

## TENDER NOTICE

From

M/s. Bharat Heavy Electricals Limited

R C Puram

Hyderabad.

Ref. No.: HYD: RC: IT: LEASE/2014

Date: 13<sup>th</sup> June , 2014

### **Subject: Rate Contract for Supply and Installation of Computer Equipment – Lease Basis**

Bharat Heavy Electricals Limited (BHEL) is the largest Engineering and Manufacturing Enterprise in India in the energy related and infrastructure today with an excellent track record of performance. The company has 17 manufacturing divisions, 4 Power Sector Regional Centers, 8 Service centers, 4 overseas offices, 1 subsidiary and over 100 project sites spread all over India and abroad and also regional operations divisions in various state capitals in India for providing quick service to customers. BHEL manufactures over 180 products under 30 major product groups and meets the needs of core-sectors like Power, Industry, Transmission, Transportation, Oil and Electronics. Products of BHEL make have established an enviable reputation for high quality and reliability.

Sealed quotations are invited for the rate contract for supply and installation of Computer Equipment under **5 years Lease Basis** as per specifications detailed under "TECHNICAL SPECIFICATIONS" and terms and conditions as enclosed. Firm offers should be submitted in TWO parts as detailed in relevant sections. Both the parts should be individually sealed and super scribed indicating Part No. as required and enclosed in the main cover duly sealed and super scribed.

**Before preparing the bids, please see the details in various Sections and Annexures.**

Please note that the sealed tenders will be received by us up to **11:00 hours on 08.07.2014** Techno Commercial Bids (Part-I) will be opened at **14:00 hours on 08.07.2014** in the presence of such tenderers and /or their authorized representatives who choose to be present. The representative should be the same person who has signed the documents or his authorized representative with an authorization letter. There shall not be any overwritten figures in document. All cuttings should be duly signed by the authorized person submitting the offer and should be rewritten in figures and words as applicable.

BHEL reserves the right to go for Reverse Auction (RA) amongst those vendors whose technical and commercial terms are acceptable instead of opening the sealed envelope price bid submitted by them. In case, BHEL decides to go for opening of conventional price bids, the Price bids (Part-II) of those bidders whose technical and commercial terms are acceptable will be opened on a later date which will be informed to such bidders prior to opening.

**BHEL takes no responsibility for delay, loss or non-receipt of tender documents sent by post and also reserves the right to accept or reject any or part of the tender without assigning any reason thereof.**

Tender should be sent to the following address:

**Tender box  
Bharat Heavy Electricals Limited,  
R.C.Puram, Hyderabad- 502032**

With regards  
For **Bharat Heavy Electricals Ltd.**

**(G S Ashok Kumar)**  
**Add. General Manager (Purchase/CMM)**  
Tel No.: 040-23183391; 040-23182520

Email :ashokkumargs@bhelhyd.co.in; bcs@bhelhyd.co.in

**BHARAT HEAVY ELECTRICALS LTD,  
RC PURAM, HYDERABAD**

Tel No.: 040-23183391, 040-23182520

Email: [ashokkumargs@bhelhyd.co.in](mailto:ashokkumargs@bhelhyd.co.in); bcs@bhelhyd.co.in

**1.0 REQUEST FOR PROPOSAL BRIEF SCOPE OF WORK**

Bharat Heavy Electricals Ltd. (A Govt. of India Undertaking) invites tenders from bidders who qualify as per criteria listed below. The tender is invited for the Rate Contract on Lease basis for supply, installation & maintenance of **PCs, Servers, Printers, UPS, network equipment & other Computer Peripherals** throughout India at **more than 20 locations** for a period of FIVE years. The tender has to be submitted in TWO PARTS namely TECHNO-COMMERCIAL (unpriced) and PRICE.

**QUALIFICATION CRITERIA**

- 1.1 Bidders shall be either OEMs or System Integrators of OEMs. Bidders other than OEMs must obtain and submit authorization letter (Refer Annexure-I for format) from OEM specifically for this tender only mentioning BHEL's tender reference number i.e. **HYD: RC: IT: LEASE/2014**. For this tender, definition of OEM means manufacturer of Group I to Group VIII equipment only.
  - a) Group I – PC's & Notebooks
  - b) Group II – Servers & Workstations.
  - c) Group III –Printers
  - d) Group IV- Network Equipment
  - e) Group V - UPS
  - f) Group VI – Storage Devices(NAS,SAN)
  - g) Group VII – Scanners
  - h) Group VIII – Plotters & MFS
  - i) Group IX- Miscellaneous Items
- 1.2 Bidder shall have at least Rs. **118 Crores** turnover in each of the last three consecutive financial years ending with financial year 2012-13. If the bidder is a subsidiary or a holding company consolidated accounts shall be considered based on consolidated statement of accounts as per Indian Accounting Standard-27(IAS-27). In case of Bidder forming part of Group Company which is not in a position to submit consolidated statement of accounts as per IAS-27 separate accounts shall be considered. A copy of the audited Balance Sheet & Profit & Loss Account shall be submitted as proof in this regard. Kindly fill the details of turnover in the format given in Annexure-III.
- 1.3 Bidder shall have at least fifteen service support offices in India to support the locations listed in Annexure-II. In case bidder does not have offices in locations they can have tie-up with their business partners having support offices to support these locations and are in the same line of business. Bidder shall submit a copy of the tie-up agreement with the business partner dated prior to the date of opening the tender in order to evidence such an arrangement for the entire period of five year lease period. However in the light of contract entered into between BHEL and the Bidder, in the event of non-performance of the business partner BHEL will enforce the contract with the Bidder. Bidder shall not sever the contract with the business partner during the execution of five years lease contract with BHEL, without prior and written consent from BHEL. Kindly fill in Annexure-II calling for the addresses of such support offices.
- 1.4 OEMs of equipment of groups I to VIII must have registered offices and service centers in India.
- 1.5 Bidder / Business partner must have executed at least one Annual Maintenance Contract (AMC) or Facility Management Services (FMS) or Lease rental order(completion of supply) in not less than fifteen locations in India in the last 3 years ending with 2012-2013.
- 1.6 Bidder must have executed(completion of supply) IT equipment lease rental orders for the total value

not less than Rs.182 crores or outright purchase orders for the total value not less than Rs.118 crores in the last 3 years ending with 2012-2013.

## **2.0 GENERAL INSTRUCTIONS FOR THE BIDDERS**

- 2.1 Tender documents will be available from **13<sup>th</sup> June 2014** on BHEL website (www.bhel.com).
- 2.2 The tender document to be downloaded from the BHEL website. The tender fee of Rs.20,000/- to be paid in the form of a Demand Draft drawn in favor of "Bharat Heavy Electricals Limited" payable at BHEL Township, Ramachandrapuram, HYDERABAD shall have to be submitted along with tender documents.
- 2.3 Last date of submission is 11:00 hours on **08<sup>th</sup> July 2014** and techno-commercial (unpriced) bids shall be opened at 14:00 hours on **08<sup>th</sup> July 2014**.
- 2.4 Earnest Money Deposit (EMD) for the tender is Rs.2,00,000/- (Rupees Two Lakhs only) to be paid in the form of a Demand Draft drawn in favor of "Bharat Heavy Electricals Limited" payable at BHEL Township, Ramachandrapuram, HYDERABAD.
- 2.5 Tender Fee and EMD are to be submitted through separate Demand Drafts.

## **3.0 INSTRUCTIONS & GUIDELINES TO BIDDERS**

### **3.1 INTRODUCTION**

M/s Bharat Heavy Electricals Limited (A Govt. of India Undertaking) incorporated under the Companies Act 1956 having registered office at BHEL House, Siri Fort, New Delhi-110 049 through its office at New Delhi (hereinafter referred to as "BHEL", which expression shall include its successors and assigns), invites offers for Leasing of Equipment / Services in BHEL, as per requirements and Commercial Terms and Conditions detailed in the tender documents.

### **3.2 RATE CONTRACT UNDER LEASING SCHEME**

Lease Period under the Leasing scheme shall be FIVE years and the Total Price shall be for the complete scope as per technical specifications, inclusive of comprehensive on-site maintenance including repair/replacement of parts during the lease period, insurance and any other incidental charges. The taxes like Lease Tax/ Right-To-Use (RTU) Tax/Service Tax will be payable extra as per actuals.

Lease Period of Five years shall start from the date of successful installation by bidder and acceptance by BHEL at respective locations. In case the delay for installation is attributed to BHEL due to site not ready, then the lease shall start after 15 days from the date of delivery of equipment (acceptance by BHEL for total scope). If the delay is from vendor side then the lease shall start from the date of successful installation by bidder. Pro rata lease rental charges will be payable for the quarter in which installations & acceptance takes place. Details of acceptance procedure, if any, are enclosed separately along with technical specifications. Bidder shall be responsible for comprehensive on-site maintenance of the supplied equipment & services during the entire lease period. Payments shall be released on quarterly basis, as per Payment terms and other Commercial Terms & Conditions.

The summary of requirements is enclosed in Section 8.0 and quantities mentioned are indicative only. The rates for the various items will be finalized centrally and orders will be placed for the indicated quantities from respective places. The lease agreement will be signed centrally. The release of quarterly lease charges will be from the place (unit) of release of order(s).

The placement of orders for the leasing of items covered in this enquiry will also be available to BHEL for a period of SIX months from the date of LOI. BHEL, at its discretion may ask the vendor on whom rate contract is finalized for the latest specifications in this period at the same rental charges.

### **3.3 TENDERER TO INFORM HIMSELF FULLY:**

- 3.3.1 The bidder shall closely peruse all the clauses, specifications and requirements etc., indicated in the tender documents, before quoting. Should the bidder have any doubt about the meaning of any portion of the tender specifications or find discrepancies or omissions in the specifications or if the tender documents are found to be incomplete or require clarifications on any of the technical aspects, scope of work etc., he shall at once contact the official inviting the tenders, for clarifications, before submission of the tender. Such clarifications,

if any shall be sought within a week time from the date of publication of the Tender in order to give sufficient time for BHEL to furnish clarifications without affecting tender opening date.

3.3.2 Bidders are advised to study all the contents of the tender document carefully. Any submission of tender by the bidder shall be deemed to have been done after careful study and examination of the tender documents and with the full understanding of the implications thereof. Post bid clarifications sought after opening Techno Commercial Bid but before opening price bid should be without price implications.

#### 3.4 **PROCEDURE FOR SUBMISSION & OPENING OF BIDS**

3.4.1 Bids in two parts, as described below, shall be dropped in tender box on or before the due date & time indicated in the Tender Notice.

##### **PART-I: EMD & TECHNO-COMMERCIAL BID**

This part shall consist of the following:

- 1) Tender Fee in the form of Pay Order/ Bank Draft of Rs.20,000/- (Rupees Twenty Thousand only) in favour of "Bharat Heavy Electricals Limited" payable at BHEL Township, Ramachandrapuram, HYDERABAD. In the event of non-submission of Tender fee, opportunity will not be given to furnish Tender fee later and the offer will be summarily rejected.
- 2) EMD in the form of Pay Order/ Bank Draft of Rs.2,00,000/- (Rupees Two Lakhs only) in favor of "Bharat Heavy Electricals Limited" payable at BHEL Township, Ramachandrapuram, HYDERABAD. In the event of non-submission of EMD, opportunity will not be given to furnish EMD later and the offer will be summarily rejected.
- 3) Bounded volume, with numbered pages shall consist of:
  - i. Technical offer/ details including literature/leaflets (The bidder can offer only as per technical specifications of the equipment).
  - ii. Authorization by OEM as per enclosed format (Annexure I) in case of submission of bid by System Integrator.
  - iii. No Deviation Certificate as per enclosed format (Annexure IV)
  - iv. Checklist of PRICE BID (Un-priced Copy) as per enclosed format (Annexure XII).
  - v. Enclosures as defined in checklist of enclosures.

##### **PART-II: PRICE BID**

Price bid containing PRICES only is to be submitted in the format (Annexure XII) only. Prices shall be quoted in Indian Rupees only. The bidder has to give details of Duties and Taxes for each of the 28 locations called for in the Tender, so that in case of any change new lease rates can be calculated.

##### **AMC Charges:**

The AMC charges of all equipment for the 6th and 7th year (After the lease period of five years) shall be quoted by all the bidders and it shall be percentage on the outright value of the unit price.

If BHEL decides to go for the AMC with the vender, then separate letter order will be placed after the payment of the terminal charges, if any, to the vender and obtaining ownership of the equipment by BHEL. Transfer of software to BHEL will be without any other payment. The percentage of AMC charge quoted will not be considered for evaluation of L1 offer either through RA or opening of conventional price bid.

BHEL reserves the right to negotiate with L1 vender for AMC charges.

### 3.5 MARKING ON ENVELOPE

Part-I and Part-II offers shall be submitted in two separate sealed envelopes with bidder's distinctive SEAL and super-scribed as follows:

#### **PART-I:**

1. **TENDER ENQUIRY NO. AND DESCRIPTION**
2. **DUE DATE OF OPENING**
3. **TENDER FEE & EMD**
4. **TECHNO-COMMERCIAL BID.**

#### **PART II :**

1. **TENDER ENQUIRY NO AND DESCRIPTION**
2. **DUE DATE OF OPENING**
3. **"PRICE BID" as per enclosed Format (Annexure – XIII).**

Un-sealed envelopes or envelopes not super-scribed as above shall not be accepted/considered.

### 3.6 BID SUBMISSION

3.6.1 Bids shall be sent at the following address:

Tender Box,  
Bharat Heavy Electricals Limited,  
R.C.Puram, Hyderabad- 502032

3.6.2 Bids also can be dropped in the "Tender Box" located at vendor complex at Bharat Heavy Electricals Limited, R.C.Puram, Hyderabad- 502032

3.6.3 Bids submitted by post shall be sent by "REGISTERED POST" only and shall be posted with due allowance for any postal delay. Bids shall be submitted latest by 11:00 Hrs. of the due date. Any offer received after the deadline for submission shall be considered as late offer and summarily rejected. Such rejected unopened offer shall be returned to the bidder.

### 3.7 BID OPENING

3.7.1 PART-I (EMD & Techno-commercial bid) may be opened on the due date and time as specified in the Enquiry Letter or on the due date and time amended from time to time, in the presence of bidders who participate in the tender opening. Part-II (Price Bid) shall be opened subsequently.

3.7.2 Price Bid (Part –II) of the technically and commercially acceptable bidders only shall be opened. Hence date and time of Price Bid (Part-II) opening shall be intimated to them only to facilitate their participation in the opening of the bid.

3.7.3 In case of bidder submitting multiple offers before tender opening date with mention of the supersession of earlier bid by a later bid, then later bid will be considered. In case of no mention of the supersession of earlier bid by a later bid then chronologically latest bid will be opened. However Purchaser/Lessee also reserves the right to open the earlier bid or superseded price bids, if any, submitted by the bidder(s), if required.

3.7.4 Not more than two representatives of the bidder will be permitted to be present for the tender opening.

3.7.5 No correspondence shall be entertained from the bidders after the opening of Price Bid(s).

3.7.6 Standard pre-printed conditions of the bidders attached to the offer will not be accepted and only those mentioned in the body of his offer and endorsement of BHEL terms and conditions in a pre-printed format will be considered.

3.7.7 After tender opening unsolicited revised Price Bid, shall not be entertained and it will lead to automatic disqualification of the party's bid.

- 3.7.8 No Literature, Pamphlets other than what is specified is to be enclosed. All such enclosures will not be considered as part of the quotation.
- 3.7.9 Manufacturer's name, trade Mark or Patent No., if any, should be specified.
- 3.7.10 Purchaser/Lessee reserves the right to negotiate, if required.

### 3.8 VALIDITY OF OFFER

Offer shall be kept valid for **FOUR months** from the due date of tender opening (Part-I) for Purchaser/Lessee's acceptance.

### 3.9 DEVIATIONS

Bids shall be submitted strictly in accordance with the technical specifications and commercial terms & conditions of the Tender Enquiry. No change in specifications, clauses of contract, Terms and Conditions, etc. shall be entertained by BHEL under any circumstances. Hence bidders have to submit a "No Deviation Certificate" for both technical specifications and commercial terms and conditions in Part-I of the offer as per format (Annexure IV).

### 3.10 LANGUAGE & CORRECTIONS

- 3.10.1 The bidder shall quote the rates in Hindi/English language and international numerals only. The metric system of units shall be used, for the purpose of tender.
- 3.10.2 Bidder shall fill the tender documents as per formats enclosed in this tender enquiry. All entries and signatures in the bid shall be in BLUE/BLACK INK only. Each page of the bid shall be signed and stamped using official seal of the company by the bidder. All pages shall be sequentially numbered.
- 3.10.3 All entries shall be filled in neat and legible handwriting. No over-writings, erasures and corrections are permitted and may render such bids liable for rejection.
- 3.10.4 However, if any cancellations, corrections and insertions are in the bid, the same shall be duly attested by the bidder.

### 3.11 REJECTION OF BID AND OTHER CONDITIONS

- 3.11.1 Total quantity of an item shall be of same OEM. No mix and match is allowed. This clause is applicable to all items.
- 3.11.2 Any format not properly filled, partially filled or not filled will make the bid liable for rejection.
- 3.11.3 Bidders are requested to note that all columns, rows and spaces provided to fill up the data must be filled with relevant data without fail. In case any bidder fails to do so or fills up irrelevant data, BHEL is not bound to seek clarifications on such items and will be free to reject the tender summarily.
- 3.11.4 Make and Model of the equipment shall be specified by the Bidder in the space provided in the technical specifications.
- 3.11.5 If required, BHEL is entitled to ask for any equipment (covered under Group I and Group II only) for evaluation and all bidders are requested to note that they shall provide equipment exactly as per specification without any change and precondition(s) to BHEL within 5 working days of receiving such notice. Upon completion of such evaluation BHEL shall return the equipment to the unsuccessful bidder. However, successful bidder's equipment will be returned only after complete delivery of the ordered equipment.
- 3.11.6 Equipment offered must have current certifications as detailed in relevant sections. Future expectations of certification, conditional certifications, variation in certification and certification for equipment different from the make and model offered in the bid is not acceptable.

- 3.11.7 Locations and tentative number and type of equipment to be supplied are indicated under heading "SUMMARY OF REQUIREMENTS AND LOCATION DETAILS". (Annexure – XVI)
- 3.11.8 Enclosures consisting of all specified documents shall be bound and cross-referenced with respect to relevant clause of this tender document. This shall be submitted along with the technical bid as a separate volume. A check list of such documents has also been incorporated into the tender to guide the bidders.
- 3.11.9 Any pre Bid clarification pertaining to this tender enquiry must be submitted in writing to the undersigned within one week from the date of publishing the tender. BHEL will not entertain or respond to bidders' queries received after one week from the date of publishing the tender. Reply to the pertinent queries will be made available from the undersigned.
- 3.11.10 Amendments, if any, made prior to submission of bids will be provided in the form of Addenda/Corrigendum to the bidding documents and will be posted on the BHEL website (<http://www.bhel.com>) only in Tender Notification section under the original tender enquiry number.
- 3.11.11 Canvassing in any way concerning this tender, wrong declaration, incorrect information, misleading or incorrect certifications, etc. shall make the Bidder debarred to participate in this tender and also for a further period of 3 years in any tender of any of the BHEL units.
- 3.11.12 The Purchaser/Lessee reserves to itself, full rights for the following without assigning any reasons, whatsoever:
- a) To reject any or all the bids.
  - b) To increase or decrease the quantities.
- 3.11.13 The offer is liable to be rejected, if it is found after the Price Bid Opening that the details of price bid as a part of part-II offer is different from the Checklist of Price Bid containing the structure of the price Bid without actually revealing the prices in the techno-commercial Bid submitted by the bidder, as a part of Part-I offer.
- 3.11.14 If the bidder deliberately gives wrong information in his bid, Purchaser/Lessee reserves the right to reject such a bid at any stage or to cancel the Order/Contract, if awarded and forfeit the EMD/Security Deposit/Performance Bank Guarantee, if any. In addition other rights are available to Purchaser/Lessee such as risk purchase clause for breach of contract and banning for future contracts for a specified period.
- 3.11.15 It is mandatory to offer prices for all the items for which enquiry is floated and specifically listed in the price bid format. If the Prices/Rates of one or more of the enquired equipment have not been quoted, the offer is liable to be rejected.
- 3.11.16 Non-compliance with any of the requirements and instructions of the Tender Enquiry may result in the rejection of the bid.
- 3.11.17 Bidders may note that in case of Group IV – Network Switches and Wireless Access Points– The switches are likely to be installed at locations already having networking switches of CISCO make. CISCO network management software is used to manage these devices. Hence, bidder shall quote switches compatible with the installed hardware and software base.

### 3.12 TENDER EVALUATION

- 3.12.1 Line items totals / Gross Total of Prices in the price bid should be indicated both in words as well as in figures. If there is a difference between price quoted in words and figures or if there is any other price discrepancy, higher value(s) will be considered for evaluation and lower value(s) will be considered for ordering.
- 3.12.2 Though offer of higher warranty/configuration/rating, than what is required as per tender specifications, may be accepted, no extra weightage or preference will be given for the same.

- 3.12.3 Prices of optional items, if any, shall not be considered for Price evaluation and ordering, unless specifically called for in the enquiry and built into the price bid. The Lease Tax / RTU Tax shall be extra at actuals and will be considered for price evaluation and comparison.
- 3.12.4 BHEL will claim depreciation as per the provisions of the Income Tax Act/Companies Act-2013.
- 3.12.5 The evaluation will be on the basis of total Lease Charges for all the items including all applicable Taxes and Duties but excluding all input credits available to BHEL so as to assign tender priority based on cost to BHEL.
- 3.12.6 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 to go for RA. Successful bidder after RA has to furnish break up of RA closing price between all the line items tendered for and arrive at cash outflow and cost to company in line with multiplication factor communicated before RA.
- 3.12.7 In case BHEL decides to go for RA only those bidders who have given their acceptance to participate in RA will be allowed to participate in the RA. Those bidders who have given their acceptance to participate in RA will have to necessarily submit 'Online sealed bid' in the RA. Non submission of 'Online sealed bid' by the bidder will be considered as tampering of the tender process and will invite action by BHEL as per extant guide lines in vogue.
- 3.12.8 Terms and conditions of RA are contained in Annexure-IX.
- 3.12.9 Business rules for RA are contained in Annexure-X.

## **4.0 COMMERCIAL TERMS AND CONDITIONS FOR BIDDERS**

### **4.1 GENERAL**

The words incorporating singular shall include plural and vice-versa, in the words importing masculine gender shall include feminine and vice-versa and the words importing persons shall include bodies; corporate, limited liability companies, partnership and other legal entities.

#### **Expectations from Bidders**

Bidder is required to give a total solution & services as per specifications enclosed. The full working of all IT Equipment and Services is the responsibility of the Bidder. In case any extra item is required for complete functioning of the system, the same must be quoted.

### **4.2 SUPPLY CONDITION**

All equipment supplied and installed at the stipulated locations shall be NEW and conforming to the contract technical specifications. The certificate of newness is to be furnished.

The Bidder has also to produce a certificate from his principal OEM for back-to-back support for the complete lease period for all items.

### **4.3 LOCATION & CONSIGNEE**

The tentative list of consignees and respective locations with quantity and type of equipment to be delivered is detailed in Annexure - XV.

### **4.4 DELIVERY**

Delivery (i.e. Supply and installation) period shall start from the date of placement of firm order. Item wise "Delivery and Installation period" shall be as detailed below and it will be counted from the date of Order:

Item	Delivery Period	Installation Period (From delivery date)
All items	14 weeks	2 weeks

**4.5 RATES**

Rates to be quoted are net F.O.R. destination inclusive of freight, handling and packing charges, transit insurance, installation, regular/on-site insurance and on-site comprehensive maintenance including spares at stipulated locations during the entire lease period and shall remain FIRM without any variation till completion of the lease contract. However, the Lease Tax/ RTU Tax will be payable as per actuals.

Rates are to be quoted as per Price Bid Format providing details of prevailing rates of taxes and duties. Bidders, in their own interest, are requested to check up the different tax tariff like "Right to use" etc. at stipulated locations. After opening of Price Bid, no request for any change in rates/tariff due to above will be entertained.

**4.6 PAYMENT TERMS**

The Lease agreement will be signed centrally; however, the payment of lease charges will be made on quarterly basis after completion of each quarter and submission of invoice(s) in triplicate to the respective payment centers from where the payments will be directly released. Payment will be released within 30 days of submission of verified invoices.

Bidder has to complete installation at the locations to be identified by BHEL along with Order. The lease quarterly payment will be due after completion of the quarter from the date of successful completion of installation & acceptance by BHEL. However, 1st quarter lease payment will be proportionate as per installation dates of various equipment, if required.

Bidder shall raise the invoice from the vendor office which is located nearer or within same state of BHEL Unit/Region which placed the firm order

**4.7 BANK CHARGES**

Unless otherwise specified, the Bank charges, if any, shall be to the account of Bidder.

**4.8 PENALTY FOR LATE DELIVERY**

For the delay in delivery, penalty shall be levied at the rate of 0.5% per week (or part there of) subject to maximum of 10% of the total lease rent for entire lease period for the equipment(s) not delivered in time as per delivery schedule. This penalty will be deducted from the first quarter rental charges, in case the penalty amount to be deducted is more than the first quarter rental charges, the same will be adjusted from the consecutive quarter.

**4.9 Downtime calculation for IT Equipment**

Bidder shall be responsible for running the Equipment at the uptime of 98% per month.

No	Item Code	Support Level required
1	Server, SAN, NAS, UPS , Network Equipment	24 x 7
2.	All Other items	8 x 6

**The deduction for downtime shall be as follows:**

<b>Downtime in Delhi (NCR), Chennai, Mumbai, Kolkata, Hyderabad, Bangalore, Trichy, Nagpur, Bhopal, Hardwar</b>	<b>Downtime in all Other Cities</b>	<b>Deduction factor</b>
0 to 2%	0 to 5%	Zero
2 to 5%	>5 to 8%	1.00
>5 to 10%	>8 to 13%	1.25
Above 10%	Above 13%	1.50

**Working calculation for deduction**

Let downtime in a month	= A hours
Downtime percentage	
Server, SAN, NAS, UPS, Network Equipment	= $A \times 100 / (24 \times 30) = B$
PC's & Peripherals	= $A \times 100 / (8 \times 30) = B$
Deduction factor according to the table	= D
Monthly equipment lease charges	= Equipment Quarterly lease / 3 = M Rupees
Amount of deduction	= $M \times B \times D / 100$ Rupees

Cumulative deduction for downtime shall be restricted to 10% of the order value. If Cumulative deduction for downtime exceeds 10% of the order value then Performance Bank Guaranty shall be invoked.

If the uptime for equipment/system falls below 95% continuously for 3 months, the system/equipment shall have to be replaced by the Bidder within 30 days without any extra charge.

**4.10 MAINTENANCE**

Maintenance service shall cover services, repairs and replacements necessary to keep the equipment in good working order on reasonable use of the equipment during the lease period. Preventive maintenance, wherever required, should be carried out to keep the equipment in good working condition. Maintenance shall include, but not limited to, all plastic and/or rubber parts, adapters and printer heads. However it will NOT include inkjet cartridges, toner cartridges and ribbons. UPS batteries and Notebook batteries are to be replaced as and when required (found defective) during the lease period. UPS batteries and Notebook batteries should be replaced in the last quarter of lease period.

- 4.11.1 The successful bidder shall post minimum one qualified resident engineer at all locations from where confirm order is received. At locations, where the total quantity of PCs and peripherals are 300 nos or more than 300., successful bidder shall post one additional resident engineer for every 300nos. of PCs and peripherals and part thereof where the part is more than 150.
- 4.11.2 The successful bidder shall maintain one additional PC for each 200 PCs and the same will be handed over to BHEL after completion of the lease contract if BHEL decides to acquire the equipment after paying the terminal payment.
- 4.11.3 The successful bidder shall ensure the data protection by formatting/degaussing the storage devices before taking out of BHEL for repair/replacement.
- 4.11.4 The Bidder shall indicate item wise AMC percentage on the outright purchase price in a separate envelop for the next two years after completion of the five years lease period in order to open this envelop to ascertain the AMC charges irrespective of whether the tender is evaluated by RA or conventional price bid opening. The AMC value will not be considered in the evaluation of L1 bidder. The successful bidder shall have to accept to undertake the AMC after lease period in case BHEL requires AMC from them.
- 4.11.5 E-Waste disposal

- 1) Vendor shall ensure full compliance to E-waste (Management and Handling) Rules, 2011 for products being supplied to BHEL
- 2) Vendor should ensure that either them or the producer of products supplied by them has required authorization from respective State Pollution Control Boards / Pollution Control Committees for implementing EPR (Extended Producer Responsibility) across the concerned state.
- 3) Vendor shall manage a system directly or with a help of any professional agency for collection and channelization system of E-waste generated by the end of lifecycle of products supplied by it or whenever BHEL discards these products as E-waste.
- 4) Vendor shall arrange for collection of e-waste generated at the end-of-life from BHEL or whenever BHEL discards these products as E-waste and channelize the waste to authorized collection centers or recyclers/dismantlers under E-waste (Management and Handling) Rules, 2011. Also, Vendor shall bear all costs including transportation costs etc. involved in the aforesaid arrangement.
- 5) Vendor shall provide the full contact details including helpline number of the authorized collection centers and collection points or their collection mechanism being used by them to BHEL and such information should be periodically updated.  
(This we may see as our equipment End of Use/life/lease will be after 5 years)

#### 4.11 TRAINING

During installation at respective locations the associated BHEL users will be guided/trained on the configuration being made and usage.

#### 4.12 INDEMNITY

Bidder shall fully indemnify and keep indemnified the Purchaser/Lessee against all claims which may be made in respect of the use of System/Software/Item(s)/services supplied/rendered by the Bidder, for infringement of any rights protected by patent, registration of designs or trademarks and legality of the Software. However the Bidder will have no obligation for any claim of infringement arising from third party products not supplied in the order, modifications and technical information/ instructions advised by purchaser and use of products prohibited by product manuals.

All such claims in this regard will be settled as per Indian Laws.

In the event of any such claims being made against the Purchaser/ Lessee, Purchaser/Lessee will inform in writing to the Bidder who shall at his own risk and cost either settle any such dispute or conduct any litigation that may arise there from.

#### 4.13 INSURANCE

Insurance for the complete Systems/Goods shall be arranged by the Bidder at his own risk and cost during transit, movement, storage and throughout the period of lease. Purchaser/Lessee, under any circumstances, will not be responsible for any loss/damage/theft of any Systems/goods, due to any reasons, whatsoever. Claim(s) etc., if any, will be dealt with the underwriters directly by the Bidder. Evidence of insurance policy shall be submitted to BHEL. If the bidder fails to renew the policy before the expiry, BHEL may renew the insurance and recover from the lease rental.

#### 4.14 NON DISCLOSURE AGREEMENT

The successful bidder shall sign a Non-Disclosure Agreement (NDA) as per BHEL format in compliance to Information Security Management System.

#### 4.15 CONFIDENTIALITY

Bidder and its representatives shall, at all times, undertake to maintain complete confidentiality and integrity of all data, information, software, drawings & documents, etc. belonging to the Purchaser and also of

the Systems, procedures, reports, input documents, manuals, results and any other company documents discussed and/or finalized during the course of execution of the order/contract.

#### 4.16 **FORCE MAJEURE**

Bidder shall not be responsible for delay in delivery resulting from acts/events beyond his control, provided notice of the happening of any such act/event is given by the Bidder to the Purchaser/Lessee within 15 days from the date of its occurrence. Such acts/events shall include but not be limited to acts of God, war, floods, earthquakes, strikes, lockouts, epidemics, riots, fire or Governmental regulations superimposed after the date of order/contract.

#### 4.17 **RISK PURCHASE**

Purchaser shall reserve the right to terminate the order/contract and purchase from elsewhere at the risk and cost of the Bidder, either the whole or part of the Systems/goods, which the Bidder has failed to deliver within the stipulated delivery period or if the same were not available, the best and the nearest available substitute(s) thereof which is no technically inferior to the undelivered System/Goods . The Bidder would be liable to compensate the Purchaser for any loss, which the Purchaser/Lessee may sustain by reason of such purchase. This clause will be operated only after completion of delivery period including extended period with penalty.

#### 4.18 **PATENTS & TRADEMARKS**

Bidder shall at all times indemnify the Purchaser against all claims which may be made in respect of the Systems/goods/Software supplied by the Bidder, for infringement of any right protected by patent, registration of designs or trademarks and legality of usage of Software. In the event of any such claims being made against the Purchaser, Purchaser/Lessee will inform the Bidder who shall at his own cost either settle any such dispute or conduct any litigation that may arise there from.

#### 4.19 **SUB-CONTRACTING**

Order/contract or any part thereof shall not be sub-contracted, assigned or otherwise transferred to any other party without prior written consent of the Purchaser.

#### 4.20 **TERMINATION OF THE ORDER/ LEASE AGREEMENT & ITS CONSEQUENCES**

- 4.21.1 The Purchaser will issue a written notice of non-compliance to the Bidder and after a rectification period of One month, termination and fore-closure clauses will be applicable.
- 4.21.2 Purchaser reserves the right to terminate the order/contract, either wholly or in part, upon situations arising due to non-compliance of stipulations of the Order/contract, by the Bidder, at the risk and cost of the Bidder.
- 4.21.3 Purchaser reserves the right to terminate the order/contract or a portion thereof for the contracted Systems/Goods not delivered within the stipulated period, and procure from an alternate source at the risk and cost to the Bidder. The Bidder shall be liable to the Purchaser/Lessee for any additional costs thereof.
- 4.21.4 Bidder shall continue the performance of the order/contract under all circumstances, to the extent not cancelled expressly by the purchaser.
- 4.21.5 Purchaser reserves the rights to cancel the lease agreement in case the equipment and services are not found to be satisfactory by the purchaser and apply Risk purchase clause for the same as mentioned at clause 4.18 and 4.21.3.
- 4.21.6 **Fore-closure:** In case of fore-closure of the lease agreement by the lessee for the no fault of the lessor, pro-rata compensation will be payable. Compensation will be equivalent to percentage of outright purchase cost and proportionately linked to balance lease period.
- 4.21.7 **Consequences:** As soon as the lease agreement is cancelled / terminated by the purchaser on account of fore-closure no further lease rent will be payable to the bidder.

#### 4.21 **SETTLEMENT OF DISPUTES**

4.22.1 **Except** as otherwise specifically provided in the Order/Contract, all disputes concerning questions of the facts arising under the Order/Contract, shall be decided by the Purchaser, subject to written appeal by the Bidder to the Purchaser, whose decision shall be final to the parties hereto.

4.22.2 Any disputes or differences shall be to the extent possible settled amicably between the parties hereto, failing which the disputed issues shall be settled through arbitration.

4.22.3 However, the Bidder shall continue to perform the Order/Contract, pending settlement of dispute(s).

#### 4.22 **ARBITRATION**

In all cases of disputes emanating from and in reference to this contract, the matter shall be referred to the arbitration. All disputes or differences between the parties will be resolved through arbitration governed by "The Arbitration and Conciliation Act, 1996" as amended from time to time. The venue of arbitration shall be in Hyderabad.

#### 4.23 **ACCEPTANCE OF LOI/ Rate Contract.**

Letter of Seller/ Contractor/ bidder's acceptance of the LOI / Rate Contract is to be submitted within one week of issue date of LOI/Rate Contract. This will be submitted along with the performance Bank guarantee of the value of 10% of the total annual Lease Rent for all the equipment and valid for a period of one year. During the five years lease contract period this Bank guarantee shall be renewed year after year before the expiry of the earlier performance bank guarantee in force.

#### 4.24 **SHIFTING OF EQUIPMENT FROM A LOCATION TO OTHER**

After initial installation as per location details given by BHEL, shifting of equipment from one location to another shall be the responsibility of the Bidder. The entire requisite works like dismantling of equipment, packing, transportation and transit insurance shall be the responsibility of the Bidder. A mutually agreed cost can be paid by BHEL to the Bidder on this account. The time given for shifting and installation of equipment at new location will be mutually agreed and time taken beyond that period will be treated as downtime.

#### 4.25 **TERMINAL PAYMENT**

BHEL shall have the right to acquire or surrender all the equipment at the end of the lease period. In case BHEL decides to acquire the equipment, a nominal charge of Re.1.00 per equipment will be paid as terminal payment and maintenance of these equipment shall be with the successful bidder until the ownership is transferred to the BHEL without any extra charges for a period of not exceeding 60 days from the last date of the lease period.

In case of termination or surrender of equipment by BHEL at the end of the lease period, Bidder will remove the equipment from Purchaser/Lessee's premises at his own risk and cost after due permission from BHEL.

#### 4.26 **LIMITATION OF LIABILITY**

The Bidder's liability will be limited to the value of this contract only.

#### 4.27 **ETHICAL STANDARD**

Bidders are expected to observe the highest standard of ethics during the procurement and execution of this contract. In pursuit of this policy, the purchaser will reject a proposal for award if it is found that the bidder being considered for award has engaged in corrupt or fraudulent practices in competing for the contract. For the purpose of this provision, the terms set forth are defined as follows:

(a) "Corrupt practice" means offering, giving, receiving or soliciting of anything of value to influence the action in the procurement process or in contract execution; and

(b) "Fraudulent Practice" means a misrepresentation of facts in order to influence a procurement process including collusive practices designed to establish bid prices at artificial, non-competitive levels to

deprive the purchaser of the benefits of competition.

By signing The Bid forwarding letter, the bidder represents that for the software it supplies, either it is the owner or has authorization from the owner of the Intellectual Property Rights in the software. Willful misrepresentation of these facts shall be considered as fraudulent practice without prejudice to the other remedies that the purchaser may take.

#### 4.28 INTEGRITY PACT

The bidder shall sign an integrity pact, to comply with the requirements of the Transparency International Ltd (TIL) and the Central Vigilance Commission (CVC) guidelines to ensure an ethical and corruption-free business environment. The format for Integrity Pact is attached as Annexure-XI.

The independent external monitor (IEM) for this case will be .....

#### 4.29 OTHER CLAUSES:

- (a) Bidders must offer all software, licenses and support for complete solution. All licenses must be in the name of BHEL. Licenses must clearly mention their validity period and renewal policies.
- (b) The bidder shall include and provide all other hardware or software items that are not explicitly mentioned herein but are required to full-fill the intended specifications.
- (c) No item shall be offered whose end-of-sale has been declared by the OEM or has been declared to be under phase out.

#### 5.0 CONTRACT LEASE AGREEMENT

(Based on the finalized terms and conditions, BHEL will consider signing of **Bipartite/Tripartite Lease Agreement with bidder and lessor(in case of Tripartite)** after placement of LOI.)

After the Owner notifies the successful Bidder that its bid has been accepted (through issuance of LOI / Rate Contract), the Bidder shall sign and return back to the Owner duplicate copy of the LOI/Rate Contract as an acceptance of the LOI/Rate Contract within 7 working days along with Performance Bank Guarantee (PBG). Thereafter, the Owner shall issue the draft contract agreement within 15 days of acceptance of LOI/Rate Contract along with submission of BG by the Bidder. One common agreement with generic terms and conditions, without any commercial and period(start and end of lease) mentioned shall be signed by the lead purchase agency and specific agreement shall be signed by the each unit from where PO is released for the required equipment in the next 15 days. Format of Tripartite agreement is placed in Annexure XV.

#### 6.0 TECHNICAL SPECIFICATIONS

**ENCLOSED AS SEPARATE VOLUME (Total Pages: 105)**

#### 7.0 BRIEF SCOPE OF WORK –TECHNICAL

The broad scope of work includes the following:

- (a) Installation and configuration of all the hardware and software items supplied under the Rate Contract.
- (b) The supplier shall assign a qualified Project Manager having at least 10 years of experience to supervise the installation and deployment of all the items across all the BHEL locations. The engineers deployed to carryout the installation should have the following minimum qualifications/certifications:

- (i) MCSE certified engineers to carryout installations of PCs , Notebooks, Work stations & Windows based Servers.
  - (ii) For installation of Linux/Unix servers, the engineers should have sufficient proven experience.
  - (iii) For installation of network devices, the engineers should have CCNP or equivalent certification.
- (c) Comprehensive maintenance of all the hardware and software for the entire contract period. For all hardware and software like OS, CALs, backup software the supplier must provide onsite support.

The successful bidder shall post minimum one qualified resident engineer at all locations from where confirm order is received. At locations, where the total quantity of PCs and peripherals are 300 nos or more than 300, successful bidder shall post one additional resident engineer for every 300nos. of PCs and peripherals and part thereof where the part is more than 150.

- (d) The resident engineer posted at BHEL locations should have the following minimum qualification and experience:
- (i) 3 years diploma in electronics / computers/ hardware.
  - (ii) At least 2 years' experience in maintenance of PCs, Servers, Printers, etc.
  - (iii) MCSE certification for engineers providing support on Notebooks, PCs and Windows based servers.
  - (iv) CCNA certified engineers for providing support on network devices.
  - (v) Before posting engineers to BHEL locations, the supplier/service provider shall submit the CV of engineers to respective BHEL locations for vetting and acceptance.
- (e) Support to users for installation , reinstallation , trouble shooting and other problems/issues related to commonly used software like OS, email, MS office, Antivirus, Adobe Acrobat, Add-ons, upgrades should be provided by the resident Engineer(s) during contract period.
- (f) Sharing of Desktop, printers and configuration on network should be provided by the resident Engineer(s) during contract period.
- (g) Dismantling, assembling and data transfer in case of shifting of system from one user to another within premises should be provided by the resident Engineer(s) during contract period.
- (h) The supplier/bidder shall maintain sufficient number of spares at each location.

For installation, a brief scope of work is given as under. However, if any activity or component is required for the completeness or successful functioning of any item, the same shall be part of the scope of supply and work.

#### **7.1 Installation of PC/Notebook/Workstation**

- a) Inventory & Configuration, verification against Ordered Specification
- b) Installation of OS
- c) Installation of latest OS patches and security updates.
- d) Partitioning (wherever asked for)
- e) Installation of Software packages provided by BHEL (like Antivirus, MS Office, Adobe acrobat, etc.)
- f) Printer configuration
- g) Network configuration
- h) Client email configuration
- i) Internet configuration
- j) Transfer of data from the replaced PC's

#### **7.2 Installation of Printers/Plotters/MFS**

- a) Inventory & Configuration, verification against Ordered Specification
- b) Perform power on self-test
- c) Network configuration
- d) Driver Installation on client machines
- e) Perform system & verification tests

### 7.3 Installation of Scanners

- a) Inventory & Configuration, verification against Ordered Specification
- b) Perform power on self-test
- c) Installing Scanner software on a client machine
- d) Enable s/w and H/w parameters
- e) Perform system & verification test

### 7.4 Installation and Configuration of Servers

- a) Inventory & Configuration, verification against Ordered Specification
- b) Attach all add-ons
- c) Perform power on self-test
- d) Mounting in to the rack
- e) RAID Configuration
- f) Installation of Server OS (Red Hat Enterprise Linux / Windows Server) and file systems
- g) Network configuration
- h) Remote management configuration (e.g. iLO features)
- i) Perform system & verification test
- j) Cluster implementation, wherever required.
- k) Fail over test
- l) Migration of data from old server to the new server wherever required

### 7.5 Installation of NAS

- a) Inventory & Configuration, verification against Ordered Specification
- b) Perform power on self-test
- c) Mounting in to the rack
- d) RAID Configuration
- e) Installation of OS
- f) Network configuration
- g) Perform system & verification test
- h) Mounting into the rack
- i) User disk quota allocation

### 7.6 Installation of SAN

- a) Inventory & Configuration, verification against Ordered Specification
- b) Perform power on self-test
- c) Preparation of installation plans as per BHEL requirements
- d) RAID & LUN Configuration
- e) Installation of Fiber Switches
- f) Allocation of LUNs to servers
- g) Installation of Storage Management Software
- h) Cluster Configuration
- i) Installation & Configuration of HBA's
- j) Network configuration
- k) Perform system & verification test
- l) Mounting into the rack

### 7.7 Installation of Network Switches

- a) Inventory & Configuration, verification against Ordered Specification
- b) Perform power on self test
- c) Installation of OS
- d) Assign IP address
- e) Establish LAN connectivity
- f) Configure VLANs & VTP

- g) Perform system & verification test
- h) Mounting into the rack
- i) Configuration of trunks / Ethernet channels where ever required
- j) Configuration of HSRP/VRRP
- k) Enabling / configuring security features like Port Security, BPDU Guard, Root Guard etc.
- l) Enabling / configuring performance features like Portfast, Link fast, Backbone fast etc.
- m) Configuring ACLs
- n) Enabling/ disabling Telnet, SSH, HTTP, SNMP, Syslog etc.

#### **7.8 Installation of Routers**

- a) Inventory & Configuration, verification against Ordered Specification
- b) Perform power on self test
- c) Installation of OS
- d) Assign IP address
- e) Establish LAN connectivity
- f) Perform system & verification test
- g) Mounting into the rack
- h) Configuring ACLs as per BHEL requirement.
- i) Enabling/ disabling Telnet, SSH, HTTP, SNMP, Syslog etc.
- j) Configuration of NAT/PAT etc.
- k) Enabling / configuring IP Routing as per BHEL requirement
- l) Configuring Packet inspection, Application inspection etc.

#### **7.9 Installation of Network Switches**

- a) Inventory & Configuration, verification against Ordered Specification
- b) Preparation of installation plan as per BHEL requirement
- c) Perform power on self test
- d) Installation of OS
- e) Assign IP address
- f) Establish LAN connectivity
- g) Perform system & verification test
- h) Mounting into the rack
- i) Configuring security zones
- j) Configuring ACLs and access rules as per BHEL requirement.
- k) Enabling/ disabling Telnet, SSH, HTTP, SNMP, Syslog etc.
- l) Configuration of NAT/PAT etc.
- m) Enabling / configuring IP Routing as per BHEL requirement
- n) Configuring Packet inspection, Application inspection etc.
- o) Configuring Remote Access VPN users
- p) Configuring Signature and inspection policy.
- q) Configuring active/active or active/passive failover configuration.

#### **7.10 Installation of UPS**

- a) Inventory & Configuration, verification against Ordered Specification
- b) Connecting batteries
- c) Perform power on self-test
- d) Perform system & verification test
- e) Verify backup time on full load
- f) Connecting load to UPS
- g) In case of all online UPS, bidder shall inform BHEL at least 1 month before delivery about switchgear, space, cabling and any civil work requirements.

### **8.0 SUMMARY OF REQUIREMENTS & LOCATION DETAILS**

The tentative list of consignees and respective locations with quantity and type of equipment to be delivered is detailed in Annexure – XV

## 9.0 PAYMENT CENTRE & ADMINISTRATION OF CONTRACT

The tender envisages supply and installation of equipment at different locations as per tentative consignee list enclosed. The administration of contract will be at respective locations. As part of this rate contract, the rates will be finalized centrally and orders will be placed by respective units / divisions for their requirements. The detail of various locations where delivery & supply given below. The bidder is to clearly understand that the service is to be provided on site at all the locations as detailed in relevant section and payment towards lease charges is to be collected from the place of placement of order as per details enclosed below:

No.	Unit / Division	Address
1.	BHEL, HEEP, Haridwar	Ranipur, Haridwar – 249403 (Uttarakhand)
2.	BHEL, HEP, Bhopal	Piplani, Bhopal – 462022 (MP)
3.	BHEL, Tiruchirapalli Complex	Tiruchy – 620014 (Tamilnadu)
4.	BHEL, Hyderabad	RC Puram, Hyderabad – 502032 (AP)
5.	BHEL, Ranipet	Ranipet, Vellore – 632406 (Tamilnadu)
6.	BHEL, R&D, Hyderabad	Vikasnagar, Hyderabad – 500093 (AP)
7.	BHEL, EDN, Bangalore	Mysore Road, Bangalore – 560026 (Karnatkka)
8.	BHEL, ISG, Bangalore	Malleswaram, Bangalore – 560012 (Karnatkka)
9.	BHEL, EPD, Bangalore	Malleswaram, Bangalore – 560012 (Karnatkka)
10.	BHEL, Jhansi	Jhansi – 284129 (UP)
11.	BHEL, PPPU, Thirumayam	Tiruchy – 620014 (Tamilnadu)
12.	BHEL, Rudrapur	Rudrapur, Udham Singh Nagar– 263153 (Uttaranchal)
13.	BHEL, Goindwal	Goindwal, Amritsar – 143423 (Punjab)
14.	BHEL BSM, Bhopal	Bhopal – 462022 (MP)
15.	BHEL, PEM, Noida	Sector-16A, Noida -201301 (UP)
16.	BHEL, PS-HQ, Noida	Sector-1, Noida – 201301 (UP)
17.	BHEL, PS-TS, Noida	Sector-1, Noida – 201301 (UP)
18.	BHEL, PS-Mktg, New Delhi	Asiad, New Delhi - 110049
19.	BHEL, EMRP, Mumbai	Mumbai
20.	BHEL, PS-WR, Nagpur	Nagpur – 440001 (Maharashtra)
21.	BHEL, CS&IT, Noida	Noida
22.	BHEL, RMSG, Bhopal	Bhopal
23.	BHEL, PS-SR, Chennai	Chennai – 600035 (Tamilnadu)
24.	BHEL, IS, New Delhi	Lodi Road, New Delhi - 110003
25.	BHEL, ARP, New Delhi	Asiad, New Delhi - 110049
26.	BHEL, MPC, Chennai	T-Nagar, Chennai – 600017 (Tamilnadu)
27.	BHEL, HRDI, Noida	Sector-16A, Noida -201301 (UP)
28.	BHEL, Jagdishpur	Sultanpur Distt (UO) -227817
29.	BHEL, PS-NR	Noida – 201301 (UP)
30.	BHEL, PS-ER	BHEL Bhavan, Salt Lake City, Kolkata, West Bengal
31.	BHEL, Bhandara	Mundipar, Bhandara, Maharastra
32.		HPVP UNIT, BHPV POST, VISAKHAPATANAM -530 012, ANDHRA PRADESH.

9.1 Documents (Three sets) to be submitted for claiming Quarterly Rental Charges:

A) In the First Quarter:

- ✓ Copy of Bipartite Lease Agreement
- ✓ Copy of Insurance valid for 1 year.
- ✓ Copy of Installation Certificates signed by BHEL Coordinator.
- ✓ Original copy of Certificate signed by BHEL Coordinator certifying only non-availability figures for the quarter.
- ✓ Newness certificate of the equipment supplied from OEM.
- ✓ Invoice.

B) Subsequent Quarters:

- ✓ Original copy of Certificate signed by BHEL Coordinator certifying only non-availability/downtime figures for the quarter.
- ✓ Invoice.

C) Annually:

- ✓ Copy of Renewal of Insurance valid for the next one year.

10.0 CHECKLIST OF ENCLOSURES

Sl. No.	Annexure to be attached	Format attached as	Whether attached or not
1.	<b>Authorization letter from OEMs of Group I</b> ➤ PCs + Notebooks Including 5 years warranty supports with back to back support from OEM (Letter to this effect to be attached)	Annexure I	
2.	<b>Authorization letter from OEMs of Group II</b> Servers + Workstations	Annexure I	
3.	<b>Authorization letter from OEMs of Group III</b> Printers Including 5 years warranty supports with back to back support from OEM (Letter to this effect to be attached)	Annexure I	
4	<b>Authorization letter from OEMs of Group IV</b> Network Equipment Including 5 years warranty support (with batteries) with back to back support from OEM (Letter to this effect to be attached)	Annexure I	
5.	<b>Authorization letter from OEMs of Group V</b> UPS Including 5 years warranty support (with batteries) with back to back support from OEM (Letter to this effect to be attached)	Annexure I	
6.	<b>Authorization letter from OEMs of Group VI</b> Storage Devices (NAS + SAN) with back to back support from OEM (Letter to this effect to be attached)	Annexure I	
7.	<b>Authorization letter from OEMs of Group VII</b> Scanners Including 5 years warranty support with back to back support from OEM (Letter to this effect to be attached)	Annexure I	

<b>8.</b>	<b>Authorization letter from OEMs of Group VIII</b> Plotters + MFS Including 5 years warranty supports with back to back support from OEM (Letter to this effect to be attached)	Annexure I	
<b>9.</b>	Presence Chart	Annexure II	
<b>10.</b>	Annual Turnover Chart & copies of Audited Balance Sheets	Annexure III	
<b>11.</b>	NO DEVIATION CERTIFICATE	Annexure IV	
<b>12.</b>	Copy of major orders received in last 4 years	Annexure V	
<b>13.</b>	Copy of AMC/FMS/Lease Rental contracts	Annexure VI	
<b>14.</b>	Tender fee in the form of Pay order/Bank Draft for Rs.20,000/- (Rupees Twenty thousand only)		
<b>15.</b>	EMD in the form of Pay order/Bank Draft for Rs.2,00,000/- (Rupees Two Lakhs only)		
<b>16.</b>	Income Tax Clearance Certificate		
<b>17.</b>	Certificate Of Incorporation Of OEM of Group I to VIII items		
<b>18.</b>	Copy Of Purchase Orders for Proof of Lease Rental Orders		
<b>19.</b>	Integrity pact	Annexure XI	
<b>20.</b>	Certifications (Refer technical Specifications)		
<b>21.</b>	Empty Price Bid	Annexure XII	
<b>22.</b>	AMC percentage for all items after five years lease period.		
<b>23.</b>	Proofs for Qualification Criteria		
<b>24.</b>	List of certificates	Annexure VII	

**AUTHORIZATION  
BY OEM**

Date: \_\_\_\_\_

To,  
BHEL, RC Puram, Hyderabad

Subject: **Letter of Authority**

Tender Ref. No **Ref. No.:** HYD: RC: IT: LEASE/2014  
**dated** \_\_\_\_\_

Dear Sir,

We hereby authorize \_\_who has all India presence and fulfills the requirements of the tender enquiry ref. no **Ref. No.:** HYD: RC: IT: LEASE/2014 dated **4<sup>th</sup> January, 2014** to quote/ negotiate and service the equipment as required in the above tender enquiry.

This authorization is valid only for the following equipment for which we are the OEM:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

The authorized agency would ensure reliable service during complete lease period of 5 years. In case of any default we would do alternative arrangement on the same terms and conditions as negotiated and finalized in this tender enquiry.

(Authorized  
Signatory)

For \_  
\_\_\_\_\_

Note: This 'Letter of Authority' should be issued on the letterhead of OEM and enclosed in Part-I.

## Presence Chart

Sl.No.	Location	Presence (Yes/No). Address if Yes	If not present then covered from which place	No. Of Employees at that location	Number of MSCE/MSCA certified employees at that location
1	Haridwar				
2	Bhopal				
3	Tiruchirapalli				
4	Hyderabad				
5	Ranipet				
6	Bangalore				
7	Jhansi				
8	Rudrapur				
9	Goindwal				
10	Mumbai				
11	Nagpur				
12	New Delhi				
13	Chennai				
14	Noida				
15	Jagdishpur				
16	Mundipar, Bhandara				
17	Kolkata				
18	Visakhapatnam				

## Annual Turnover Of Bidder

Sl. No.	Financial Year	Turnover (In Rs. Crores)
1	2010-2011	
2	2011-2012	
3	2012-2013	

**NO DEVIATION CERTIFICATE**

This is to certify that our offer is exactly in line with your tender enquiry no Ref. no.: HYD: RC: IT: LEASE/2014 dated 4<sup>th</sup> January, 2014. This is to expressly certify that our offer contains no deviation either Technical or Commercial in either direct or indirect item.

Signed by:

Name : -----

Designation: -----

Organisation:-----

Date & place:-----

Phone/Fax/Mobile/Email:-----

'Stamp & Seal:-----

## MAJOR ORDERS RECEIVED IN LAST 4 YEARS

Sl.No.	Organisation Name	Type of Order (Leasing / Outright Sale)	Number of delivery places	Number of PCs/Servers/Printers/ Switches/UPS/Scanners
1				
2				
3				
4				
5				

Copy of AMC/FMS/Lease Rental contracts

Sl.No.	Organization Name	Number of cities AMC/FMS Spanned.	Number of PCs/Servers/Printers/ Switches/UPS/Scanners managed
1			
2			
3			
4			
5			

**CERTIFICATIONS REQUIRED IN ADDITION TO MENTIONED IN TECHNICAL SPECIFICATIONS FOR EACH OF THE ITEM**

<b>Sl.No.</b>	<b>Product</b>	<b>Certification</b>	<b>Whether (Yes/No)</b>
<b>1</b>	Servers	For OEM : ISO 9001 (Latest) ERTL/FCC – EMC Class B Latest Version of IEC-60950-1 / IS 13252 / UL-60950 ACPI (Latest Version) Compliant RoHS Compliant Red Hat Linux Advanced Server latest version (with server virtualization capability) , MS Windows 2012 server (with server virtualization capability)	
<b>2</b>	PCs	OS Certification from Microsoft For OEM : ISO 9001 (Latest) ERTL/FCC – EMC Class B Latest Version of IEC-60950-1 / IS 13252 / UL-60950 ACPI (Latest Version) Compliant RoHS Compliant Energy Star 5.0 or higher	
<b>3</b>	Workstations	OS Certification from Microsoft Red Hat Linux Advanced Server latest version For OEM : ISO 9001 (Latest) ERTL/FCC – EMC Class B Latest Version of IEC-60950-1 / IS 13252 / UL-60950 ACPI (Latest Version) Compliant RoHS Compliant Energy Star 5.0 or higher Certified for AutoDesk products, 3D Modelling softwares like SIEMENS Products, PDMs, PTC etc.	
<b>4</b>	Notebooks	OS Certification from Microsoft For OEM : ISO 9001 (Latest) ERTL/FCC – EMC Class B Latest Version of IEC-60950-1 / IS 13252 / UL-60950 ACPI (Latest Version) Compliant RoHS Compliant Energy Star 5.0 or higher	
<b>5</b>	Notebooks - Engineering	OS Certification from Microsoft Red Hat Linux Advanced Server latest version For OEM : ISO 9001 (Latest) ERTL/FCC – EMC Class B Latest Version of IEC-60950-1 / IS 13252 / UL-60950 ACPI (Latest Version) Compliant RoHS Compliant Energy Star 5.0 or higher Certified for UGS, AutoDesk products, 3D Modelling softwares like PDMS, PTC, UG PLM etc.	
<b>6</b>	Laser / Deskjet / Printers / Scanners	Energy Star 5.0 or higher	
<b>7</b>	UPS	Latest Version of IEC-60950-1 / IS 13252 / UL-60950 Latest Version of IEC/EN 62040 or Equivalent	

### Terms & Conditions of Reverse Auction

Against this enquiry for the subject item/ system with detailed scope of supply as per enquiry specifications, BHEL may resort to "REVERSE AUCTION PROCEDURE" i.e., ON LINE BIDDING (THROUGH A SERVICE PROVIDER). The philosophy followed for reverse auction shall be English Reverse (No ties).

1. For the proposed reverse auction, technically and commercially acceptable bidders only shall be eligible to participate.
2. Those bidders who have given their acceptance for Reverse Auction (quoted against this tender enquiry) will have to necessarily submit „online sealed bid“ in the Reverse Auction. Non-submission of „online sealed bid“ by the bidder for any of the eligible items for which techno-commercially qualified, will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines in vogue.
3. BHEL will engage the services of a service provider who will provide all necessary training and assistance before commencement of on line bidding on internet.
4. In case of reverse auction, BHEL will inform the bidders the details of Service Provider to enable them to contact & get trained.
5. Business rules like event date, time, bid decrement, extension etc. also will be communicated through service provider for compliance.
6. Bidders have to fax the Compliance form (annexure XIII) before start of Reverse auction. Without this, the bidder will not be eligible to participate in the event.
7. In line with the NIT terms, BHEL will provide the calculation sheet (e.g., EXCEL sheet) which will help to arrive at "Total Cost to BHEL" like Packing & forwarding charges, Taxes and Duties, Freight charges, Insurance, Service Tax for Services and loading factors (for non-compliance to BHEL standard Commercial terms & conditions) for each of the bidder to enable them to fill-in the price and keep it ready for keying in during the Auction.
8. Reverse auction will be conducted on scheduled date & time.
9. At the end of Reverse Auction event, the lowest bidder value will be known on auction portal.  
Annexure - IX
10. The lowest bidder has to fax/e-mail the duly signed and filled-in prescribed format for price breakup including that of line items, if required, (Annexure XII) as provided on case-to-case basis to Service provider within two working days of Auction without fail.
11. In case BHEL decides not to go for Reverse Auction procedure for this tender enquiry, the Price bids and price impacts, if any, already submitted and available with BHEL shall be opened as per BHEL"s standard practice.
12. Bidders shall be required to read the "Terms and Conditions" section of the auctions site of Service provider, using the Login IDs and passwords given to them by the service

provider before reverse auction event. Bidders should acquaint themselves of the Business Rules of Reverse Auction”, which will be communicated before the Reverse Auction.

13. If the Bidder or any of his representatives are found to be involved in Price manipulation/ cartel formation of any kind, directly or indirectly by communicating with other bidders, action as per extant BHEL guidelines, shall be initiated by BHEL and the results of the RA scrapped/ aborted.
14. The Bidder shall not divulge either his Bids or any other exclusive details of BHEL to any other party.
15. In case BHEL decides to go for reverse auction, the H1 bidder(s) (whose quote is highest in online sealed bid) may not be allowed to participate in further RA process.

### Business Rules for Reverse Auction

This has reference to tender no **{tender number....date...}**. BHEL shall finalize the Rates for the supply of **{item name}** through Reverse Auction mode. BHEL has made arrangement with M/s. **{Service provider}**, who shall be BHEL's authorized service provider for the same. Bidders should please go through the guidelines given below and submit acceptance of the same. The technical & commercial terms are as per (a) BHEL Tender Enq. No. **{...}** dated **{...}**, (b) Bidders' technical & commercial bid (in case of two part bid) and (c) subsequent correspondences between BHEL and the bidders, if any.

**1. Schedule for reverse auction:** The Reverse Auction is tentatively scheduled on **{date}**:

- **Online Sealed Bid:-**

**{Start Time:**

**Close Time: }**

- **Online Reverse Auction:-**

**{Start Time:**

**Close Time:}**

**2. Auction extension time:** If a bidder places a bid in the last **{...}** minutes of closing of the Reverse Auction and if that bid gets accepted, then the auction's duration shall get extended automatically for another **{...}** minutes, for the entire auction (i.e. for all the items in the auction), from the time that bid comes in. Please note that the auto-extension will take place only if a bid comes in those last **{...}** minutes and if that bid gets accepted as the lowest bid. If the bid does not get accepted as the lowest bid, the auto-extension will not take place even if that bid might have come in the last **{...}** minutes. In case, there is no bid in the last **{...}** minutes of closing of Reverse Auction, the auction shall get closed automatically without any extension. However, bidders are advised not to wait till the last minute or last few seconds to enter their bid during the auto-extension period to avoid complications related with internet connectivity, network problems, system crash down, power failure, etc.

The above process will continue till completion of Reverse Auction.

Complaints/ Grievances, if any, regarding denial of service or any related issue should be given in writing thru e-mail/ fax to M/s. **{Service provider}** with a copy to BHEL within 15 minutes from the initial closing time of Online Reverse Auction.

**3. Bid price:** The Bidder has to quote the F.O.R. destination Price inclusive of Packing & Forwarding charges, all the routine & type tests as per tender scope, ED + cess, CST against C-form, Freight (bidder to provide original Freight paid receipt), insurance charges, etc. including loading (if indicated by BHEL due to deviations in commercial terms) for the Items specified. Details are as shown in Excel Sheet for calculation of Landed cost.

Note: For the consideration of L1 bidder, the bid value shall be reduced by loading amount, if applicable.

**4. Bidding currency and unit of measurement:** Bidding will be conducted in **{Indian Rupees per Unit}** of the material as per the specifications **{...}**

In case of foreign currency bids, exchange rate (TT selling rate of State Bank of India) as on scheduled date of tender opening (Part-I bid in case of two part bid) shall be considered for conversion in Indian Rupees.

5. **Validity of bids:** Price shall be valid for {... days} from the date of reverse auction. These shall not be subjected to any change whatsoever.
6. **Lowest bid of a bidder:** In case the bidder submits more than one bid, the lowest bid at the end of Online Reverse Auction will be considered as the bidder's final offer to execute the work.
7. **Post auction procedure:** BHEL will proceed with the Lowest Bid in the Reverse Auction for further processing.

## 8. Procedure of Reverse Auctioning

- i. **Online Sealed Bid:** This duration of online sealed bid will be {...} minutes. All bidders to submit their online sealed bids during this period.
  - ii. **Online Reverse Auction:** The „opening price“ i.e. start price for RA and „bid decrement“ will be decided by BHEL.
  - iii. If BHEL decides the lowest online sealed bid as the starting price, then the lowest bidder in online sealed bid shall be shown as current L1 automatically by the system and no acceptance of that price is required. System shall have the provision to indicate this bid as current L1.
  - iv. Bidders by offering a minimum bid decrement or the multiples thereof can displace a standing lowest bid and become “L1” and this continues as an iterative process.
  - v. After the completion of the online reverse auction, the Closing Price (CP) shall be available for further processing.
9. If no bid is received in the auction system/ website within the specified time duration of the online RA, then BHEL will scrap the online reverse auction process and proceed with the conventional mode of tendering (opening of the envelope sealed bids earlier submitted by the bidders).

In cases where no bidder accepts the start price, the RA may be treated as failed and sealed envelope price bids of all the techno-commercially qualified bidders shall be opened and the tender processed accordingly. Wherever the techno-commercially acceptable bidder(s) had agreed to participate in the RA and had failed to submit the online sealed bid, the envelope sealed bids of such bidder(s) shall not be entertained.

Wherever, the evaluation is done for individual items of the package, and no bid is received for some of the item(s), RA will be considered as failed for these item(s), re-reverse auction/ retendering will be conducted for these items.

10. Only those bidders who have submitted the „online sealed bid“ within the scheduled time shall be eligible to participate further in RA process. However, the H1 bidder(s) (whose quote is highest in online sealed bid) may not be allowed to participate in further RA process.
11. Any commercial/ technical loading shall be intimated to bidders prior to RA. The excel sheet provided in this regard shall cover all these aspects. Commercial/ technical loading if any, shall be added by the respective bidder in its price during online sealed bid & Online

Reverse Auction. Modalities of loading & de-loading shall be separately intimated to the bidders.

12. Computerized reverse auction shall be conducted by BHEL (through M/s {*Service Provider*}), on pre-specified date, while the bidders shall be quoting from their own offices/ place of their choice. Internet connectivity shall have to be ensured by bidders themselves.

During the RA if a bidder is not able to bid and requests for extension of time by fax/ e-mail/ phone then time extension of additional 15 minutes will be given by the service provider provided such requests come before 5 minutes of auction closing time. However, only one such request per bidder can be entertained.

Despite this extension if bidder fails to upload his prices due to extreme case of failure of Internet connectivity, (due to any reason whatsoever may be) it is the bidders' responsibility/ decision to send fax communication immediately to M/s. {*Service provider*}, furnishing the price the bidder wants to bid online with a request to the service provider to upload the faxed price on line so that the service provider will upload that price on line on behalf of the Bidder. It shall be noted clearly that the concerned bidder communicating this price to service provider has to solely ensure that the fax message is received by the service provider in a readable/ legible form and also the Bidder should simultaneously check up with service provider about the clear receipt of the price faxed. It shall also be clearly understood that the bidder shall be at liberty to send such fax communications of prices to be uploaded by the service provider only within the closure of Bid time and under no circumstance it shall be allowed beyond the closure of Bid time /reverse auction. It shall also be noted that the service provider should be given a reasonable required time by the bidders, to upload such prices online and if such required time is not available at the disposal of the Service provider at the time of receipt of the fax message from the bidders, the service provider will not be uploading the prices and either BHEL or the service provider are not responsible for this unforeseen circumstances. In order to ward-off such contingent situation bidders are requested to make all the necessary arrangements/ alternatives whatever required so that they are able to circumvent such situation and still be able to participate in the reverse auction successfully. Failure of power or loss of connectivity at the premises of bidders during the Reverse auction cannot be the cause for not participating in the reverse auction. On account of this, the time for the auction cannot be extended and neither BHEL nor M/s. {*Service provider*} is responsible for such eventualities.

13. Proxy bids: Proxy bidding feature is a pro-bidder feature to safe guard the bidder's interest of any internet failure or to avoid last minute rush. The proxy feature allows bidders to place an automated bid in the system directly in an auction and bid without having to enter a new amount each time a competing bidder submits a new offer. The bid amount that a bidder enters is the minimum that the bidder is willing to offer. Here the software bids on behalf of the bidder. This obviates the need for the bidder participating in the bidding process until the proxy bid amount is decrementally reached by other bidders. When proxy bid amount is reached, the bidder (who has submitted the proxy bid) has an option to start participating in the bidding process.

The proxy amount is the minimum amount that the bidder is willing to offer. During the course of bidding, the bidder cannot delete or change the amount of a proxy bid.

Bids are submitted in decrements (decreasing bid amounts). The application automates proxy bidding by processing proxy bids automatically, according to the decrement that the auction originator originally established when creating the auction, submitting offers to the

next bid decrement each time a competing bidder bids, regardless of the fact whether the competing bids are submitted as proxy or standard bids. However, it may please be noted that if a manual bid and proxy bid are submitted at the same instant manual bid will be recognized as the L1 at that instant.

In case of more than one proxy bid, the system shall bid till it crosses the threshold value of each lowest proxy bid' and thereafter allow the competition to decide the final L1 price. Proxy bids are fed into the system directly by the respective bidders. As such this information is privy only to the respective bidder(s).

14. Bidders are advised to get fully trained and clear all their doubts such as refreshing of Screen, quantity being auctioned, tender value being auctioned etc.
15. M/s. {Service provider}, shall arrange to demonstrate/ train the bidder or bidder's nominated person(s), without any cost to bidders. M/s. {Service provider}, shall also explain the bidders, all the rules related to the Reverse Auction/ Business Rules Document to be adopted along with bid manual. Bidders are required to give their compliance on it before start of bid process.
16. Successful bidder shall be required to submit the final prices, quoted during the Online Reverse Auction in *Annexure - VII* after the completion of auction to M/s. *Service provider* besides BHEL, duly signed and stamped as token of acceptance without any new condition other than those already agreed to before start of auction.
17. Any variation between the final bid value and that in the confirmatory signed price breakup document will be considered as tampering the tender process and will invite action by BHEL as per extant guidelines in vogue.
18. Bidders' bid will be taken as an offer to execute the work/ supplies the item as per enquiry no. {...} dt. {...}. Bids once made by the bidder, cannot be cancelled/ withdrawn and bidder shall be bound to execute the work as mentioned above at bidder's final bid price. Should bidder back out and not execute the contract as per the rates quoted, BHEL shall take action as per extant guidelines in vogue.
19. Bidders shall be assigned a **Unique User Name & Password** by BHEL or M/s. {Service provider}. Bidders are advised to change the Password and edit the information in the Registration Page after the receipt of initial Password from BHEL/ M/s. {Service provider} to ensure confidentiality. All bids made from the Login ID given to the bidders will be deemed to have been made by the bidders/ bidders' company.
20. Bidders shall be able to view the following on their screen along with the necessary fields during Online Reverse Auction:
  - a. Leading (Running Lowest) Bid in the Auction (only total price of package)
  - b. Bid Placed by the bidder
  - c. Start Price
  - d. Decrement value
21. After receipt of the system report from the Service Provider after completion of the Online Reverse Auction, BHEL will decide upon the winner. BHEL's decision on award of contract shall be final and binding on all the Bidders.

22. BHEL reserves the right to cancel the Reverse Auction process/ tender at any time, before ordering, without assigning any reason.
23. BHEL shall not have any liability to bidders for any interruption or delay in access to the site irrespective of the cause. In such cases, the decision of BHEL shall be binding on the bidders.
24. Other terms and conditions shall be as per bidder's techno-commercial offers and other correspondences, if any, till date.
25. Bidders are required to submit their acceptance to the terms/ conditions/ modalities before participating in the Reverse Auction in the process compliance Form as per *Annexure-XIII*.
26. BHEL can decide to extend, reschedule or cancel any Auction with prior intimation to all bidders.
27. If there is any clash between this business document and the FAQ available, if any, in the web site of M/s. {*Service provider*} the terms& conditions given in this business document will supersede the information contained in the FAQs. Any changes made by BHEL/ service provider (due to unforeseen contingencies) after the first posting shall be deemed to have been accepted if the bidder continues to access the portal after that time.

## INTEGRITY PACT

### Between

Bharat Heavy Electricals Ltd. (BHEL), a company registered under the Companies Act 1956 and having its registered office at “BHEL House”, Siri Fort, New Delhi – 110049 (India) hereinafter referred to as “The Principal”, which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

### and

\_\_\_\_\_, (description of the party along with address), hereinafter referred to as “The Bidder/ Contractor” which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

### Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_. The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal will appoint Independent External Monitor(s), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

## **Section 1 – Commitments of the Principal**

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1.1.1 No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

1.1.2 The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential / additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the process all known prejudiced persons.

1.2 If the Principal obtains information on the conduct of any of its employees which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

## **Section 2 – Commitments of the Bidder(s)/ Contractor(s)**

2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

2.1.4 The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 – Disqualification from tender process and exclusion from future Contracts**

If the Bidder(s)/ Contractor(s), before award or during execution has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidders(s)/ Contractor(s) from the tender process or take action as per the separate “Guidelines for Suspension of Business Dealings with Suppliers/ Contractors” framed by the Principal.

### **Section 4 – Compensation for Damages**

4.1 If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.

4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.

### **Section 5 – Previous Transgression**

5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

### **Section 6 – Equal treatment of all Bidders/ Contractors/ Sub-contractors**

6.1 The Bidder(s)/ Contractor(s) undertake(s) to demand from his sub-contractors a commitment consistent with this Integrity Pact. This commitment shall be taken only from those sub-contractors whose contract value is more than 20% of Bidder’s/ Contractor’s contract value with the Principal.

6.2 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors.

6.3 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

### **Section 7 – Criminal Charges against violating Bidders/ Contractors /Subcontractors**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which

constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

## **Section 8 –Independent External Monitor(s)**

8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.

8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality.

8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

8.5 As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or heal the situation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

8.6 The Monitor will submit a written report to the CMD, BHEL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.

8.7 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.

8.8 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant IPC / PC Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

8.9 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.

8.10 The word ‘Monitor’ would include both singular and plural.

## **Section 9 – Pact Duration**

9.1 This Pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the respective contract and for all other Bidders 6 months after the contract has been awarded.

9.2 If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified as above, unless it is discharged/ determined by the CMD, BHEL.

**Section 10 – Other Provisions**

10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. New Delhi.

10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

10.5 Only those bidders/ contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

-----  
For & On behalf of the Principal  
(Office Seal)

-----  
For & On behalf of the Bidder/ Contractor  
(Office Seal)

Place-----  
Date-----

Witness: \_\_\_\_\_  
(Name & Address) \_\_\_\_\_  
\_\_\_\_\_

Witness: \_\_\_\_\_  
(Name & Address) \_\_\_\_\_  
\_\_\_\_\_

Price Bid Format (Lease Basis)														
S. No.	Item Code	Item Name	Qty Nos	Per Quarter Lease Charges for Unit Quantity							Per Quarter Lease Charges for Unit Qty. (INR)	Per Quarter Lease Charges for the Total Qty. (INR)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Figures)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Words)
				Towards Equipment Cost/Outright purchase price (excluding taxes) (INR)	Taxes		Towards Maintenance (Excluding taxes) (INR)	Taxes		Incidentals like Interest on capital				
					% age	Value (INR)		% age	Value (INR)					
A	B	C	D	E	F1	G	H	F2	I=(C+E+F1+F2+H)	J=B*I	K=J*20	K=J*20		
1	NB01L	Notebook - General	194											
2	NB02L	Notebook - Lightweight Type-I	26											
3	NB03L	Notebook - Engineering	37											
4	NB04L	Notebook - Lightweight Type-II (Tablet cum Ultra book)	67											
5	PC01L	PC - General	5514											
6	PC02L	Engineering PC	485											
7	PC03L	PC - Thinclient - Fanless	530											
8	VD01	Desktop Virtualization solution	16											
9	TS01	Touch screen Monitor in lieu of Normal Monitor PC01L	190											
10	TS02	Touch screen Monitor in lieu of Normal Monitor PC02L	12											
11	LD01	LED Projectors	78											
12	WS01L	Graphics Workstation - Type-I	267											
13	WS02L	Graphics Workstation - Type-II	187											
14	LJ01L	Laserjet Printer - A4 Mono Personal	235											
15	LJ02L	Laserjet Printer - A4 Mono General	881											
16	LJ03H	Laserjet Printer - A4 Mono High End	225											
17	LJ04L	Laserjet Printer - A3 Mono Low End	116											
18	LJ04H	Laserjet Printer - A3 Mono High End	33											
19	LJ05L	Laserjet Printer - A4 Color Low End	91											

Price Bid Format (Lease Basis)														
S. No.	Item Code	Item Name	Qty Nos	Per Quarter Lease Charges for Unit Quantity							Per Quarter Lease Charge for Unit Qty. (INR)	Per Quarter Lease Charge for the Total Qty. (INR)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Figures)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Words)
				Towards Equipment Cost/Outright purchase price (excluding taxes) (INR)	Taxes		Towards Maintenance (Excluding taxes) (INR)	Taxes		Incidentals like Interest on capital				
					% age	Value (INR)		% age	Value (INR)					
A	B	C	D	E	F1	G	H	F2	I=(C+E+F1+F2+H)	J=B*I	K=J*20	K=J*20		
20	LJ06L	Laserjet Printer - A4 Color General	50											
21	LJ07L	Laserjet Printer - A3 Color	30											
22	DJ01L	Deskjet Color Printer	32											
23	DM01L	Dot Matrix Printer	141											
24	DM02L	Dot Matrix Printer - Heavy Duty	10											
25	LM01L	Line Matrix Printer	21											
26	MF01L	MFS - A4 Mono (Print, Copy, FAX and Scan)	159											
27	MF02L	MFS - A4 Color	59											
28	PL01L	Plotter - A0 Low End (Ink jet)	19											
29	PL02L	Plotter - MFS	3											
30	PL04H	A0 LED Plotter - High	2											
31	SC01L	Scanner - A4 Low End	206											
32	SC02L	Scanner - A4 Color	91											
33	SC03L	Scanner - A3 Color	33											
34	SC04H	Scanner - A4 Color High End	100											
35	SC05H	Scanner - A3 Color High End	32											
36	SC06H	A0 CCD Mono Scanner	6											
37	UP01L	Small UPS	1873											
38	UP02L	2KVA UPS	297											

Price Bid Format (Lease Basis)														
S. No.	Item Code	Item Name	Qty Nos	Per Quarter Lease Charges for Unit Quantity							Per Quarter Lease Charges for Unit Qty. (INR)	Per Quarter Lease Charges for the Total Qty. (INR)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Figures)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Words)
				Towards Equipment Cost/Outright purchase price (excluding taxes) (INR)	Taxes		Towards Maintenance (Excluding taxes) (INR)	Taxes		Incidentals like Interest on capital				
					% age	Value (INR)		% age	Value (INR)					
A	B	C	D	E	F1	G	H	F2	I=(C+E+F1+F2+H)	J=B*I	K=J*20	K=J*20		
39	UP03H	5KVA UPS	53											
40	UP04H	10KVA Online UPS	11											
41	UP05H	2 x 10 KVA Online UPS	2											
42	UP06H	20KVA Online UPS	5											
43	UP08H	40 KVA Online UPS	3											
44	UP11H	2x60 KVA Online UPS	4											
45	ST01L	SAN Storage Low End	6											
46	ST01H	SAN Storage High End	2											
47	ST02L	NAS Storage Low End	0											
48	ST03H	NAS Storage High End	11											
49	ST04H	SAN Storage High End	4											
50	STSW	SAN Switches	4											
51	SR01H	Server 2-Way	144											
52	SR02H	Blade Server	73											
53	NS01H	Layer 2 Switch - 24 Port	193											
54	NS02H	Layer 2 Switch - 48 Port	70											
55	NS03H	Layer 3 Switch (Type - I)	25											
56	NS07H	Wireless Access Point	83											
57	NS08H	Network Security Device	10											

Price Bid Format (Lease Basis)														
S. No.	Item Code	Item Name	Qty Nos	Per Quarter Lease Charges for Unit Quantity							Per Quarter Lease Charge for Unit Qty. (INR)	Per Quarter Lease Charge for the Total Qty. (INR)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Figures)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Words)
				Towards Equipment Cost/Outright purchase price (excluding taxes) (INR)	Taxes		Towards Maintenance (Excluding taxes) (INR)	Taxes		Incidentals like Interest on capital				
					% age	Value (INR)		% age	Value (INR)					
A	B	C	D	E	F1	G	H	F2	I=(C+E+F1+F2+H)	J=B*I	K=J*20	K=J*20		
58	NS11H	Wireless Access Controller	10											
59	LL01H	Link Load Balancer	2											
60	PS01L	Print Server	16											
61	RS01L	42U Server Rack	9											
62	MS02N	42U Network Rack	9											
63	SR03C	Blade Server Chassis	5											
64	TL01H	Tape Library	9											
65	POE	PoE Switch	108											
66	SIP01	SIP Phone Type I	940											
67	SIP02	SIP Phone Type II	110											
68	MS09L	KVM Switch	32											
69	MS10L	UTP Cable Tester	3											
70	MS12L	Webcam	32											
71	SV01	Server Virtualization software	13											
72	PD01	IP Based Power Distribution Panel for Racks	21											
73	BR01	Barcode Reader	78											
74	BR02	Barcode Printer	14											

Price Bid Format (Lease Basis)														
S. No.	Item Code	Item Name	Qty Nos	Per Quarter Lease Charges for Unit Quantity							Per Quarter Lease Charges for Unit Qty. (INR)	Per Quarter Lease Charges for the Total Qty. (INR)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Figures)	Total Lease Charges for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Words)
				Towards Equipment Cost/Outright purchase price (excluding taxes) (INR)	Taxes		Towards Maintenance (Excluding taxes) (INR)	Taxes		Incidentals like Interest on capital				
					% age	Value (INR)		% age	Value (INR)					
A	B	C	D	E	F1	G	H	F2	I=(C+E+F1+F2+H)	J=B*I	K=J*20	K=J*20		
75	NB01L (A1)	Notebook - General (Higher RAM)	94											
76	NB02L (A1)	Notebook - Lightweight Type-I (Higher RAM)	13											
77	NB03L (A1)	Notebook -Engineering (Higher RAM)	29											
78	PC01L (A1)	PC - General (Higher RAM)	1306											
79	PC02L (A1)	Engineering PC (Higher RAM)	337											
80	WS01L (A1)	Graphics Workstation - Type I (Higher RAM)	201											
81	WS02L (A1)	Graphics Workstation - Type II (Higher RAM)	26											
82	WS02L (A2)	Graphics Workstation - Type II (Higher RAM)	75											
83	PL04H (A1)	PLP PlotWorks Pro 7 (Latest Version)	2											
84	SR01H (A1)	Server - 2 Way Rack (Higher HDD)	77											

Price Bid Format (Lease Basis)														
S. No.	Item Code	Item Name	Qty Nos	Per Quarter Lease Charges for Unit Quantity							Per Quarter Lease Charge for Unit Qty. (INR)	Per Quarter Lease Charge for the Total Qty. (INR)	Total Lease Charge for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Figures)	Total Lease Charge for the Total Qty. for 20 Quarters (Including Taxes) (INR) (In Words)
				Towards Equipment Cost/Outright purchase price (excluding taxes) (INR)	Taxes		Towards Maintenance (Excluding taxes) (INR)	Taxes		Incidentals like Interest on capital				
					% age	Value (INR)		% age	Value (INR)					
A	B	C	D	E	F1	G	H	F2	I=(C+E+F1+F2+H)	J=B*I	K=J*20	K=J*20		
85	SR01H (A2)	Server - 2 Way Rack (Higher RAM)	107											
86	SR02H (A1)	Blade Server (Higher RAM)	46											
87	MS06 H (A1)	Tape Library (With Fibre Ports)	2											
88	PC01L (A2)	PC (Higher Size TFT) 19" OEM make in place of 17" OEM make	218											
89	SW01 H	Red Hat Enterprise Linux Advance Platform v5 or Equivalent Product latest with 5 years subscription and support (for updates & upgrades, telephonic / web support) from the Principal OEM (with media)	15											
90	SW02 H	Red Hat Enterprise Linux Server v5 or latest with 5 years subscription and support (for updates & upgrades, telephonic / web support) from the Principal OEM (with media)	13											
91	SW03 H	Microsoft Windows Server Standard Edition Lic/SA or Equivalent Product (Latest Version) with 5 years subscription and support (with media)	135											
92	SW03 D	Microsoft Windows Server Data Centre Edition Lic/SA or Equivalent Product (Latest Version) with 5 years subscription and support (with media)	10											
93	SW04 L	Microsoft Windows Server CAL Lic/SA (Latest Version)	4629											
94	SW06 L	Microsoft System Center Configuration Manager Client Management Lic/SA (Latest Version)	1300											
Grand Total in Figures														
Grand Total in Words														

**Process Compliance Form**

**(The bidders are required to print this on their company's letter head and sign, stamp before faxing)**

To

- M/s. {Service provider}
- Postal address}

**Sub: Agreement to the Process related Terms and Conditions**

Dear Sir,

This has reference to the Terms & Conditions for the Reverse Auction mentioned in the RFQ document for {Items} against BHEL enquiry/ RFQ no.{.....} dt. {.....}

This letter is to confirm that:

- 1) The undersigned is authorized official/ representative of the company to participate in RA and to sign the related documents.
- 2) We have studied the Reverse Auction Terms & Conditions and the Business rules governing the Reverse Auction as mentioned in your letter and confirm our agreement to them.
- 3) We also confirm that we have taken the training on the auction tool and have understood the functionality of the same thoroughly.
- 4) We also confirm that, in case we become L1 bidder, we will email/ fax the price confirmation & break up of our quoted price (including that of line items) as per Annexure - XIV within **two** working days (of BHEL) after completion of RA event, besides sending the same by registered post/ courier both to M/s. BHEL and M/s. {Service provider.}

We, hereby confirm that we will honor the Bids placed by us during the auction process.

With regards

Signature with company seal

Name –

Company / Organization

Designation within Company / Organization

Address of Company / Organization

- Sign this document and Fax it to M/s {Service provider} at {.....} prior to start of the Event.

- Attach a signed copy of the RFQ document along with the Agreement Form/ Process Compliance form and send to M/s. {Service provider}

**RA price confirmation and breakup**

**To**

- **M/s.** Service provider  
- Postal address

CC: M/s BHEL  
{Unit-  
Address-}

**Sub: Final price quoted during Reverse Auction and price breakup**

Dear Sir,

We confirm that we have quoted.

**Rs.{\_\_\_\_\_} for item covered under tender enquiry No. {...} dt.{...}**

Total price of the items covered under above cited enquiries is inclusive of {Packing & forwarding, E.D., C.S.T., freight and insurance charges upto {.....} District,{.....} State and Type Test Charges etc., (exclusive of service tax), other as per NIT} as our final landed prices as quoted during the Reverse Auction conducted today {date} which will be valid for a period of {\_\_\_\_\_} days.

The price break-up including that of line items is as given below.

Total	-	=====
		Rs.
		=====

Thanking you and looking forward to the valuable order from BHEL.

Yours sincerely,

For \_\_\_\_\_

**Name:**  
**Company:**

**FINANCE LEASE CUM HIRE PURCHASE AGREEMENT (TRIPARTITE)**

THIS **FINANCE** LEASE AGREEMENT executed on this \_\_\_\_\_ day of \_\_\_\_\_, Two Thousand- Eight (\_dd /\_mm/yyyy) at [place].

**BETWEEN**

**[Name of the Company]**, a Company incorporated under the Companies Act, 1956, having its Registered Office at **[Address of the company]** REPRESENTED by its **Financing Account Manager**, **[Name of Finance Manager]** herein after called “the “**LESSOR**” (which expression shall, unless repugnant to the subject or context thereof include its successors and assigns) of the first part.

**AND**

**BHARAT HEAVY ELECTRICALS LIMITED** a Company incorporated under the Companies Act, 1956, having its Registered office at BHEL house, Siri Fort, New Delhi – 110049, through one of its units at **[Name of the Unit]**, represented by its competent authorities Sri. **[Name and designation]** hereafter called “**the LESSEE**” (which expression shall unless repugnant to the subject or context thereof include its successors and assigns) of the second part.

**AND**

**[Name of the vendor]** a Firm incorporated / a Company incorporated under the Indian Partnership Act 1932 / Companies Act, 1956 having its Principal Office at **[address of the vendor]** represented by its Managing Partner/The designation, Mr. (Name) hereinafter called “**the VENDOR**” (which expression shall unless repugnant to the subject or context thereof include its successors and assigns of the third part.

Whereas the **LESSEE** has placed a purchase order no. **[PO No.]** dated **[dd] / [mm] / [yyyy]** on the **VENDOR** for supply, Installation and maintenance of Computer Hardware described in Schedule– A to the said purchase order for a period of 5 years on finance lease rental basis.

Whereas, the Lessor and the Vendor through this Agreement have impliedly entered into a business arrangement for leasing out the Equipment more fully described in Schedule A to the Lessee on certain terms and conditions mentioned in this Agreement.

And whereas the **LESSOR** has offered to purchase from the **VENDOR** the said equipment more fully described in **Schedule A** hereto (herein after referred to as the “Equipment”) at the acquisition cost specified in **Schedule A** to this Agreement for leasing the same to **LESSEE** upon the terms and conditions contained herein and has released Advance Purchase Order dated **[dd] / [mm]/ [yyyy]** on the **VENDOR**

And whereas the **LESSEE** has offered to take on lease the Equipment so purchased by the **LESSOR**, and the **LESSOR** has agreed to lease out the Equipment to the **LESSEE** upon the terms and condition contained herein.

And whereas the **VENDOR** has agreed to supply the Equipment purchased by the Lessor vide Advance Purchase Order No. .... Dt..... , install the Equipment in the premises of the Lessee at desired places and provide maintenance services to the **LESSEE** subject to the terms and conditions of this agreement.

## 1. DEFINITIONS

In this agreement, unless context otherwise so requires, the following expressions shall have the following meanings viz:

### 1.1 “Agreement”

Shall mean this Agreement.

### 1.2 “Clause”

Shall mean clause of this agreement and accordingly the word “Sub-Clause” shall mean Sub-Clause of a clause of this agreement.

### 1.3 “Commencement Date”

Shall mean the date of installation of this Equipment as mentioned in the Purchase order **[PO No.]** dated **[dd]/[mm]/[yyyy]** as confirmed by the Lessee to the Lessor by the Lessee signing an Acceptance Certificate in the form of Schedule D to this Agreement and inserting the “Acceptance Date”.

### 1.4 “Equipment”

Shall mean all the articles and things described in **Schedule - A** to this Agreement purchased by the **LESSOR** from the **VENDOR** and leased to the **LESSEE** and includes

any individual items contained in the Equipment and all alterations, replacements and / or additions to the Equipment or any item or part thereof during the period of this Agreement.

Provided that where there is more than one item of Equipment, the lease hereunder shall be deemed to be of each such of Equipment individually and the provisions of this agreement shall be applicable independently to each such item of Equipment individually, whether or not such item of Equipment be of same or similar description or use, or is to be placed at the same location.

1.5 "Force Majeure" means any act of God or other event beyond the reasonable control of the parties to this Agreement, including (without limitation) natural disaster, economic recession, currency controls, riots, terrorism or military conflict.

1.6 "Lease Period"

Shall mean five years from the Acceptance Date specified in the Acceptance Certificate which is non-cancelable by the **LESSEE** or the **LESSOR** except as provided herein.

1.7 "Rentals"

Shall mean the lease rental to be paid by the **LESSEE** to the **LESSOR** as mentioned in **Schedule - B** of this Agreement.

"Maintenance Fee"

Shall mean the maintenance fee payable by the Lessee to the Vendor as specified in **Schedule - C** of this Agreement.

1.8 "Schedule"

Shall mean the schedule or schedules, which may now or from time to time be incorporated hereunder as an integral part of this agreement.

1.9 "Lease"

Shall mean the lease of the Equipment by the **LESSOR** to the **LESSEE** on FINANCE LEASE basis (wherein all the risks and rewards incidental to the ownership of the leased assets is transferred to the **LESSEE** at the inception of the lease as per AS 19 (Accounting Standard 19) issued by the Institute of Chartered Accountants Of India) and the grammatical variations or cognate expressions of the term shall be construed accordingly.

**1.10 “Commissioning”**

Installing the Computer Systems and Peripherals that form part of the Purchase Order No [PO No.] dated [dd]/[mm]/[yyyy] and installation of the associated operating systems shipped/procured along with the same.

**2. BASIC TERMS OF LEASE**

**2.1** The **LESSEE** will avail Income Tax Depreciation since all the risks and rewards incidental to ownership is transferred to the **LESSEE** as per AS 19 issued by ICAI.

The supply of the Equipment to the **LESSEE** is on the basis of finance lease rentals. The purchase orders issued by Lessor on the Vendor will be the effective purchase order for this transaction to establish the ownership of the Equipment and Lessor will be the sole and full owner of the Equipment. Lessee’s only rights to the Equipment are as a lessee under this Agreement. Lessee shall hold the Equipment as lessee and shall not contest Lessor’s sole and exclusive ownership of the Equipment. Lessee must not make any representation to any person which is inconsistent with Lessor’s ownership of the Equipment. Lessee must not allow to be placed on any Equipment any markings which are inconsistent with Lessor’s ownership of the Equipment. Lessee must not grant any person any right to the Equipment or any form of security over this Agreement or any of the Equipment without Lessor’s prior written consent.

The Equipment remains Lessor’s property whether or not it is fixed to any other property. The Equipment must not be attached to property without Lessor’s prior written consent. If any Equipment does become attached to land, it does not become a fixture and may be removed at Lessee’s cost in accordance with this Agreement. In any case, if the Equipment is attached to land owned by a third party, the written consent of that third party for the removal of the Equipment at any time must be obtained and a copy of the same provided to Lessor.

Equipment may not be moved to a location outside India. If Lessee wishes to move Equipment from the location specified in Schedule A to another of Lessee’s business locations in India, Lessee must first give notice to Lessor. Lessor’s prior consent to such a move is required but may not be unreasonably withheld, delayed or conditioned as long as the Equipment remains in Lessee’s possession and control. Notwithstanding the foregoing, Lessor agrees that Equipment consisting of laptops, notebooks and other portable devices may be temporarily moved from the Equipment Location for a period of no longer than 120 consecutive days, provided that such Equipment remains in the custody and control of one of Lessee’s employees whose principal office is the Equipment Location specified in Schedule A.

So long as Lessee is not in default of this Agreement, Lessor will not disturb Lessee's quiet enjoyment of the Equipment during the term of this Agreement.

- 2.2 If Lessor has not already done so, then upon execution of this Agreement, Lessor, agrees to release confirmed regular Purchase Order for the computer systems as defined in **Schedule A** in favor of the Vendor.
- 2.3 After purchase of the Equipment by the Lessor, the **VENDOR** will ensure delivery, installation and commissioning of the Equipment at the **LESSEE's** premises located at **[Place]** as per the Purchase Order No **[PO No.]** dated **[dd]/[mm]/[yyyy]** and the Lessor accepts to it.
- 2.4 The entire risk, cost or any outgoing pertaining to the delivery and installation of the Equipment shall be borne by the Vendor. Lessor will have no obligation to pay the purchase price for the Equipment until the Lessee has confirmed the due delivery and installation of the Equipment by signing the Acceptance Certificate attached as Schedule D.
- 2.5 The Lessor hereby gives on lease and the Lessee hereby takes on lease the Equipment for the Lease Period subject to the terms of this Agreement.
- 2.6 All the terms and conditions mentioned in the NIT shall form an integral part of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT for and in consideration of the mutual covenants and conditions hereafter set forth, the parties hereto agree as follows: -

### 3. **LESSEE'S CONFIRMATION**

Upon receiving delivery, installation and commissioning of the Equipment from the Vendor, the **LESSEE** will certify that the Equipment are as per specifications provided by the **LESSEE** to the **VENDOR** by signing the Acceptance Certificate in the form of Schedule D.

The Lessor agrees to pay the Purchase Price for the Equipment to the Vendor immediately after the Lessee signs the Acceptance Certificate and gives it to the Vendor as per Schedule D.

**4. LESSOR'S RIGHT TO LEASE**

The **LESSOR** guarantees that upon paying the purchase price for the Equipment to the Vendor, the **LESSOR** has the right to lease the Equipment to the Lessee under this Agreement.

**5. LESSOR'S COVENANTS**

The **LESSOR** hereby covenants that they undertake to comply with the terms and conditions stipulated in the Purchase Order no. **[PO No.] Dated [dd]/[mm]/[yyyy]** placed by the **LESSEE on the Vendor**, which will form part and parcel of this Agreement. For the avoidance of doubt, in the event of any conflict between the terms of this Agreement and the terms of the Purchase Order Number **[PO No.]**, the Purchase Order No. .... dt. .... shall prevail.

The **LESSOR** shall not after purchase or acquisition of the Equipment; divert the same for any other use. The **LESSOR** shall not disturb the possession of the equipment with the **LESSEE**, during the currency of the agreement subject to clauses 7, 18 and 19 of this Agreement.

**6. LESSEE'S COVENANTS**

**6.1 LESSEE NOT TO PART WITH POSSESSION**

**LESSEE** shall not part with possession of the Equipment or any part of it to any third party, without the prior written consent of the **LESSOR**, which the **LESSOR** may decline without assigning any reason.

**6.2 LESSEE TO ALLOW AFFIXING OF NAME PLATE OF LESSOR**

**LESSEE** will allow affixing of nameplate or other perishable mark on the Equipment identifying the leased equipments covered in **schedule A** and not to allow or permit the same to be removed or defaced during the currency of the Lease period.

**6.3 LESSEE NOT TO CONVERT THE PROPERTY**

**LESSEE** shall not in any way impair the identifiability, ascertainability, severability and redeliverability of the Equipment during the currency of the Lease period.

**6.4 LESSEE TO MAKE PROPER USE OF THE EQUIPMENT**

**LESSEE** shall use and operate the Equipment carefully in the same way as would have been the case with the **LESSEE'S** own Equipment. **LESSEE** must at all times operate and Vendor / Lessee shall maintain the Equipment in good working order, repair, condition and appearance, and in accordance with the manufacturer's and/or supplier's specifications and recommendations. Lessee must not do or omit to be done any act or thing that would result in the warranties and performance guarantees given by the supplier or manufacturer being invalidated or unenforceable, either wholly or in part, and Lessee shall ensure that the Equipment is operated by suitably trained personnel for the purpose for which it is designed and manufactured.

## **7. INSPECTION BY THE LESSOR**

The **LESSEE** shall permit the **LESSOR** or any person authorized by the **LESSOR** at all reasonable times (immediately in case of an emergency) to inspect, view and examine the state and condition of the Equipment and for that purpose permit the Lessor or any person authorized by the Lessor to enter the premises where the Equipment is used or stored. The Lessor shall give One Week Notice for any such inspection / examination. Provided further, the Lessor hereby agrees that no such inspection or examination of the state and condition of the Equipment will be made within a period of less than three months from the date of the previous inspection / examination. The Lessor hereby permits immediate inspections/examinations of the state and condition of the Equipment, in case of any emergency, only twice a year.

## **8. INSURANCE**

- 8.1 The **VENDOR** shall keep the Equipment insured with an insurer acceptable to Lessor against all risks loss up to its full replacement value. The insurance required under this Agreement must (1) note Lessor's interest as owner of the Equipment and name Lessor as loss payee; and (2) not be capable of cancellation by the insurer unless 30 days prior written notice is given to Lessor. **VENDOR** must promptly produce evidence of current insurance policies and of payment of premiums whenever reasonably requested by Lessor.

The Vendor shall also keep the Equipment insured against public liability for bodily injury or damage to property arising in connection with the Equipment in an amount not less than Rs. [Amount] total liability per occurrence (provided that Lessor acknowledges Vendor shall not be required to put in place separate public liability insurance specifically for this Agreement and shall comply with this clause provided Vendor's general public liability insurance meets the criteria specified above). Vendor must promptly produce evidence of current insurance policies and of payment of premiums whenever reasonably requested by Lessor.

- 8.2 In the event of failure on the part of the **VENDOR** to maintain the insurance required under clause 8.1 or to pay the insurance premium as above, the Vendor agrees that the Lessor may purchase such insurance itself or pay the insurance premia as above and shall

forthwith on receipt of a notice of demand from the Lessor reimburse all sums so paid by Lessor together with interest.

- 8.3 An item of Equipment suffers a "Casualty Loss" if the Equipment is lost, destroyed, stolen or damaged beyond repair. If a Casualty Loss occurs Lessee must promptly notify Lessor within 30 days from the date of knowledge of occurrence of such Casualty Loss to the Lessee or on or by the next Rent payment date whichever is later

In support of filing of insurance claim by the Lessor/vendor with respect to any casualty loss of the Equipment or part of the Equipment mentioned above, the following documents will be provided by the Lessee to the Lessor:

- a. Letter of the Lessee confirming happening of the Casualty Loss.
- b. Copy of the Complaint filed by Lessee before the Police Authorities regarding Casualty Loss.
- c. FIR Copy / Non-traceable Certificate issued by the respective Police Authorities in case of lost Equipment or stolen Equipment.
- d. Lessee's Panchanama copy in case of destruction of Equipment.

In the event of occurrence of any Casualty Loss, irrespective of the status of the insurance claim filed against such casualty loss, the Lessor / Vendor shall replace / substitute Equipment to the Lessee within \_\_\_ weeks from the date of occurrence of such Casualty Loss. During the above period, the

"Substitute Equipment" means a substantially equivalent or better item of hardware or software having equal or greater capabilities and equal or greater fair market value manufactured or licensed by the same manufacturer or licensor as the item of hardware or software which it is to replace under this Agreement. At a minimum, in the case of a computer, each of the processor, hard-drive, random access memory and CD ROM drive, if applicable, must be equivalent or better. Lessee acknowledges and agrees that Substitute Equipment is Lessor's property.

## 9. **DISCLAIMER OF ANY WARRANTY**

### 9.1

- (1) The Lessor has not at any time made nor does it hereby make any representation or warranty whatsoever with respect to the merchantability, quality, conditions or durability of the Equipment;
- (2) all Equipment will be used for business purposes only and for the purpose for which it is designed;

- 9.2 The Vendor hereby confirms that it makes and accepts all representation or warranty whatsoever with respect to the merchantability, quality, conditions or durability of the Equipment.

**10. VENDOR'S CONVENANTS**

The **VENDOR** hereby covenants that they undertake to comply with the terms and conditions stipulated in the Purchase Order No. [PO No.] Dated [dd]/[mm]/[yyyy] issued by the **LESSEE** which form a part and parcel of this agreement

**11. Liability towards quality of the equipment:**

Both the **LESSOR** and the **VENDOR** hereby accepts liabilities on any account pertaining to the quality of the Equipment to the **LESSEE**. The liability to the **LESSEE** is restricted to the value of the contract of the items supplied by the **VENDOR WITH THE SUPPORT OF LESSOR**.

**12. MAINTENANCE**

The **VENDOR** shall be responsible for the continuous and smooth operation of the Equipment for the entire lease period as mentioned below for a consideration, which is incorporated as a part of equipment as in **Schedule A** and the Maintenance Charges as in the **Schedule C** to be paid by **LESSEE** to the **VENDOR**.

12.1 Maintenance services shall cover services, repairs, and replacements necessary to keep the Equipment's in good working order on reasonable use of the Equipments by the **LESSEE**.

12.2 Maintenance services shall not cover services, repairs or replacements necessitated by gross misuse or willful damage or destruction, use of unauthorized media or supplies, repairs, alterations in the Equipment by any one other than the maintenance personnel authorized by the **VENDOR** in writing in any of which events the **LESSEE** shall be liable to pay the **VENDOR** additional charges, for the services, repairs and replacements involved as determined by the **VENDOR**.

12.3 The **VENDOR** shall guarantee all systems consisting of Equipments for 98% uptime (on a monthly basis assuming a 24 hour working day) as specified hereunder subject to the following conditions. This figure has to be guaranteed and in the event of the system not performing to the guaranteed level, pro-rata reduction will be calculated based on the non availability of the individual items and will be deducted on that component's lease value for that month. In case of a major break down of any critical Equipment that results in a unscheduled outage of the solution, the pro rata cut will also apply to all other hardware and peripherals affected by the breakdown.

For the avoidance of doubt, the **VENDOR** acknowledges that in case of any deduction of lease rental due to this clause, **VENDOR** will promptly indemnify the **LESSOR**.

12.4 The **VENDOR** shall ensure the availability of adequate number of competent resident maintenance personnel at the **LESSEE's** site at the **VENDOR's** own risk and cost during the lease period.

12.5 For the purpose of evaluating uptime/downtime computer systems will consist of the affected component of the hardware, down time and related penalty will apply to affected portion of the system, which becomes dis-functional.

**Downtime calculation for IT Equipment**

Vendor shall be responsible for running the Equipment at the uptime of 98% per month.

No	Item Code	Support Level required
1	Server, SAN, NAS, UPS , Network Equipment	24 x 7
2.	All Other items	8 x 6

**The deduction for downtime shall be as follows:**

<b>Downtime in</b>	<b>Downtime</b>	<b>Deduction factor</b>
<b>Delhi (NCR), Chennai, Mumbai, Kolkata, Hyderabad, Trichy, Nagpur, Bhopal, Hardwar</b>	<b>in all Other Cities Bangalore,</b>	
0 to 2%	0 to Zero	5%
2 to 5%	>5 to 1.00	8%
>5 to 10%	>8 to 1.25	13%
Above 10%	Above 1.50	13%

### Working calculation for deduction

Let downtime in a month = A hours

Downtime percentage

Server, SAN, NAS, UPS, Network Equipment =  $A \times 100 / (24 \times 30) = B$

PC's & Peripherals =  $A \times 100 / (8 \times 30) = B$  Deduction  
Deduction factor according to the table = D

Monthly equipment lease charges = Equipment Quarterly lease / 3 = M Rupees

Amount of deduction =  $M \times B \times D / 100$  Rupees

Cumulative deduction for downtime shall be restricted to 10% of the order value. If Cumulative deduction for downtime exceeds 10% of the order value then Performance Bank Guaranty shall be invoked.

If the uptime for equipment/system falls below 95% continuously for 3 months, the system/equipment shall have to be replaced by the Bidder within 30 days without any extra charge.

12.6 **LESSEE** shall be finally compensated for any short fall in the guaranteed uptime as specified hereunder:

- a) The penalty amount so computed may be deducted from the payment towards the maintenance fee payable to the **VENDOR**. If it exceeds, it may be deducted from the lease rental payable to the LESSOR. **VENDOR** will promptly indemnify the LESSOR with respect to any deduction made by LESSEE under this clause.
- b) For calculating uptime, the period will be one month consisting of twenty-four hours working for each day for Server, SAN, NAS, UPS, Network Equipment and eight hours working day for other items.

12.7 The **VENDOR**'s maintenance service obligation shall be subject to force majeure.

### 13. IMPOSTS, TAXES AND OTHER CHARGES

LESSEE agrees that the lease created under this Agreement is a net lease and that LESSEE will pay all tax costs connected with the lease, such as any taxes (e.g. VAT, stamp duty, sales tax, lease tax and services tax). Any fresh levies/ duties/taxes

imposed by Govt. subsequent to the date of Purchase Order shall be borne by the LESSEE.

If LESSEE is required by any law or regulation to make any deduction or withholding with respect to any amount payable under this Agreement, LESSEE shall, together with the relevant payment, pay such additional amount as will ensure that Lessor receives and is entitled to retain, free and clear of any such deduction or withholding, the full amount which Lessor would have received if no such deduction or withholding had been required. However, if Lessor is allowed to claim a refund from the relevant authority for any such deduction or withholding, LESSEE shall not be required to pay the additional amount provided LESSEE issues a certificate of such deduction or withholding in LESSOR'S favor.

Valid documents regarding changes in taxes and duties for availing CENVAT Credit / VAT Credit / Service Tax Credit if any should be furnished by the VENDOR / LESSOR to the Lessee. If any relevant documents are not furnished to the Lessee to avail CENVAT Credit / VAT Credit / Service tax Credit etc, the same will not be paid to the LESSOR / VENDOR as the case may be. Due to defaults of the LESSOR / VENDOR, if any imposts / penalty / incremental duty / interest are charged, it should not be passed on to the Lessee.

Without limitation, if VAT (or any like or similar tax) is or will be payable on a supply made by Lessor under this Agreement and the amount payable for that Supply does not include an amount in respect of VAT on the supply, Lessor may (1) increase the amount payable by Lessee for that supply otherwise provided for by the amount of that VAT or (2) otherwise charge that VAT to Lessee. For the purposes of this clause "supply" means a taxable supply for the purposes of any applicable VAT or like tax legislation. Lessee must pay Lessor on demand any additional tax, interest, fine or penalty that is payable by Lessor because Lessee failed to comply with Lessee's obligations to Lessor under this Agreement. Lessee will promptly pay or reimburse Lessor for all taxes paid by Lessor, together with any penalties or interest which are imposed as a result of Lessee's act or omission. All sums payable by Lessee to Lessor under this Agreement are exclusive of any sale, lease or other tax on account thereof, which (where applicable) shall be paid by Lessee.

For the purposes of this clause "VAT" means any value added tax, any goods and services tax or any like tax (including any interest, fines and penalties) payable on the sale of goods or provision of services in India or in any state in India.

**14. CONSIDERATION FOR THE LEASE - LEASE RENTALS AND MAINTENANCE FEE**

The Lessee will pay the Rentals to the Lessor and the Maintenance Fee to the Vendor in accordance with Schedule B and C.

**15. OBLIGATION TO PAY LEASE RENTALS AND MAINTENANCE FEE**

Unless provided otherwise, the LESSEE shall pay the Lease Rentals regularly and punctually.

The Vendor agrees that in the event:

- a) the Lessee exercises any of the Lessee's rights under this Agreement or Purchase Order Number [PO No.] to make deductions against or otherwise withhold payment of lease rentals or any amount due by the Lessee to the Lessor, or
- b) the Lessee otherwise ceases paying lease rentals or any other amount due by the Lessee to the Lessor under this Agreement as result of the Vendor failing to perform any of the Vendor's obligations under this Agreement;

the Vendor will immediately indemnify the Lessor for an amount equal to the difference between (i) the full amount of the relevant lease rental or other amount payable by the Lessee under this Agreement (including any applicable taxes) and (ii) the amount actually received by Lessor from Lessee.

## **16. PAYMENTS OF RENTALS AND ARREARS IN RENTALS.**

- 16.1 Rental and Maintenance Fee accounts are calculated quarterly in arrears. The Lessor will raise the bills on the Lessee on a quarterly basis on the Lease rental amount and the Vendor will raise the bills on the Lessee on a quarterly basis on the Maintenance Fee amount (as appropriate).
- 16.2. The amounts payable by the **LESSEE** under clause 16.1 with respect to each quarter during the Lease Period are specified in Schedules B and C respectively. The first such bill of the Site (as specified in the **Schedule B and C** ) will be raised on completion of first calendar quarter from the date of the certificate of acceptance for the site on pro rata basis. Subsequent bills will be raised on completion of each calendar quarter from the date of the first bill. The final bill will be on the pro rata basis on the left over days of the last calendar quarter.
- 16.3 Lessee reserves the right to retain/hire purchase the equipment at the end of the lease period by making a terminal payment of Re. 1/-. In case Lessee decides not to retain/ hire purchase the Equipment, dismantling and removing the Equipment from the premises of the Lessee shall be at the Vendor's cost

## **17. TERMINATION**

On the first occurrence of any events specified below, any Party to this Agreement shall be entitled without prejudice to any other right or remedy available terminate this Agreement, after providing three months notice to all the parties to this Agreement after the occurrence of such event except expiry of the lease period.

- a) Breach of terms and conditions of the Agreement by any party of this Agreement.
- b) Any Board resolution or Company Petition filed for winding up against **LESSEE**.
- c) By mutual consent.

- d) On expiry of the lease period

The **LESSOR** and the **VENDOR** shall not be entitled to terminate this agreement on account of any material change in the financial or corporate position of **LESSOR / VENDOR** or any resolution or petition filed for winding up against **LESSOR / VENDOR**.

**18. REDELIVERY OF THE EQUIPMENT BY THE LESSEE ON TERMINATION**

**18.1** Upon termination of this Agreement as defined herein above during the currency of this agreement, the **LESSEE** shall, on its own without demand forthwith deliver the Equipment to the **LESSOR**, at such time and place as may be directed by the **LESSOR** in “as is where is” condition. The cost for such delivery will be borne by the defaulting party.

**18.2** In the event of the **LESSEE** not so returning the Equipment within a period of thirty (30) days from the date of termination subject to force majeure condition and on account of circumstances beyond reasonable control, the **LESSEE** shall be deemed to be in unauthorized possession of the Equipment provided that the default is on the part of the **LESSEE**.

**18.3** In the event this Agreement is terminated due to reasons attributable to **LESSOR** or **VENDOR**, the **LESSOR** shall not have the right to demand the redelivery of the equipments by the **LESSEE** provided that **LESSEE** shall be immediately required to pay **LESSOR** an amount equal to the sum of lease rentals and other amounts due and payable under this Agreement as of the termination date.

**19.0 LESSOR’S RIGHTS AND LESSEE’S OBLIGATION ON TERMINATION**

On the termination of this Agreement pursuant to Clause 17 above, or as elsewhere provided in this Agreement.

**19.1 RE-POSSESSION OF THE EQUIPMENT BY THE LESSOR AND HIS RIGHTS FOR THAT PURPOSE**

If **LESSOR** is entitled to repossess Equipment pursuant to Clause 17 of this Agreement and without prejudice to the rights of the **LESSEE**, the **LESSOR** shall remove or repossess the Equipment and for that purpose by itself, its servants or agents, enter upon any land, buildings or premises where the Equipment is situated or is reasonably believed by the **LESSOR** to be situated for the time being and for such entry. But this clause cannot be invoked if there is a default on the part of the **VENDOR / LESSOR** as per the terms and conditions of the contract.

**19.2** In the event this agreement is terminated due to reasons attributable to **LESSOR** or **VENDOR**, the **LESSOR** shall not have the right to demand the redelivery of the equipments by the **LESSEE** provided that **LESSEE** shall be immediately required to pay **LESSOR** an amount equal to the sum of such of those lease rentals and other amounts due and payable under this Agreement as of the termination date.

In the event, if the Lessor and Vendor fails to remove or re-possess the Equipment within 30 days from the date of termination/date of intimation at their risk and own cost, then in such cases, the Lessor and Vendor shall pay to the Lessee \_\_\_\_ % of the contract value towards retention charges. If the Lessor and Vendor fails to remove or re-possess the Equipment within 60 days from the date of termination/date of intimation, the Equipment will be sold by the Lessee at the risk and cost of the Lessor and Vendor and the retention charges will be adjusted by the Lessee from out of the sale proceeds and remaining amount after adjusting all the dues will be returned to the Lessor and / or Vendor, if any. The Lessee shall not be liable for any claims over the Equipment for such Sale Proceeds after 60 days from the date of termination/date of intimation.

## **20. ALL INDEMNITIES TO SURVIVE THE AGREEMENT**

All indemnities and covenants as contained in Clause 4, 5 and 6 under this agreement shall survive the termination of the Agreement or expiry of the lease as the case may be.

## **21. GENERAL CONDITIONS**

### **21.1 Service of Notices**

Any notice issued by the parties hereto shall be in writing and sent by Registered Post Acknowledgement Due to the other party to the address first above written.

### **21.2 Time to be Essence of this Agreement:**

Time shall be the essence of this Agreement for all the three contracting parties in so far as it relates to the observance or performance of all or any of its obligations including payment of any sum hereunder.

### **21.3 Waiver or Remission not to have precedent value over Demands or Notices Waived.**

The failure of the **LESSOR** to insist upon the punctual performance of any of the obligations of the **LESSEE** hereunder, or the failure of the **LESSOR** to exercise any right or remedy available to the **LESSOR**, under this Agreement or any failure of the **LESSOR** to require payment from or by the **LESSEE**, when due of any sum owing hereunder, or any extension of credit or any forbearance on the part of the **LESSOR** shall not constitute a waiver by the **LESSOR** of any subsequent or continuing default by the **LESSEE** under this Agreement

nor shall the same prejudice affect or restrict the rights and powers of the **LESSOR** hereunder.

The failure of the **LESSEE** to insist up on the punctual performance of any of the obligations of the **VENDOR** or **LESSOR** hereunder or the failure of the **LESSEE** to exercise any right or remedy available to **LESSEE** under this Agreement or any failure of the **LESSEE** to require any contractual obligations or any forbearance on the part of the **LESSEE** shall not constitute a waiver by the **LESSEE** nor shall the same prejudice or affect or restrict the rights and powers of the **LESSEE** hereunder.

#### **21.4 Agreement to be sole and Exclusive**

This Agreement represents the entire Agreement between the parties hereto and shall be capable of variation in writing by a Note of Amendment signed by and on behalf of the **LESSOR**, the **VENDOR** and the **LESSEE**.

If any provision of this Agreement is prohibited by or invalid under any law, that provision will be ineffective only to the extent of the prohibition or invalidity. The remainder of the affected provision and all other provisions of this Agreement are unaffected by the invalidity and the parties shall continue with the obligations entered in this Agreement unless and otherwise the invalid provision affects the whole object of this Agreement.

#### **21.5 Interpretation of Words**

Words importing the plural shall, except where the context otherwise requires, include the singular and vice-versa. Clauses including headings shall not control the otherwise clear meaning of the text within the relevant clause, but such heading may be used to clarify the intention in case the same is not clear.

**21.6** This lease transaction shall be considered as finance lease in terms of Accounting Standard -19 of ICAI.

#### **22. ARBITRATION.**

In all cases of disputes emanating from and in reference to this Agreement and all questions, disputes or differences of any kind what-so ever arising out of or relating to this agreement the matter of such dispute shall be referred to a Sole Arbitrator to be appointed by the Lessee's Head of the Unit

The language of the Arbitral Tribunal shall be in English only. The proceedings of the arbitration shall be conducted under THE ARBITRATION AND CONCILIATION ACT OF 1996 and the rules there under. The venue of Arbitration shall be at Hyderabad and any

dispute under this agreement shall be subject to the jurisdiction of Courts situated at Hyderabad/Sangareddy Courts only.

The applicable Law is Indian Law and the Courts at Hyderabad/Sangareddy of Andhra Pradesh only should have jurisdiction in case of any legal dispute.

The Award of the arbitrator shall be final and binding on the parties to this agreement.

### **23. GENERAL**

It is confirmed that the authorized signatories of all the three body corporate are authorized by their respective competent authority to execute this tripartite lease agreement and affix the common seal, where applicable.

This tri partite agreement is prepared in triplicate and each contracting party will retain one original for their records and reference.

### **24. Limitation of Liability**

Vendor's liability will be limited to the value of this contract only.

### **25. RISK PURCHASE**

The Lessee shall reserve the right to terminate the order/contract and purchase from elsewhere at the risk and cost of the Lessor and Vendor, either the whole or part of the Systems/goods, which the Lessor and Vendor have failed to deliver within the stipulated delivery period or if the same were not available, the best and the nearest available substitute(s) thereof which is no technically inferior to the undelivered System/Goods . The Lessor and the Vendor would be liable to compensate the Lessee for any loss, which the Lessee may sustain by reason of such Lease. This clause will be operated only after completion of delivery period including extended period with penalty.

26. **Indemnification.** Lessor and Vendor shall defend, indemnify and hold harmless Lessee from and against any and all Third Party claims and liabilities (including, without limitation, reasonable attorneys' fees and costs), regardless of the form of action, arising out of or in connection with a claim that the Equipment supplied, installed and Leased to Lessee, when used within the scope of this Agreement, infringes, violates or misappropriates a valid third party patent, copyright or other proprietary right, Civil, Criminal or any other action.

Infringement Claim. The term "Infringement Claim" means any claim that the manufacture, use, offer to sell, sale, Lease or other exploitation of any Product infringes, misappropriates or otherwise violates any patent right, copyright, trademark right, trade dress right or other intellectual property right of any Third Party in any jurisdiction worldwide, use by Lessee of the Product in connection with or in combination with any hardware, software, network system, network protocol, products, equipment, material, content, information or data not supplied, installed by the by lessor and vendor.

Indemnification – Demand to Defend. If Lessee makes a demand for Lessor and / or Vendor to defend an Infringement Claim made against Lessee, Lessor and / or Vendor shall indemnify, defend and hold harmless Lessee from, against and in respect of any and all Losses arising out of or relating to such Infringement Claim and, in the case of Losses that involve obligations in the nature of an injunction, shall secure for Lessee the right to continue exploiting the applicable Product or shall provide non-infringing specifications for a new Product and secure the right to continue to exploit any remaining inventory of the existing Product. Once Lessee makes a demand for Lessor and / or Vendor to defend an Infringement Claim, Lessee may defend against the Infringement Claim in any manner it reasonably may deem appropriate unless and until Lessor and / or Vendor assumes control of such defense. If Lessor and / or Vendor assumes the defense of the Infringement Claim, Lessor and / or Vendor must do so using counsel that is reasonably acceptable to Lessee. Lessee shall reasonably cooperate with Lessor and / or Vendor, at Lessor and / or Vendor expense, in the defense or settlement of any such Infringement Claim and shall provide access to its records and personnel as reasonably requested by Lessor and / or Vendor for the purpose thereof. If Lessor and / or Vendor refuses or fails to assume or maintain control of any such Infringement Claim, Lessee's right to indemnification pursuant to this Section shall not be adversely affected by virtue of Lessee assuming or continuing the defense thereof.

## 27. **Further Assurances**

The parties agree to promptly execute and deliver to each other such further documents and take such further action as any party to this Agreement reasonably requires in order to more effectively carry out the intent and purpose of this Agreement.

## 28. **Export Compliance**

The Equipment subject to this Agreement may be subject to United States, Indian and other government export control laws and regulations. The parties each undertake to comply with all such laws and regulations.

IN WITNESS THEREOF the parties hereto have caused these presents to be executed in triplicate on the day, month and year first above written at [Place].

The LESSEE, LESSOR and the VENDOR hereby affix their respective Common Seals to this document in acceptance of the terms and conditions herein contained.

**LESSOR  
AUTHORISED SIGNATORIES**

- 1     Name/s:            -----  
         Designation:    -----  
         Address:         -----  
                                 -----
  
- 2.     Name/s:            -----  
         Designation:    -----  
         Address:         -----  
                                 -----

**LESSEE  
AUTHORISED SIGNATORIES**

- 1     Name/s:            -----  
         Designation:    -----  
         Address         -----  
                                 -----
  
- 2.     Name/s:            -----  
         Designation:    -----  
         Address:         -----

-----

**VENDOR**

**AUTHORISED SIGNATORIES**

1     Name/s:     -----  
          Designation:     -----  
          Address     -----  
                          -----

**WITNESSES**

1     Name/s:     -----  
          Designation:     -----  
          Address     -----  
                          -----

2.     Name/s:     -----  
          Designation:     -----  
          Address:     -----  
                          -----

**ANNEXURE**

**SCHEDULE – A (EQUIPMENT DETAILS)**

<b>S. No.</b>	<b>Hardware description</b>	<b>Quantity</b>	<b>Location</b>	<b>Acquisition Cost without tax</b>

**SCHEDULE B – LEASE RENTAL PAYMENTS**

**Pricing Expiration Date:** *[specify]*

Lessor is not obliged to purchase the Equipment if the Acceptance Date occurs on or after the Pricing Expiration Date.

**Rental Due Dates:**

Rentals will be payable on a quarterly in arrears basis with a single Rental installment payable per quarter.

SI.No	Rental Period		Invoice Date	Quarterly Rental Charges
	From	To		
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				

**SCHEDULE C – MAINTENANCE CHARGE PAYMENTS**

**Maintenance fee Due Dates:**

Maintenance fee will be payable on a quarterly in arrears basis with a single maintenance fee payable per quarter.

SI.No	Rental Period		Invoice Date	Quarterly Maintenance Charges
	From	To		
1				
2				
3				
4				
5				
6				
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21				

## SCHEDULE D: ACCEPTANCE CERTIFICATE

[Name] ("Lessor") and Bharat Heavy Electricals Limited ("Lessee") are parties to this Agreement.

All capitalized terms used in this Acceptance Certificate without definition have the meanings given to them in the Agreement.

### 1 Lease Acceptance

Lessee acknowledges that the Equipment described in Schedule I has been:

- (a) delivered to the Equipment Location specified in Schedule A, inspected by Lessee and found to be in good operating order and condition, and has been unconditionally accepted by Lessee under the lease created under this Agreement on the Acceptance Date specified below; and
- (b) the Commissioning of the Equipment by the Vendor has been completed to Lessee's satisfaction on the Acceptance Date specified below.

### 2 Acceptance Date

The Acceptance Date is \_\_\_\_\_.

You:

Signed for and on behalf of  
Lessee  
by:

\_\_\_\_\_  
\_\_\_\_\_