purchase Order in full or part thereof, and may also make the purchase of such material from elsewhere / alternative source at the risk and cost of the supplier. BHEL will take all reasonable steps to get the material from alternate source at optimum cost. If bidder does not agree to the above Risk Purchase Clause, BHEL reserves the right to reject the offer. In case for compelling reasons BHEL accepts the offer without acceptance of this clause by the bidder and in the eventuality of Risk Purchase, appropriate action will be taken as per BHEL extant rules. This will be without prejudice to any other right of BHEL under the contract.

19. FORCE MAJEURE CLAUSE.

- a) Either party shall be entitled to suspend/cancel performance of his obligations under the contract without any cost to the other party, to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: fire, war, flood, riots, earthquake, any other act of God, change in Government Policies, terrorist attack etc. or any other circumstances beyond the control of either party which inter alia include cancellation, suspension of order by end customer due to Force Majeure conditions.
- b) The party claiming to be affected by force majeure shall notify the other party in writing immediately without delay on the intervention and on the cessation of such circumstances.
- c) Regardless of what might otherwise follow from these general conditions, either party shall be entitled to terminate the contract by notice in writing to the other party if performance of the contract remains suspended under Clause Force Majeure for more than six months.

d) If the war like situation has developed in a country where a bidder's works involved in this tender is located or there is political instability and Indian Embassy located in that country forbids or advises for not having any business dealing with the bidders located in such zone / region/ country, then the offer of such bidders shall be rejected. BHEL reserves the right to cancel the order in case the order has already been placed and suspend further dealings till normalcy in the country/ region is confirmed by the Indian embassy located in the affected country.

20. NON-DISCLOSURE AGREEMENT.

All Drawing and Technical Documents relating to the product or it's manufacture submitted by one party to the other, prior or subsequent to the formation of contract, shall remain property of the submitting party. Drawing, technical documents or other technical information received by one party, shall not without the consent of the other party, be used for any other purpose than that, for which they were provided. Such technical information shall not without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party. Patterns supplied by BHEL will remain BHEL's property which shall be returned by the bidder on demand to BHEL. Bidder shall in no way share or use such intellectual property of BHEL to promote his own business with others. BHEL reserves the right to claim damages from the bidder, or take appropriate penal action as deemed fit against the bidder, for any infringement of the provisions contained herein.

21. SETTLEMENT OF DISPUTES/ARBITRATION.

Any dispute/difference arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Arbitration and Conciliation Act, 1996 of India by a Sole Arbitrator to be appointed with mutual consent of the parties. Such Sole Arbitrator shall be either a retired judge of Supreme Court or High Court or District Court of India or some Advocate having practiced in Indian Courts. The seat or place of arbitration shall be New Delhi, India. The language to be used in the arbitration shall be English. (Contd.--)

Quotations / Bids not in accordance with General Instructions and Standard Terms & Conditions are likely to be ignored.



BHARAT HEAVY ELECTRICALS LIMITED

HEEP-HARIDWAR, UTTARAKHAND (249403)

General Instructions and Standard Terms & Conditions for bidding against Tender Enquiry (GISTC)
For Foreign Bidders (Version April-2016)

(-- contd.) The governing law of the contract shall be the substantive law of India. In case the parties fail to agree on the appointment of arbitrator within 2 months of the notice invoking arbitration by one party, then the arbitrator shall be appointed in accordance with the Arbitration and Conciliation Act, 1996 of India.

JURISDICTION: The courts of Haridwar, India, shall have exclusive jurisdiction.

22. INFORMATION TO THE BIDDERS.

- a) Purchase related information is available at our Business-to-Business (B2B) Portal available on our website www.bhelhwr.co.in. The user ID & password can be obtained by sending a request to concerned purchase executives.
- b) Intimate your change in mail address or communication address or changes, if any, by email to pplx_idx@bhelhwr.co.in giving your bidder Code.
- c) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site www.bhelhwr.co.in.
- d) Copy of this Tender Enquiry is being sent through the post.
- e) Invoice description and Unit of measurement should be strictly in accordance with Purchase order.
- f) Unit of measurement for dimension and weight should be in metric system only.

23. NOTE.

- a) Special conditions of enquiry, if enclosed, will supersede the standard/general terms of enquiry.
- b) Any other Standard terms and Conditions of the bidder attached/referred against the tender enquiry will be treated as null and void ab initio.

Quotations / Bids not in accordance with General Instructions and Standard Terms & Conditions are likely to be ignored.

DETAILS OF COMPOSITION OF PART-I (PQR, EMD, Tender Fee & Technical Bid) & PART-II (PRICE BID)

Part-I – (Pre/Minimum Qualification requirement, EMD, Tender Fee, NDA & Technical Bid) (to be submitted in separate envelope)

1. Confirmation to Pre/Minimum Qualification Requirement as per 'Annexure-A' along with supporting documents (for unregistered vendors in material category).
2. Tender Fee & EMD (or valid NSIC Certificate for exemption of EMD only). Please note that only those bids will be eligible for further tendering process which have been submitted with requisite EMD & tender fee.
3. NDA – Non-disclosure Agreement is required to be signed & stamped on every page after filling relevant details. Only after acceptance of NDA, relevant drawings will be furnished. However, relevant specifications & drawings of the tendered items could be made available prior to due date against copy of NDA & proof of draft of the tender fee in favor of BHEL, Haridwar.

(Technical Bid) (to be submitted in separate envelope)

4. The SRF (as applicable) duly filled up will be assessed for manufacturing capability quality systems being followed, organizational soundness and financial worthiness. The same shall be submitted with Part-I by un-registered vendor only who are not registered with BHEL, Haridwar for tendered items in respective material category.
5. Complete technical offer as per specification, drawings, technical requirement along with un-priced bid giving FOR, FOB, C&F rate and delivery schedule.
6. Validity of offer to be indicated.
7. **Annexure-D** Compliance sheet for technical/commercial terms and conditions.
8. Part-I – Techno-commercial bid must also contain replica of Price Bid (without Prices).
9. **Deviation with reference to specification/drawing, if any, should be clearly indicated on a separate sheet.**

PART –III (Price Bid) (to be submitted in separate envelope)

1. **Price bid (Part-II) shall be opened at a later date of only those vendors who qualify Part-I bid.**
2. Price bid with prices to be submitted as Part-II of the tender.
3. Prices should remain firm till the execution of the order.
4. In case of foreign vendors, prices to be quoted on FOB & C&F Mumbai (India) basis separately. In case of FOB, Loading port must be mentioned. Please note that **Ex-Works** price are **not** acceptable & offer may not be considered. In case of Indigenous vendor, prices must be quoted on FOR- Destination- CPS-HEEP-BHEL basis.

5. Insurance – Marine in case of foreign vendor (FOB/CFR cases) & inland in case of Indigenous vendor shall be taken care by BHEL.
6. In case of foreign supplies Third party inspection charges to be quoted inclusive.
- a) **Prices are to be written in both Figures & Words. In case of any difference between the two, the figure written in words shall be considered for evaluation. No over writing in this is acceptable.**

MARKING OF ENVELOPE:

- **Each envelope below is also to be super-scribed as “TENDER FOR (ITEM NAME) AGAINST TENDER NO.-----DUE ON ---”**
- Drafts for Tender Fee & EMD to be kept in one envelop marked **Envelope –A**. On the Top of the envelope, please write Draft No., Issuing Bank Details & Amount. Those vendors who are quoting for more than one tender must submit a statement in envelopes of all those tenders giving details of all the tenders being quoted. However, the draft of each tender should be kept in individual tender envelop.
- PQR & NDA in Part-I to be kept in another **Envelope-B** & to be marked as “Pre-Qualification Requirement (PQR)”.
- Techno-commercial bid/Un-priced bid along with Supplier Registration Format (SRF) & Annexure-D to be kept in **Envelope-C** and to be marked as “(Techno-Commercial Bid)”.
- **Envelope –A, B & Envelope-C are to be kept in one envelope and to be marked as “PART-I (PQR, EMD & TENDER FEE & Techno-Commercial Bid)”**
- Price Bid i.e. Part-II to be kept in another **Envelope-D** & to be marked as “PART-II (Price Bid)”.
- **All Envelopes to be kept in one big envelope and to be marked (super-scribed) as “TENDER FOR (ITEM NAME) AGAINST TENDER NO.-----DUE ON --- (only Part-I will be opened on the date and time specified in the tender notice in the presence of those tenders who wish to attend).**
- **Envelops not marked as above are liable to be ignored and will not be opened.**
- **Refer check list below for Bid composition.**

CHECK LIST FOR BID SUBMISSION					
ONE ENVELOPE MARKED AS “TENDER FOR (ITEM NAME) AGAINST TENDER NO.-----DUE ON ---”	PART-I ENVELOPE ‘A’ ENVELOPE ‘B’ ENVELOPE ‘C’	ENVELOPE ‘A’ Super scribed as “EMD & TENDER FEE”	EMD & TENDER FEE	Yes	No
		ENVELOPE ‘B’ Super scribed as “PQR”	PQR & NDA		
		ENVELOPE ‘C’ Super scribed as “TECHNICAL BID”	TECHNICAL BID	Yes	No
	SUPPLIER REGISTRATION FORM (SRF)		Yes	No	
	ANNEXURE-D		Yes	No	
PART-II ENVELOPE ‘D’	Super scribed as “PRICE BID”	PRICE BID	Yes	No	

ANNEXURE-D**COMPLIANCE SHEET FOR TECHNICAL/COMMERCIAL TERMS AND CONDITIONS**

BHEL Standard Terms	Vendor's Acceptance
1. Two-Part Tender:- Please confirm to submit your bid in two parts and each bids consists of following I) Part-I : - PQR , EMD, Tender Fee, NDA, Technical + Unpriced Bid & other documents asked in Annexure-C II) Part-II : - Price Bid	
2. Payment terms: (Common for both Indigenous & Foreign Vendors/Suppliers) BHEL's standard payment term is Payment After Receipt and Acceptance of Material/Item at HEEP, BHEL-Store. BHEL reserves the right to accept or reject the offer of the vendor who quotes the payment term other than BHEL's standard payment term.	
In case BHEL accepts any deviation from above payment term then loading will be done to evaluate the L-1 status of the vendor as under for payments to be done through Bank. I) Loading for period of relaxation: Base rate of SBI (as applicable on the date of bid opening; Techno-commercial bid opening in case of two part bids) + 6%, shall be considered for loading for the period of 2 months for foreign vendors and 1 month for indigenous vendor (if applicable). II) Documentation charges as Rs 1500 shall be loaded for foreign vendors and bank charges @0.8% subject to maximum of Rs 6000 shall be loaded for Indigenous vendors. III) LC opening charges, if applicable, shall be loaded @0.02% per quarter.	
3. Currency of payment:	
4. Exchange rate : (Foreign Purchase) For evaluation of foreign bids, the exchange rates (TT selling rate of State Bank of India) as on scheduled date of tender opening (Part-I bid) shall be considered. If the relevant day happens to be a bank holiday, then the forex rate as on the previous bank (SBI) working day shall be taken.	
5. TAXES & DUTIES: (Indigenous Purchase) Rate of Excise & Sales Tax must be indicated in your offer even if it is inclusive.	
i. Rate of Excise Duty	
ii. Rate of CST / VAT	
iii. Rate of CVD	
iv. Any Other Duty:	
All statutory taxes, if any, will be deducted at source & to be borne by the beneficiary. Tax deduction certificate shall be issued at the end of financial year if required.	
6. Packing Charges (if any)	
7. Forwarding Charges (if any)	

<p>8. Agency Commission: (Foreign Purchase) Please confirm if there any Indian agency commission to be paid directly by BHEL. If yes please mention percentage value. Indian Agents commission if payable shall be converted to Indian Rupees at TT buying rates of exchange ruling on tender opening date (as stated above) which shall not be subjected to any further exchange rate variation.</p>	
<p>9. Delivery basis : Indigenous Purchase: Goods shall be delivered on 'FOR Haridwar' basis. If any bidder still quotes on other than FOR BHEL Haridwar basis, then its offer will be loaded by maximum freight, packing & forwarding charges quoted by any other bidder from the same or nearby station, against the enquiry / freight rate available at BHEL. Non-availability of BHEL approved transporter will not be accepted for rescheduling the delivery or waiver of penalties.</p>	
<p>Foreign Purchase: (A) SEA CONSIGNMENTS : Please quote your rates with both the options (a) FOB/FAS dispatching port & (b) C&F Landing Port. (B) AIR CONSIGNMENTS : Please quote your rates preferably with either of the options Ex works (b) FCA seller premises (c) FCA dispatching Airport (d) CPT Landing Airport. Transit insurance will be arranged by BHEL for which immediate intimation of dispatch is required as indicated in purchase order.</p>	
<p>10. Delivery Period for Supply: (Indigenous Purchase) Please quote your shortest time period required for supply of material.</p>	
<p>(Foreign Purchase) Earliest Time period required by bidder for supply of material shall be quoted. Weeks/ Months from the order date on FOB basis = Weeks/ Months from the order date on C&F basis = This delivery period shall be linked with BL/AWB date. <ul style="list-style-type: none"> Supply period indicated by bidder should include reasonable time required for manufacturing and FOB/FCA delivery (for shipment and getting BL/AWB, material must be handed over minimum 3 weeks before schedule delivery). Where deliveries quoted by Vendors are not suiting, BHEL may also ignore the offer of the vendor. </p>	

<p>11. Late delivery penalty Clause: (Common for both Indigenous & Foreign Vendors/Suppliers)</p> <p>Date of delivery will be considered as per the delivery terms mentioned in the Purchase Order. BHEL will levy a penalty for delayed delivery @0.5% per week or part thereof subject to maximum of 10% of the PO value. Acceptance of this condition must be specifically mentioned in your quotation.</p> <p>Any deviation from this will be loaded accordingly i.e. BHEL shall load maximum penalty under Late Delivery Clause, to the extent the same is not agreed by the vendor, for the purpose of comparative statement. Where deliveries quoted by Vendors are not suiting, BHEL may also ignore the offer of the vendor. Further non-availability of ship will not be accepted for rescheduling the delivery or waiver of penalties. Where deliveries quoted by Vendors are not suiting, BHEL may also ignore the offer of the vendor.</p>	
<p>(Indigenous Purchase)</p> <p>a. Delivery Ex-works:- Date of GR /LR b. Delivery FOR vendor works:- Date of GR/LR c. Delivery FOR BHEL Hardwar/Hardwar:- Date of receipt at BHEL Hardwar (if supply is direct to BHEL) or date of GR + 7 days (if documents are through bank)</p>	
<p>(Foreign Purchase)</p> <ul style="list-style-type: none"> In case of delivery terms being "FOB/ C&F / CIF" delivery date for penalty purpose will be - Bill of Lading Date In case of delivery terms being "FCA/ CPT" delivery date for penalty purpose will be - Date of Air way bill/Bill of lading 	
<p>12. Authorization for pre-inspection (Foreign Purchase): BHEL is authorized to get pre inspect the material at vendor's works by third party. The material will be dispatched only after getting clearance from BHEL on the pre- dispatch inspection report. The pre-dispatch inspection is required from either of LRS/TUV/BV inspection agency.</p> <ul style="list-style-type: none"> The offered prices shall be inclusive of inspection charges and offered delivery period must take account inspection time if pre dispatch- inspection is specifically asked in tender enquiry. 	
<p>13. Import Supply: (Foreign Purchase)</p> <p>a) As per the Indian Law, all consignments being imported into India by air/sea require a <u>phytosanitary certificate</u> from the country of origin-if articles have been packed with packaging materials. This is mandatory. Packaging material means any kind of material of plant origin used for packing which include hay, straw wood shavings, wood chips, saw dust, wood waste, wooden pallets, dunnage mats, wooden packages, coir pith, peat or sphagnum moss etc. Please confirm in your offer/dispatch documents that the required phytosanitary certificate will be submitted.</p> <p>b) <u>Country or origin certificate:</u> Vendor to furnish the country of origin certificate from Chamber of Commerce with dispatch documents.</p>	
<p>14. Offer Validity: Validity of the offer should be minimum 120 days from tender opening date.</p>	
<p>15. ORDER ACCEPTANCE:</p> <p>Order acceptance (ink-signed) must be submitted within 20 days from the date of PO otherwise it shall be assumed that PO is acceptable to vendor.</p>	

<p>16. Evaluation Criteria: Evaluation of bidders shall be done <i>Material code wise/ itemwise</i> on 'landed cost to BHEL' basis. – BHEL reserves the right to reject offers in case of deviation from above. – Changes in evaluation criteria, if any, shall be informed before price bid opening.</p>	
<p>17. Please note no revision in the prices or submission of supplementary price bid will be allowed during the validity of the offer. However if there is any change by BHEL w.r.t. original specifications/ requirement/ scope/terms and conditions, the bidders may be asked by BHEL to submit only the price impact bid for such changes only.</p>	
<p>18. Origin of Quotation: The quotation should be from the principal/original supplier even if it is submitted through their authorized agents, failing which the quotation is liable to be ignored. Also the name of principal supplier should be indicated on envelop in addition to Enquiry no. and due date.</p>	
<p>19. Pl. Confirm that the prices will remain firm during the entire validity and execution of the Project.</p>	
<p>20. Test Certificate as per BHEL Specification / drawing shall be provided along with dispatch documents.</p>	
<p>21. Guarantee certificate as per BHEL Specification shall be provided along with dispatch documents. (if applicable)</p>	
<p>22. Quality Requirements: Please confirm quality requirements given in ANNEXURE-A.</p>	
<p>23. EMD & Tender Fee: BHEL reserves the right to reject the offers of those bidders who have not submitted requisite EMD & tender fee in Part-I. Please confirm submission of the same.</p>	
<p>24. Customer approval: Customer approval of vendors may be required for this case. Hence, the offer of only those vendors shall be considered for this case who are approved by our customer (refer quality requirements in Annexure-A).</p>	
<p>25. Participation through Reverse Auction: Please confirm to participate in Reverse Auction on C&F basis as per Terms & Conditions in Annexure-B (Sl. No. 7).</p>	
<p>26. Right of acceptance: BHEL reserves the right to increase or decrease the tendered quantities. If any of the projects covered in tendered quantity comes under hold, then corresponding quantity shall be removed from our tender also. Vendor should be prepared to accept order for reduced quantity without any extra charge. Vendor should also be prepared for giving quantity discount in case of increase in quantity.</p>	
<p>Note: Attach separate sheet for additional information if necessary. The above terms & condition supersedes the terms & conditions found contradictory written elsewhere in the tender enquiry and offer of bidder.</p> <p>Vendors are requested to comment on each applicable clause and write as "NA" if not applicable. Please attach this sheet with your techno- commercial offer.</p> <p>No deviation in commercial terms is acceptable. Offers with deviated commercial terms are liable to be rejected.</p> <p>Signature with stamp Name: Designation: Name of Firm: Date:</p>	

Annexure-E

Item Details and Delivery Schedule

Tender No	Item Description	Qty (Nos)	Delivery Schedule
67Q/NIT/E/E243/2015/6105/Q1	Equalising Valve, Drawing no. 41493601061 REV:02, Size: NB50, Material code: W90414902572	04	30/09/2016
		02	31/01/2017
	Differential Pressure Regulator, Spec no. TG60662 REV:01, Size: NB65, NP40, Material code: W90414905474	02	30/09/2016
		03	31/01/2017

NOTE: THE QUANTITY INDICATED ABOVE CAN BE INCREASED/ DECREASED.

NON-DISCLOSURE AND PROPRIETARY INFORMATION AGREEMENT

BETWEEN

_____ (**Name of the Vendor**),, having its registered offices in _____ (**Address of Vendor**), registered under the no. _____ of the Companies' register of _____ (**Name of Place and Country**), capital stock of _____ (**Value**), with a place of business in _____ (**Name of Place and Country**) (hereinafter referred to as "**_____ (Name of Vendor)**");

AND

Bharat Heavy Electricals Ltd a company incorporated under the Indian Companies Act 1956 having its registered offices at BHEL House, Siri Fort, New Delhi -110 049 and having one of its works at Heavy Electrical Equipment Plant, Ranipur, Haridwar-249403 (Uttarakhand), India registered under the No. 4281 of 1964-65 of the companies register of Delhi, capital stock of Rs 4895.2 million with a place of registered office in New Delhi (hereinafter referred to as "BHEL") hereinafter also referred to individually as "the Party" or collectively as "the Parties".

BACKGROUND

This Agreement sets forth the rights and obligations of the Parties with respect to the use, handling, protection and safeguarding of Proprietary Information that is disclosed by and between the Parties.

WHEREAS

A) the Parties wish to pursue exploratory discussions concerning a possible collaboration between them in relation to the Program defined in Exhibit 1;

B) during the ensuing discussions and negotiations it may occur that either Party discloses to the other technical, financial or business information of a proprietary or confidential nature, which the Parties intend to protect against, making it available, by any means to any third person, and other unauthorized use and/or further disclosure by the recipient, in accordance with the terms and conditions set forth herein;

NOW, THEREFORE, the Parties have agreed as follows:

1. The term “Proprietary Information” shall mean any information or data of whatsoever kind of a confidential or proprietary nature, including but not limited to, commercial information, know how and technical information in the form of designs, drawings, concepts, requirements, specifications, software, interfaces, components, processes, or the like, that have been or will be disclosed by either Party to the other pursuant to this Agreement, either in writing, orally or other form, which is designated as “Proprietary” or “Confidential” by the disclosing Party by means of formal declaration or an appropriate stamp, legend or any other written or orally notice .

2. Proprietary Information may be conveyed, without limitation, through any written or printed documents, samples, models, electronic form on disk, tape, other storage media or any other means of disclosing such Proprietary Information that either Party may elect to use during the life of this Agreement, but if an originating Party originally discloses information orally or visually, the receiving Party will protect such information as Proprietary Information to the extent that the originating Party :
 - identifies the Information as Proprietary at the time of original disclosure,
 - summarizes the Proprietary Information in writing .

Information stored in electronic form on disk, tape, other storage media will be adequately marked if a proprietary legend displays when the information originally runs on a computer system and when the information is printed from its data file.

Proprietary Information also includes any information which can be obtained by examination, testing or analysis of any hardware or material substance or any component part of such hardware or material substance provided by the Disclosing Party even though the requirements in Clause 1 for marking and designation have not been fulfilled.

3. Each Party, to the extent of its rights to do so, shall disclose to the other only the Proprietary Information which the disclosing Party deems appropriate to fulfil the objectives of this Agreement. The Parties hereby represent that the disclosure of Proprietary Information by and between themselves shall be made in compliance with, and subject to the laws and regulations of the Disclosing Party's country.

4. The receiving Party hereby agrees and covenants that, from the effective date of this Agreement until the expiry date as per article 11 and the following period as per article 12, the Proprietary Information that either Party receives from the other shall:
 - a) be protected and kept in strict confidence by the receiving Party which must use the same degree of care it uses to protect its own confidential information and in no case less than a reasonable care;

 - b) be only disclosed to and used by those persons within the receiving Party's organization or that of its parent or controlled companies who have a need to know and solely for the purposes specified in this Agreement, and be treated by such persons or entities with the same degree of care and subject to the same restrictions;

 - c) to procure that each third party to whom Proprietary Information is disclosed under this Agreement is made aware of the provisions of this Agreement prior to such disclosure to it and that each such third party is

bound by obligations of confidentiality which are no less onerous than those contained in this Agreement;

- d) neither be disclosed nor caused to be disclosed or made available, either directly or indirectly, to any third Party or persons other than those mentioned in subparagraph b) above or other persons upon which both of the contractual Parties shall agree in an amendment to this Agreement;
- e) not to copy, reproduce or reduce to writing any part of such Proprietary Information except as may be reasonably necessary for the purpose referred to in the Recitals of this Agreement

PROVIDED THAT the Receiving Party shall be entitled to make any disclosure required by court order or government or regulatory requirement of the Disclosing Party's Proprietary Information subject to notifying the Disclosing Party as soon as possible of such requirement

- 5. Any Proprietary Information and copies thereof disclosed by either Party to the other shall remain the property of the disclosing Party and shall be immediately returned or destroyed by the receiving Party upon request.
- 6. The receiving Party shall have no obligations or restrictions with respect to any Proprietary Information for which the receiving Party can prove that:
 - a) is in or which comes into the public domain otherwise than as a result of a breach of this Agreement by any person to whom a disclosure of Proprietary Information is made as permitted under this Agreement or of any other duty of confidentiality relating to the Proprietary Information of which the Receiving Party has knowledge; or
 - b) it has been in its possession without restriction at the time of the disclosure, as evidenced by written documentation in its files; or
 - c) it has been lawfully received from a third Party without breach of this Agreement; or

- d) it has been or is published without violation of this Agreement; or
 - e) it has been independently developed in good faith by employees of the receiving Party who did not have access to the Proprietary Information; or
 - f) it has not been properly declared, designated or confirmed as Proprietary or Confidential; or
 - g) the protection period has expired according to articles 11 and 12 of this Agreement.
7. With respect to any exchange of Proprietary Information which may occur as a result of this Agreement, it is expressly understood and agreed that the persons listed in Exhibit 2 shall, on behalf of the respective Parties, be the exclusive individuals authorized to receive from and transmit to the other Party Proprietary Information under this Agreement. Each Party may replace at any time its respective authorized individuals identified in such Exhibit 2, within its own organization. Any such new designation by a Party shall be made by written notice to the other at the address indicated in such Exhibit 2.
8. Any Proprietary Information which is identified as “Classified Information”, or whose export is subject to an export license, shall be identified as such by the disclosing Party at the time of disclosure and the disclosure, protection, use and handling thereof, shall remain subject to the security procedures and restrictions imposed by the disclosing Party's Government.
9. The disclosure of Proprietary Information under this Agreement by either Party to the other shall not be construed as granting to the receiving Party any right, whether express or implied by licence or otherwise, on the matters, inventions or discoveries to which such information pertains, or as granting any trademark, patents, copyrights, trade secret right or other form of intellectual property right.

10. Nothing in this Agreement may be construed as an obligation of either Party to disclose any Proprietary Information to the other, or to enter into any subsequent contractual relationship with such other Party.
11. This Agreement covers the exchange of Proprietary Information which may be made by either Party to the other until ten years from signing of the agreement or any extension thereto which may be agreed upon by the Parties in writing. Proprietary information relevant to the Program detailed in Exhibit 1, already made available to the other contractual Party before the effective date, shall also be protected under this Agreement.

It is understood by the parties that, prior to disclosure, the Disclosing Party shall have obtained any government authorisation needed for the export of the Proprietary Information

12. The expiry of the period contemplated in Article 11 of this Agreement shall not relieve the receiving Party from complying with the obligations imposed by Article 4 here above with respect to the use and protection of the Proprietary Information, received prior the date of such expiry, for a period of ten (10) years after such expiry.
13. The Parties are independent contractors. Each will bear all costs and expenses in connection with this Agreement. This Agreement is intended to facilitate only the exchange of Proprietary Information and is not intended to be, and shall not be construed to create a teaming agreement, joint venture, association, partnership, or other business organisation or agency arrangement and no Party shall have the authority to bind the other without the other Party's separate prior written agreement .
14. This Agreement shall be governed by and shall be interpreted in accordance with the substantive Indian laws. Irrespective of the foregoing each Party shall remain

bound by the provisions of its own national laws and regulations with respect to the transfer or use of Classified Information or information whose export is subject to an export license.

15. All disputes among the Parties, in connection with or arising out of the existence, validity, construction, performance and termination of this Agreement (or any terms thereof), which the Parties are unable to resolve among themselves, shall be finally settled by an Arbitration. The Arbitration shall be held in Haridwar (India), in English language, in accordance with the rules laid down in the arbitration and reconciliation act of India.
16. The foregoing constitutes the entire Agreement among the Parties with respect to the subject matter hereof and supersedes and cancels all prior representations, negotiations, commitments, undertakings, communications, either oral or written, acceptances, understandings and agreements among the Parties with respect to or in connection with any of the matters to which such Agreement applies or refers.
17. Notices to _____(**Name of Vendor**) shall be made at the following address:

(Complete Address of Vendor)

Attention: Mr. _____(**Name of the Authorised Person of Vendor**)

Notices to BHEL shall be made at the following address:

BHARAT HEAVY ELECTRICALS LIMITED,
HEAVY ELECTRICAL EQUIPMENT PLANT,
Ranipur, Haridwar-249403 (Uttarakhand), India

Attention: _____(**Name of the PPX Incharge**)

18. The effective date of this Agreement shall be the date of the last signature appearing herein.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement, to be executed by its duly authorized officer.

Date :

Signed for and on behalf of

Signed for and on behalf of

(Name of Vendor)

BHEL

By:

By:

Title:

Title:

Signature:

Signature:

EXHIBIT 1

to the

NON-DISCLOSURE AGREEMENT

between

_____ **(Name of Vendor)**

and

BHARAT HEAVY ELECTRICALS LIMITED

dated:

The Non Disclosure Agreement covers the exchange of Proprietary Information which may occur during the discussions and negotiations in view of a possible cooperation between the Parties in the following programs:

-Description of Material or Services for which the order is placed

_____ **(Name of Vendor)** list of products that require an exchange of Proprietary Information which may be occur during the discussions and negotiations in view of a possible cooperation for the above programs :

EXHIBIT 2

to the
NON-DISCLOSURE AGREEMENT

between

_____ (Name of Vendor)

and

Bharat Heavy Electricals Ltd.

dated:

Personnel of the Parties authorized to receive and/or transmit Proprietary Information under this Agreement:

For (Name of Vendor)

(Name of Person)

Tel.

Fax

Address.

Tel.

Fax

Address.

For Bharat Heavy Electricals Ltd.

Mr.

Tel. 01334

Fax 01334

Address. Main Administration Building

BHEL, HEEP, Haridwar

India

Mr.

Tel. 01334

Fax 01334

Address. Main Administration Building

BHEL, HEEP, Haridwar

India