

SECTION I
GENERAL CONDITIONS OF CONTRACT

GENERAL TERMS AND CONDITIONS

1. DEFINITION OF TERMS

Throughout the Tender Documents including the Enquiry Letter, the following words shall have the meanings assigned to them herein, unless the subject matter or the context requires otherwise.

- 1.1. The '**Purchaser**' or '**BHEL**' shall mean Bharat Heavy Electricals Limited (A Govt. of India Undertaking) incorporated under the Companies Act 1956 acting through its unit – Centralize Stamping Unit (**CSU**), IA Jagdishpur, Amethi-227817 (U.P.) InDIA, which expression shall include its successors and assigns.
- 1.2. The '**Tenderer**' shall mean the Firm/ Company/ Organisation, which quotes against the Tender Enquiry issued by the Purchaser. It may also be referred as '**Bidder**'.
- 1.3. The '**Supplier**' shall mean the Firm/ Company/ Organisation with whom the Order/ Contract is made and shall be deemed to include his successors, representatives, heirs, executors, administrators and permitted assigns, as the case may be. It may also be referred as '**Contractor**' or '**Vendor**'.
- 1.4. The '**Sub-contractor**' shall mean the person/ firm/ company/ organisation to whom any part of the work has been sub-contracted by the Supplier, with the written consent of the Purchaser and shall include his heirs, executors, administrators, representatives and assigns.
- 1.5. The '**Engineer**', for the purpose of this Contract shall mean an engineer, person or company duly appointed as such from time to time or such other officials as may be duly authorised and appointed and notified in writing by purchaser to act as engineer. In cases where no such Engineer has been so appointed, the word 'Engineer' shall mean the Purchaser or his duly authorised representative.
- 1.6. The '**Equipment**' shall mean and include plant and stores and materials to be provided by the Supplier under the Contract.
- 1.7. The '**Specification**' shall mean the specifications contained in the Tender Documents and any subsequent modifications thereof and the drawings, schedules etc. attached thereto, if any.
- 1.8. The '**Offer**' shall mean and include the technical and commercial documents including specifications, schedule of prices and quantities, drawings etc submitted by the Tenderer in response to the tender enquiry and any subsequent clarifications thereof. It may also be referred as '**Bid**'.
- 1.9. '**Acceptance of offer**' shall mean issue of letter of intent/ award or memorandum or detailed Order/ Contract communicating the acceptance of offer by the Purchaser to

the successful Tenderer.

- 1.10. The '**Contract**' shall mean and include the general conditions, bidding conditions, special conditions, specifications, schedules, drawings, form of tender, Offer, covering letters, schedule of prices and quantities, letter of intent/ award of the Purchaser, any special conditions applicable to the particular Order and subsequent amendments. It may also be referred as '**Order**' or '**Purchase order**'.
- 1.11. The '**Contract Price**' shall mean the total price to be paid by the Purchaser to the Vendor for the supply & services to be provided by the Vendor to the Purchaser as per Contract. It may also be referred as '**Order Value**'.
- 1.12. The '**Site**' shall mean the site of the proposed work at Centralize Stamping Unit (**CSU**) of BHEL at Industrial Area Jagdishpur, distt, Amethi – 227817 (U.P), India.
- 1.13. The '**Inspector**' shall mean the Purchaser for the time being or such other person as may be duly authorised and appointed in writing by Purchaser to act as Inspector for the purpose of Contract.
- 1.14. '**Approved**' shall mean the approval of the Engineer or of the inspector as the case may be in writing.
- 1.15. '**Test on completion**' shall mean such tests as are prescribed by the specifications and/ or tests mutually agreed upon by the Purchaser and the Supplier, to be performed by the Supplier after Installation of the equipment to establish satisfactory operation as required by the specifications.
- 1.16. '**Commissioning**' shall mean the first operation of the equipment after all initial adjustments, trials, cleaning and re-assembly required at site, if any, have been completed and equipment is made ready for commercial use.
- 1.17. '**Performance Tests**' shall mean the tests to be conducted on the equipment at site for checking the performance parameters of the equipment as defined in Technical Specification.
- 1.18. '**Commercial use**' shall mean that use of the equipment, which the Contract contemplates or of which it is to be commercially capable.
- 1.19. '**Acceptance of Equipment**' shall have the meaning as specified elsewhere in this document.
- 1.20. '**Consignee**' shall mean the official(s)/person(s) to whom the Equipment is required to be delivered in the manner indicated in the Purchase Order.
- 1.21. '**Contract Engineer**' shall mean the official who has signed the Order/ Contract on behalf of the Purchaser.
- 1.22. '**Site Engineer**' shall mean officer of the Purchaser as may be duly appointed and authorised in writing by the purchaser to act as the Site Engineer on his behalf.
- 1.23. '**Months**' shall mean calendar months.

- 1.24. **'Days'** shall mean calendar days.
- 1.25. **'Writing'** shall include any manuscript, typewritten or printed statement under or over signature, seal as the case may be.

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.

2. SUBMISSION OF TENDER

2.1. General

- 2.1.1. The tender shall be addressed to the official as specified in the Tender Enquiry and shall be submitted with one original and two copies.
- 2.1.2. Sealed Tenders may be submitted personally, by Courier or by registered post with due allowance for any transit/ postal delay. The tenders received after due date and time of opening are liable to be rejected. Telegraphic offers and offers received by telex/ fax may not be considered unless confirmed in writing by a detailed offer.
- 2.1.3. The Tenderer shall closely peruse all the clauses, specifications and drawings indicated in the Tender Documents before quoting. Should the Tenderer have any doubt about the meaning of any portion of the Tender Specifications or find discrepancies / omissions in the drawings or the tender documents issued are incomplete or shall require clarification on any of the technical aspect, scope of work etc., he shall at once contact the authority inviting the tender for clarification before submission of the tender. The specifications and terms and conditions shall be deemed to have been accepted unless otherwise specifically commented upon by the Tenderer in his Offer.
- 2.1.4. Tenderer must fill the schedules and furnish all the required information as per the instructions given in various sections of the tender specification. Each and every page of the offer must be signed, stamped and submitted by the Tenderer. The information furnished shall be complete by itself.
- 2.1.5. The tender shall quote the rates in English Language using international numerals. These rates shall be entered in figures as well as in words. For the purpose of the tender, the metric system of units shall be used.
- 2.1.6. All entries in the tender shall either be typed or be written in ink. Erasures and overwriting are not permitted and may render such tenders liable to summary rejection. The Tenderer shall duly attest all cancellations and insertions.
- 2.1.7. The Offer shall be signed by a person who has requisite authority from the Tenderer to do so. A copy of such authority (Power of Attorney) shall be enclosed with the Offer.
- 2.1.8. Standard pre-printed conditions of the Tenderer attached to the offer will not be accepted and only those mentioned in the body of his offer will be considered.

- 2.1.9. Any deviation from the tender conditions being sought by the bidder shall be clearly specified in the schedule of deviations enclosed as Annexure-4 of GCC-A (for technical part) and Annexure- 5 of GCC-A (for commercial part). No other conditions shall be acceptable unless the same is specified in the schedule and is specifically agreed by the Purchaser.

2.2. Two Part Bids

- 2.2.1. Bidders shall submit the offer in three inner envelopes (covers) and one outer envelop (cover) as indicated below.
- 2.2.2. **Envelope I:** This sealed envelope should contain all the copies of technical & commercial bid together with price formats (without prices). This envelope should be clearly marked "**Part I - Technical and commercial bid**", indicating Tender No., Due Date and Name-Address of the Bidder.
- 2.2.3. **Envelope II:** This sealed envelope should contain only **price formats with prices**. This envelope should be clearly marked "**Part II - Price bid**", indicating Tender No., Due Date and Name-Address of the Bidder.
- 2.2.4. **Envelop III:** This sealed envelop should contain Demand Draft for cost of Tender if not submitted earlier, and bank Guarantee for bid security. This envelope should be clearly marked "**Envelop III**", indicating Tender No., Due Date and Name-Address of the Bidder. The Envelop III shall be opened first . If any vendor has not submitted Bid Security & cost of Tender then their Part-I Bid shall not be opened
- 2.2.5. All the envelopes shall be put in one envelop, duly sealed, super scribed as Part I and Part II of Enquiry No., due date of opening, name & address of the officer inviting Tender and the address and Name-Address of the Bidder.

2.3. Part I – Technical and Commercial Bid

2.3.1. Technical

This part shall include / indicate the following:

- 2.3.1.1. Complete scope of supply with all technical details and other terms and conditions.
- 2.3.1.2. Point by point confirmation for the Technical Specification in the specified format. If there are any deviations, the same should be clearly specified. Offers received without confirmation to our specification will be rejected.
- 2.3.1.3. List of customers to whom same or similar equipment have been supplied along with performance certificates.
- 2.3.1.4. Relevant catalogues.
- 2.3.1.5. List of recommended spare parts (with part numbers) for two years normal operation and maintenance.
- 2.3.1.6. Information on shipping weight and cubage (length, width & height).

2.3.2. Commercial

This part shall include / indicate the following:

- 2.3.2.1. Port of shipment / Station of dispatch
- 2.3.2.2. Terms of payment
- 2.3.2.3. Taxes & duties applicable.
- 2.3.2.4. Delivery Schedule
- 2.3.2.5. Offer validity
- 2.3.2.6. Country of origin
- 2.3.2.7. Percentage of agency commission payable to Indian Agent, if any, along with a copy of the Agency Agreement.
- 2.3.2.8. A copy of "Un-Priced Part II" i.e., a copy of the Price Bid without price particulars. Instead of the price, the Tenderer shall write 'quoted' against the item for which price have been quoted in the Price Bid.

2.4. Part II (PRICE- BID)

This part should contain the price particulars as per the price schedule format specified by BHEL.

3. OPENING OF TENDERS

- 3.1. Authorised officer of BHEL at his office shall open tenders of qualified vendors at the time and date as specified in the tender notice in the presence of such of those Tenderers or their authorised representative who may be present. However, The Purchaser reserves the right to open the tenders in-camera.
- 3.2. The envelop III will be opened first. Tenders received without the demand draft for cost of Tender, as required, and Bid Security in the form of bank guarantee will be rejected and Part I of Bid will not be opened.
- 3.3. The Part I - Technical & commercial bid alone would be opened on the Tender opening date.
- 3.4. The Part II - Price bid of only those Bidders who have been found to be techno-commercially suitable would be opened at a later date. These Bidders would be informed about the tender opening date.
- 3.5. Clarifications, if any, required by BHEL for technical and commercial evaluation may be sought from Bidders before opening of Part II - price bid.
- 3.6. In case it becomes necessary for the Tenderer to make any changes in his original price bid (Part-II) on account of technical/ commercial confirmations/ clarifications, against the changes advised by the purchaser to bring the offer in line with the requirement of the specifications, the impact of such changes on price shall be submitted in the form of a revised price bid, if asked for by the Purchaser.

- 3.7. If a revised price bid has been submitted, normally only the final revised price bid shall be opened. However, BHEL reserves the right to open the earlier price bids, if required.
- 3.8. Any revision or changes in quoted prices and/or conditions of offer made after tender opening, which will give benefit to the Tenderer over others, may result in rejection of the tender.

4. QUALIFICATION OF TENDERERS (For Open Tender):

- 4.1. Details of Qualification Requirements (Technical) are given in Technical Specifications Section IV & in Section V. For commercial requirement, separate qualifying data sheet and Eligibility Criteria Enclosed (for Indian/ Foreign Bidders). These sheets (Data Sheet & Eligibility Criteria) are to be filled and to be sent to BHEL for scrutiny. Qualified Bidders shall be intimated. Only qualified Bidders shall be eligible to participate in the bid. **Refer Section V of Tender.**
- 4.2. Only Tenderer who has previous experience in the work of this nature and description detailed in this tender specification are expected to quote for this work. Offer from Tenderer who does not have proven and established experience in the field is not likely to be considered.
- 4.3. Tenders will be accepted from the equipment manufacturers only and not from their agents.

5. VALIDITY OF OFFER

- 5.1. The offer shall be open for acceptance from the date of opening of tender part - I for a period as specified in Tender Enquiry. In case the Purchaser calls for negotiations, such negotiations shall not amount to cancellation or withdrawal of the original offer, which shall be binding on the Tenderer.

6. REJECTION OF TENDER AND OTHER CONDITIONS

- 6.1. The acceptance of Tender will rest with BHEL which does not bind itself to accept the lowest tender or any tender and reserves to itself full rights to reject any or all the Tenders without assigning any reason whatsoever.
- 6.2. Conditional and unsigned tenders, tenders containing absurd or unworkable rates and amounts, tenders which are incomplete or otherwise considered defective and tenders not in accordance with the tender conditions, specifications, etc., are liable to be rejected.
- 6.3. If the Tenderer deliberately gives wrong information in his tender, Purchaser reserves the right to reject such tender at any stage or to cancel the Contract, if awarded and forfeit the Bid Security / Contract Performance BG /any other moneys due.
- 6.4. Canvassing in any form in connection with the tender is strictly prohibited and the tenders submitted by the Tenderer who resorts to canvassing are liable to be rejected.

7. EVALUATION OF OFFERS

- 7.1. The bidder shall quote charges for 'Supply' and 'Erection & Commissioning' separately. The evaluation of tender shall be on the basis of "total cost to BHEL" including Supply and

Erection & Commissioning. For evaluation, exchange rate (TT selling rate of SBI) as on scheduled date of tender opening (part-I in case of two part bid) shall be considered, taking into consideration loadings, if any, and all available financial advantages.

- 7.2. Deviations (Commercial as well as Technical) from the Tender Specifications are generally not acceptable. However, if any deviation is considered by the Purchaser, the same shall be loaded for comparison, while evaluating the offer.
- 7.3. Loading criteria in respect of the deviations shall generally be on the principle of time and value of money in respect of commercial deviations, and similar quantification – as may be decided by the Purchaser – in respect of technical deviations.
- 7.4. Loading criteria in respect of the deviation(s) shall be communicated to the concerned Bidder(s) before Price Bid opening. If a Bidder unconditionally withdraws any deviation before Price Bid opening, the same shall not be loaded.
- 7.5. Rates of Exchange taken for conversion of foreign currency to Indian Rupees for the comparison of bids shall be the inter bank TT selling rates of State Bank of India as at the close of business on the date of opening of Tender Part -I.
- 7.6. The Purchaser reserves its right to negotiate with the Bidder and/ or go for reverse auction.
- 7.7. The Purchaser reserves its right to allow to the Public Sector Enterprises ordering and price preference facilities as admissible under the prevalent policy of the Govt. of India.

8. LETTER OF INTENT

- 8.1. The Purchaser shall issue a Letter of Intent for award of work to the successful Tenderer as soon as his Bid has been accepted giving brief details of the equipment and other terms & conditions.
- 8.2. Detailed Purchase Order will be issued by the Purchaser normally within 2 to 4 weeks from the date of award of work (Letter of Intent).
- 8.3. The Letter of Intent/ Purchase Order shall be issued in the name of Bidder only.

9. EFFECTIVE DATE OF CONTRACT

- 9.1. The responsibility of successful Tenderer under this Contract commences from the date of issue of the Letter of Intent by the Purchaser.
- 9.2. The Effective Date of Contract shall be the date of issue of the Letter of Intent.

10. PRICES

10.1. Fixed price

- 10.1.1. Prices quoted by the bidder shall be fixed and not subject to any variation whatsoever during the period of Bid validity and execution of the Purchase Order. A Bid submitted with an adjustable price will be treated as non-responsive and rejected.
- 10.1.2. Prices shall be written in words and figures. The discrepancy in quoted price, if any, shall be corrected as follows:

- If there is a discrepancy between words and figures, the amount given in words shall prevail.
- If there is a discrepancy between the unit price and total price which is obtained by multiplying the unit price and quantity, the unit price shall prevail.
- If there is a discrepancy between the sub-total price and total price which is obtained by adding the various sub-total prices, the sub-total price shall prevail.
- The Order will be issued on the corrected price or the quoted price for the complete scope of work (whichever is lower).

10.2. Bid currency

10.2.1. Indian bidders should quote the prices only in Indian Rupees.

10.2.2. Foreign bidders may quote the prices in their home currency, US Dollars or Euros (any one) and Indian Rupees.

10.3. Taxes and Duties

10.3.1. All Taxes and Duties payable as extra to the quoted price should be specifically stated in offer. Purchaser will not be liable for payment of Taxes and Duties not specifically mentioned in the offer.

11. DELIVERY

11.1. Bidders are required to quote their best delivery period.

11.2. Foreign Bidders should submit their offer on FOB Nearest Sea Port / FCA Nearest Air Port basis as per Inco-terms 2000 for foreign supplies and on FOR Site (BHEL-Jagdishpur) basis for indigenous supplies.

11.3. Indian Bidders should submit their offer on FOR Site (BHEL-Jagdishpur) basis.

11.4. Delivery shall be counted from the date of Letter of Intent.

11.5. Date of dispatch for Indian supplies (RR/ GR date) and date of shipment (Bill of Lading, Air Way Bill date) for foreign supplies shall be treated as date of delivery.

11.6. The title of goods shall pass on to the Purchaser on FOB Nearest Sea Port / FCA Nearest Air Port for foreign goods and on FOR dispatching station dispatch for domestic goods.

12. VALIDITY OF OFFER:

Offers are to be kept valid for Six months from the date of opening of Part-I Bid (Techno-commercial)

12. COMPLETENESS OF THE EQUIPMENT

12.1. The Equipment shall be complete in every respect with all mountings and testing and

fixtures and standard accessories, which are normally supplied. The Supplier shall not be eligible for extra payment in respect of such mountings, fittings, fixtures and accessories which are needed for efficient and safe operation of the Equipment.

- 12.2. All similar components or parts of similar equipment supplied by the Seller shall be interchangeable with one another.

13. EQUIPMENT, CONSUMABLES AND SPARE PARTS

- 13.1. The Tenderer shall provide installation, commissioning and maintenance Equipment and tackles at no additional cost, unless otherwise stated in the Tender Documents.
- 13.2. The Tenderer shall provide commissioning spares and consumables at no extra cost to the Purchaser.
- 13.3. Mandatory/ recommended spares for two years operation shall be quoted item wise.

14. TERMS OF PAYMENT

14.1. Indian Bidders

- 14.1.1. The terms of payment shall be as per Special Conditions of Contract (section-II).

14.2. Foreign Bidders

- 14.2.1. The terms of payment shall be as per Special Conditions of Contract (Section-II)

14.3. Tax Deduction at Source

- 14.3.1. Installation and commissioning charges will be released after deduction of Income Tax as per the Govt. of India rules in force. The Tax Deduction at Source (TDS) certificate will be issued by BHEL. Service Tax on E&C charges will be payable extra, if applicable. The liability of depositing the same to the Govt. will be of the Supplier.

14.4. MODVAT credit (for Indian Bidders only)

- 14.4.1. The price bid must indicate Tariff item number and rate of Excise Duty applicable. The original Excise Duty Gate Pass will be required to be furnished in case charged to us. If the Vendor is availing MODVAT credit for his input materials, the effect of proforma credit should be passed on to the Purchaser.

14.5. Bank Charges

- 14.5.1. All bank charges for negotiation of documents through bank shall be to the account of the Seller.
- 14.5.2. No interest, whatsoever, shall be payable by Purchaser on the security deposit, any bank guarantee submitted or any amount due to the Seller by the Purchaser.

15. INVOICES AND PAYMENT DOCUMENTATION

- 15.1. Invoices shall be issued by the Supplier in the name of the Purchaser.
- 15.2. The invoices shall contain the following information:
- i) Project name
 - ii) Item no, quantity and description of equipment as per Purchase Order.
 - iii) Gross amount payable and net amount payable.
- 15.3. The following documents shall be presented by the Supplier to the Purchaser for drawing payment:
- i) Signed Commercial invoice in quadruplicate.
 - ii) Clean on board Bill of Lading/ Airway Bill (for foreign Suppliers)/ LR (or equivalent document (for Indian Suppliers)
 - iii) Packing list indicating dimensions of each case / bundle / piece shipped, with weight and number of items it contains.
 - iv) Manufacturer's Inspection / Test certificate
 - v) Certificate of Country of Origin, issued by an independent third party like Chamber of Commerce (for foreign Suppliers).
 - vi) Manufacturer's Guarantee / Warrantee certificate as per Purchase Order.
 - vii) Declaration by the Supplier certifying that the contents in each case are not less than those entered in the invoices / packing list and that the invoicing for the supplies effected is strictly in accordance with agreed rates as stipulated in the Purchase Order.
 - viii) Certificate from shipping company or its agent that the vessel is seaworthy and approved by Lloyds / Classification Societies / General Insurance Corporation of India (for foreign Suppliers).
 - ix) Material Despatch Clearance Certificate (MDCC) from Purchaser.
- 15.4. For foreign supplies, all documents shall show Purchase Order No and date, Import License No and date (if any) and Letter of Credit No and date. Loading on deck and trans-shipment will not be allowed.
- 15.5. The complete equipment shall be despatched in one lot. If, for any reason, a Vendor wants to despatch the equipment in more than one lot, it shall be only after written approval of the Purchaser. For this purpose, the Vendor shall submit to Purchaser a detailed list of items proposed to be despatched in various lots with price break-up for approval of the Purchaser.
- 15.6. Detailed procedure for preparation and submission of payment documentation will be provided by the Purchaser at a later stage.

16. SECURITIES

- 16.1.** The Vendor is required to submit the following bank guarantees as security in the form and manner specified below. The amount of Bank Guarantee shall be as per Special Conditions of Contract. The Bank Guarantees are to be established through any of the Schedule Bank .

16.1.2 EMD (Earnest Money Deposit): INR 150000/ Equivalent amount in case of foreign supplier. Payment to be made through cash (as permissible under Income Tax Act) or Pay Order or Demand Draft only. In case of foreign bidders e-payment may also be accepted as EMD.

16.1.2. EMD by the Tenderer will be forfeited as per Tender Documents if, the successful bidder/vendor refuses to honour the Order after award of the same on him and/or withdraws his bid and /or unilaterally changes the offer and/or any of its terms & Conditions within the validity period.

16.1.3. EMD given by all unsuccessful Tenderers shall be refunded on acceptance of Award / LOI/PO by successful Tenderer. The EMD of successful bidder shall be returned after submission of Contract Execution. EMD shall not carry any interest.

16.1.3. The EMD of the successful Tenderer will be returned after submission of Contract Performance Bank Guarantee.

16.1.4. BHEL reserves the right of forfeiture of Bid Security in case the Tenderer :

- a) After opening of Tender, revokes/withdraws his tender within the validity period or revises/alters his earlier quoted rates/conditions.
- b) Fails to communicate unqualified acceptance of Letter of Intent within 7 days from the date of issue of Letter of Intent.
- c) Fails to submit Contract Performance BG within 1 month of issue of Letter of Intent/PO

16.2. Contract Performance Bank Guarantee

16.2.1 The successful vendor shall have to furnish a Contract Execution Bank Guarantee (CEBG) for **10%** of the Total PO value in the prescribed format within 30 days from the date of P.O. but before L/C opening. CEBG shall be from one of the Consortium Banks of BHEL or from a reputed Bank and confirmed by any Consortium Bank of BHEL. All bank charges on account of issuance and confirmation of CEBG whether incurred in India or outside India will have to be borne by the vendor. **(As per prescribed Annexure-1)**

16.2.2 CEBG shall be kept valid until 30 days after the date of E&C Certificate, which will be issued on completion of Erection & Commissioning of equipment which includes erection, commissioning, job proving, performance tests, and training to operators etc. as prescribed in PO.

16.2.3. If the supplier fails to submit the CEBG even within 60 days from the date of PO, BHEL reserves the right to cancel PO & forfeit the EMD given by the supplier. In addition, in such case, action will be initiated in line with extant guidelines for Suspension of Business dealings with Suppliers.

16.2.4. The Contract performance Guarantee will be released to the Vender after receipt of Performance Bank Guarantee.

16.3. Performance Bank Guarantee

16.3.1. The Vendor shall furnish a Performance Bank Guarantee (PBG) valid for 30 days beyond the warranty period by Supplier from any of the consortium Banks of BHEL for 10% of total PO Value in the prescribed Format. The PBG confirmation charges shall be borne by vendor. Performance Bank Guarantee (PBG) of the specified amount confirming that necessary service and maintenance support and guarantee replacements will be provided during the guarantee period. The PBG shall be valid up to end of the guarantee period with additional claim period of 2 months. The PBG shall be submitted as per proforma given in Annexure 2 of GCC – A.

16.4. For All Bank Guarantees

16.4.3. The BGs shall be established through a bank in India acceptable to the Purchaser.

16.4.4. All charges for establishing and amending the BGs, if necessary, shall be to Vendor's account.

17. PENALTY FOR DELAY

17.1. The delivery of Equipment specified in the Purchase Order should be made within the time prescribed for completion of scope of work. Failure to complete the work in time as per the delivery specified in the Purchase Order would make the Vendor liable to an un-conditional penalty as per details given in the Special Conditions of Contract.

18. RISK PURCHASE

18.1. If the Vendor is found to be not in a position to execute the Order in time, the Purchaser, at his option, will be entitled to terminate the Contract and to purchase and/ or complete the work from elsewhere at the risk and cost of the Vendor either the whole of the goods or any part which the supplier has failed to deliver/ despatch or complete the work within the time stipulated as aforesaid or if the same were not available, the best and the nearest available substitute therefor.

19. PURCHASER'S RIGHT OF REJECTION

19.1. Notwithstanding any approval which Purchaser or the Engineer may have given in respect of the Equipment or any materials or other particulars or the work or workmanship involved in the performance of the Contract (whether with or without any test carried out by Seller or the Inspection Agency or under the direction of the Contract Engineer), and notwithstanding delivery of the Equipment where so provided to the Purchaser, the Purchaser shall be entitled to reject the Equipment or any part, portion or consignment thereof, if such Equipment or part, portion of consignments thereof is not in all respects in conformity with the terms and conditions of the Contract whether on account of any loss, storage, deterioration or damage before dispatch or delivery or during transit or otherwise, whatsoever.

19.2. Rejected goods or materials shall be removed by the Seller from the Site. The

expenses to be incurred in respect thereof shall entirely be borne by the Seller.

20. INDIAN AGENT & AGENCY COMMISSION (FOR FOREIGN BIDDERS)

- 20.1. Offers from Indian agents on behalf of their principals (Foreign Manufacturers) will not be accepted.
- 20.2. An Indian Agent can represent only one Foreign Manufacturer against a particular Tender.
- 20.3. Agency commission, if any, payable to the Indian Agents, shall be shown separately in the offer (Section III-Price Schedule). This will be paid in Indian Rupees, on satisfactory completion of the Contract. Copies of current Agency Agreement / Authorization Letter in respect of Agency Commission shall be furnished along with offer. For calculation of Rupee equivalent of Agency Commission, exchange rate as prevailing on the date of Part-I bid opening date. In the Price schedule Format Agency commission to be clearly mentioned.

21. SHORT SHIPMENT / GUARANTEE REPLACEMENT

- 21.1. Any shortages or damages during transit, transportation or handling at site, including at the time of installation and commissioning, shall be made good by the Seller/ Contractor at his risk and costs, to meet the project schedule. In case of faults/ discrepancies in any material, component, sub-assembly, assembly, etc., the same shall be supplied/ replenished free of cost to enable the equipment to be put in service. Shortages in sound cases shall also be replenished free of cost.
- 21.2. In case of foreign supplies, customs duty (including any other duties and surcharges) levied in India on such supplies shall be borne by the Vendor. All such supplies shall be on FOR Site (Jagdishpur) basis and all taxes and duties shall be borne by the Vendor.
- 21.3. Any replacements during the guarantee period shall be on FOR Site (Jagdishpur) basis and all taxes and duties (including customs duty) shall be borne by the Vendor.

22. INSPECTION AND TESTING

- 22.1. The Engineer/ Inspector shall have at all reasonable time, access to the Supplier's premises or Works and shall have the power at all reasonable times to inspect drawings or any portion of the plant or examine the materials and workmanship of the machine during its manufacture and if parts of the machine is being manufactured in other premises, the Supplier shall obtain permission for the Engineer/Inspector permission to inspect such equipment.
- 22.2. The Supplier shall give the Engineer/Inspector 21 day's written notice of Equipment being ready for testing. Such tests shall be to the Supplier's account except for the expense of the Inspector and the Engineer/Inspector. Unless the inspection of the tests is virtually waived, the Inspector /Engineer shall attend such tests within 21 days of the date on which the plant is notified as being ready, failing which visit, the Supplier may proceed with the tests which shall be deemed to have been made in the Inspector's presence and he shall forthwith forward to the Inspector duly certified copies of the tests in triplicate. The equipment on which witnessing of tests is

required, shall be mutually identified and agreed.

- 22.3. When the factory tests have been completed at the works of the Vendor or Sub-Vendor, the Engineer/Inspector shall issue a certificate to this effect within fifteen days after completion of tests. If the tests are not witnessed by the Engineer/Inspector, the certificate shall be issued after receipt of the Supplier's test certificate by the Engineer/Inspector. The completion of these tests or issue of the certificate shall not bind the Purchaser to accept the equipment should it, on further tests after installation, be found not to comply with the Contract.

23. COUNTRY OF ORIGIN :

Vendor to mention Country of Origin of equipments from where it will be supplied

24. PACKING

- 24.1. The Supplier shall include and provide for secure protection and packing for the plant so as to avoid damages in transit to Site under proper conditions and he shall be responsible for all losses or damages caused or occasioned by any defect in packing.
- 24.2. The Equipment shall be packed in suitable strong cases wherever essential. Large article such as bed plates which are not packed in cases, shall have all screwed holes plugged suitably and machined surfaced properly protected.
- 24.3. Weight and dimension limitation for transport shall be followed.

25. QUALITY OF MATERIALS

- 25.1. The plant shall be manufactured and constructed in the best workman like manner and with materials of the best or of approved qualities for their respective uses.
- 25.2. A Quality Assurance Plan shall be submitted by the Vendor to the Purchaser giving details of manufacturing and testing standards and procedures for major equipment for his approval.
- 25.3. Vendor shall purchase the bought out items only from vendors of repute and indicate the same to the Purchaser at the time of approval of drawings. Purchaser reserves the right to approve/ reject such vendors and visit / inspect the works of vendors and that of their sub-contractors before or after placement of order.

26. DESIGN IMPROVEMENT The inspector or the Supplier may propose changes in the specification of the plant or quality thereof and if the parties agree upon any such changes the specifications shall be modified accordingly. If any such agreed upon change is such that it affects the price or delivery, the parties shall agree in writing as to the extent of any change in the price and/or delivery or both, before the Supplier proceeds with the change. **DRAWING / DATA APPROVAL**

26.1. Any drawing / data approval required from BHEL after placement of order shall be the responsibility of the Vendor and any delay on account of the same shall be the responsibility of the Vendor and will have no bearing on delay in delivery or applicable penalty.

27. ACCEPTANCE OF EQUIPMENT

27.1. The Equipment will be accepted by the Purchaser after installation, testing and commissioning of the Equipment at Site and after completion of following activities.

27.1.3. All components and sub-assemblies of the Equipment have been properly assembled and tested.

27.1.4. All facilities necessary for the safe and reliable operation of the Equipment have been properly installed and adjusted.

27.1.5. The equipment can be safely placed in operation for its intended use.

27.1.6. Spares, service tools and manuals have been delivered to the Purchaser.

27.1.7. Onsite training of the Purchaser's personnel have been completed as per Contract.

27.1.8. As built drawing to be submitted along with 5 sets of Operation and Maintenance Manuals.

27.2. A letter of Acceptance of Equipment shall be issued by the Site Engineer after acceptance of the Equipment.

27.3. The guarantee period of the Equipment will start from the date of acceptance of Equipment by the Purchaser.

28. USE OF DRAWING/ DESIGN INFORMATION

28.1. The Vendor shall undertake that the drawings / design / Information enclosed with the Tender / Order or sent to him subsequently is the property of BHEL and it will not be parted to any other agency and will also not be used for any purpose detrimental to the interests of BHEL.

29. PERFORMANCE GUARANTEE

29.1. The Supplier guarantees that the Equipment will be new and in accordance with the specifications; that the Equipment will be free from defects in material and workmanship; and that the Equipment will meet the specified performance parameters

- 29.2. For the guarantee period the Supplier shall be liable to repair or replace any defective parts that may develop in the Equipment of his own manufacture or those of his sub-Suppliers under conditions arising from faulty design, materials or workmanship; provided that notice of any such defects or failure to conform to the specifications is promptly given within 30 days by the Purchaser to the Supplier.
- 29.3. The acceptance of the plant by the Engineer shall, in no way, relieve the Supplier of his obligation under this clause.
- 29.4. In the case of defective parts not repairable at site but essential in the meantime for commercial operation of the plant, the Supplier and Purchaser shall mutually agree to a programme of replacement or renewal which will minimise, to the maximum extent, interruption in the operation of the Equipment.
- 29.5. If it becomes necessary to replace or renew any defective parts under this clause, the provisions of this clause shall apply to replaced part until 6 months from the date of replacement or until the expiration of original guarantee, whichever is later.
- 29.6. Guarantee period for the Equipment shall be as specified in the Special Conditions of Contract.

30. PROGRESS REPORTS

- 30.1. The Supplier shall furnish to the Purchaser Progress Reports of the equipment manufactured at the end of every months as per mutually agreed format.

31. REVERSE AUCTION (RA)

- 31.1. BHEL may go for Reverse Auction (on line bidding on Internet) instead of opening the submitted sealed price bid. The decision to go for Reverse Auction will be taken after techno-commercial evaluation. Information and general terms and conditions governing RA are given below.
- 31.2. For the proposed reverse auction, technically and commercially acceptable bidders only shall be eligible to participate.
- 31.3. BHEL will engage the services of a Service Provider who will provide all necessary training and assistance/ demonstration before commencement of on line bidding on internet.
- 31.4. BHEL will inform the Vendors in writing the details of Service Provider to enable them to contact for training/ demonstration.
- 31.5. Business rules like event date, time, start price, bid decrement, extensions etc. also will be communicated through Service Provider for compliance.
- 31.6. Vendors have to fax the Compliance form in the prescribed format (provided by Service provider) before start of Reverse Auction. Without this, the vendor will not be eligible to participate in the event.
- 31.7. BHEL will provide the calculation sheet which will help the Vendors to arrive at "Total Cost to BHEL" by including items like Packing & Forwarding charges, Taxes and

Duties, Freight charges, Insurance, Service Tax for Services and loading factors (for non-compliance to BHEL Commercial terms & conditions, if any) for each of the Vendors to enable them to fill-in the price and keep it ready for keying in during the Auction.

- 31.8. Reverse auction will be conducted on a scheduled date & time.
- 31.9. At the end of Reverse Auction event, the lowest bid value will be known on the network.
- 31.10. The lowest bidder has to fax the duly signed filled-in prescribed format as provided to BHEL through Service Provider within 24 hours of Auction without fail.
- 31.11. Any variation between the on-line bid value and the signed document will be considered as sabotaging the tender process and will invite disqualification of vendor to conduct business with BHEL as per prevailing procedure.
- 31.12. In case BHEL decides not to go for Reverse Auction procedure for this tender enquiry, the Price bids already submitted and available with BHEL shall be opened as per BHEL's standard practice.
- 32.13 Tenders when finalised shall be in the name of the Bidder only and change of name during tender evaluation (without certificate from registrar of company/other appropriate Authority) and after submission of the Tender is liable to make the offer ineligible for participation

32. **HEALTH SAFETY & ENVIRONMENT (HSE)**

- 32.1. Consumption benchmarks related to output shall be provided wherever applicable for key input resources (energy/fuel/chemicals)
- 32.2. Competency requirements for operation, maintenance and calibration, if any, shall be communicated
- 32.3. If any hazardous chemicals as per MSIHC (Manufacturing, storage and import of Hazardous Chemicals) Rules 2000 are used, the MSDS shall be provided, along with On site & Off site emergency plan (as applicable)
- 32.4. The noise level at operator level shall be with in acceptable range and shall be specified.
- 32.5. OH&S (Occupational Health and Safety) control measures for safe working of machine as applicable shall be specified.
- 32.6. The machine / equipment shall be fitted with guard for rolling and moving parts and shall comply with applicable OH&S legislations and Factories Act 1948
- 32.7. The supplier shall submit the layout drawing of operating controls, displays etc. and operating instructions to enable ergonomics evaluation and approval
- 32.8. The recommended PPE (Personal Protective Equipment) for the equipment shall be furnished
- 32.9. Alarm system (both visual and audible) and Automatic switch off of the equipment

shall be provided for any intrusion, overloading, short circuiting or any malfunctioning of the equipment

- 32.10. Details of all hazardous / harmful substances discharged as by-products / wastes during operations of the machine / equipment, such as fumes, gases, dust particles, aerosols UV./IR (Ultra violet / infra red) radiations, etc. shall be furnished, along with their concentrations and their TL V, (Threshold Limit Value).
- 32.11. Appropriate pollution control measures shall be proposed to keep the emissions from the machinery / processes within the prescribed limit as stated in Environment Protection Rules 1986.
- 32.12. All furnaces, process units, DG sets, paint booths, shot blasting chambers, etc. shall be provided with stack(s) of sufficient height as per guidelines laid down in the Environment Protection Rules 1986.
- 32.13. Wherever industry specific standards are not available for control of pollutants, general emission standards shall be used.
- 32.14. Chemicals banned due to their negative impact on the environment shall not be used in the process.
- 32.15. Fuels with sulphur content less than 0.05% shall be proposed.
- 32.16. Details regarding nature of waste generated and appropriate disposal practices available shall be provided, along with the operation procedure of the plant / process.
- 32.17. Hazardous chemicals and flammable substances shall be transported only through authorized transporters and all safety practices as laid down in applicable legislative requirements such as Central Motor Vehicle Rules, Manufacture, storage and Import of Hazardous Chemical 1989, etc. shall be followed
- 32.18. Primary materials used in the equipment shall be specified and they shall be eco – friendly.

33. COOPERATION WITH OTHER VENDORS

- 33.1. The Supplier shall agree to co-operate with the Purchaser's other suppliers and consulting engineers for associated equipment and freely exchange with them such technical information as is necessary to obtain the most efficient and economical design and to avoid unnecessary duplication of equipment. No remuneration shall be claimed from the Purchaser for such technical co-operation. The inspector shall be provided with two copies of all correspondence addressed by the Supplier to other Suppliers in respect of such exchange of technical information

34. FORCE MAJEURE

- 34.1. Notwithstanding anything contained in this Contract, neither the Supplier and nor the Purchaser shall be held responsible for total or partial non-execution of any of the contractual obligations, should the obligation be made impossible due to concurrence of a Force Majeure which will include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotion's, insurgency,

sabotage, act of public enemy, acts of god, epidemics and act of Govt. over which the Supplier or Purchaser has no control.

35. ARBITRATION

35.1. The Purchaser and Supplier shall settle the disputes and differences arising out of this agreement in good faith. In the event that a dispute can not be resolved within reasonable time, the parties agree that the agreement shall be subject to arbitration under the Indian Arbitration & Conciliation Act 1996. Notwithstanding anything to the contrary in such rules there shall be three arbitrators, one appointed by the Purchaser, one appointed by the Supplier and the third appointed by the other two arbitrators. No aspect of any arbitration proceedings shall be made public by either party. The arbitration tribunal shall give reasonable award in writing. The award of the arbitration tribunal shall be final and binding on the parties. Any disputes under this order shall be under jurisdiction of New Delhi Courts only.

36. CONTRACT LAW AND JURISDICTION

36.1. This Contract shall be governed by the laws of India.

36.2. No court shall entertain or try any suit or legal proceedings to enforce any claim arising out of the Contract except in a court of law having jurisdiction at New Delhi.

ANNEXURE-1

The BG must be of any of the below mentioned banks (consortium banks of BHEL):

State Bank of India, CITI Bank N A, Deutsche Bank AG, The Hongkong and Shanghai Banking Corporation Limited, Standard Chartered Bank, The Royal Bank of Scotland N.V., Allahabad Bank, Andhra Bank, Bank of Baroda, Indian Overseas Bank, Canara Bank, Corporation Bank, Central Bank, Indian Bank, Oriental Bank of Commerce, Punjab National Bank, Punjab and Sind Bank, State bank of Hyderabad, Syndicate Bank, State Bank of Travancore, UCO Bank, Union Bank of India, United Bank of India, Vijaya Bank, IDBI Bank Ltd., Axis Bank, The Federal Bank Ltd., HDFC Bank, Kotak Mahindra Bank, ICICI Bank Ltd., Indusind Bank ,JP Morgan, and any other Central Public Sector Banks.

Note:

1. BG to be submitted in prescribed format from one of the consortium banks of BHEL or from a reputed bank and confirmed by a consortium bank of BHEL. The BG confirmation charges shall be borne by the vendor.
2. In case of private sector consortium banks a clause is to be incorporated in the text of bank Guarantee that it can be enforceable by being presented at any branch of the bank.
3. In case of bank guarantees given by Non Consortium banks (Private sector or Public sector), the bank guarantees are to be enforceable in *Jagdishpur-UP*.

CONTRACT EXECUTION BANK GUARANTEE

(TO BE ISSUED ON APPROPRIATE VALID NON-JUDICIAL STAMP PAPER)

This deed of guarantee made this day of 20..... by the..... in favour of **Bharat Heavy Electricals Limited, CSU&FP Jagdishpur** having its registered Office at New Delhi with its unit office at **Jagdishpur** (Hereafter called the first party) where as M/shaving its registered office at.....

(here after called the contractor) have entered in to contract with the first party for the supply of..... vide purchase order No.....dtd.....

And whereas the contractor M/shave approached the..... for a guarantee and at their request and in consideration of the arrangement arrived at between the contractor and the BHEL, CSU&FP Jagdishpur the said has agreed to give such guarantee as herein after mentioned to the aforesaid first party.

Now therefore, these present witness that we the do here by undertake to the first party a sum of Rs..... (Rupees only) without demur/on demand being made by the said first party and to keep the first party indemnified to the extent of Rs..... (Rupees

..... only) by virtue of this guarantee against any breach in execution of contract without giving prior information to the party of the same (the decision in this respect being solely the discretion of the first party). We further undertake to pay the aforesaid amount in the lump sum on demand without demur or such part thereof as the first party may demand from time to time, irrespective of the fact whether the said contractor admits or denies such claim or questions its correctness in any court tribunal of arbitration proceedings or before any authority.

The aforesaid guarantee will remain in full force and we shall be liable under the same Irrespective of any concession for time being granted by the said first party to contractor M/s..... in or for fulfilling the said agreement between the contractor M/s And the first party and the guarantee will remain in full force till irrespective of any change of terms, conditions or stipulation or any variations in the terms of said agreement irrespective of whether notice of such change or variation is given to us or not and claim to receive such notice of any change and/or variation of the terms and/or conditions of the said agreement is hereby specifically waived by us.

Further we shall not be released from this guarantee by any forbearance or the exercise or non exercise of any of the power or rights under the said agreement by the said first party against the contractor irrespective of whether notice of such forbearance enforcement or non-enforcement of any power or rights, modifications or changes made in the said agreement or concessions shown to contractor M/s by the first party is given to us or not.

The guarantee herein contained shall not be determined or effected by the liquidation or winding up or insolvency of or change in the constitution of the contractor M/s but shall in all respects and for all purposes bindings and operative until all payments of all moneys dues or that may hereafter becomes due to the said first party is paid in respect of any liability or obligation for the contractor under this guarantee subject to however that the first party shall have no right under this guarantee after expiry of six months from the date of completion of the contract unless this guarantee is extended by mutual agreement.

And lastly we..... Undertake not to revoke this guarantee during its currency except with the previous consent of the first party in writing. The hereby declares that it has power to issue this guarantee under the company’s memorandum and article of association and the undersigned has full power to do so on its behalf under the power of attorney dtd..... granted to him by the proper authorities of the company.

Further Bank (Name of the BANK) certifies that this guarantee is adequately stamped under the relevant state stamp Act (The state where this guarantee is executed) and any deficiency in execution of this Guarantee shall not have the effect of relieving us.

Notwithstanding any thing contained here in before, our liability under this guarantee is

restricted to Rs.....(Rupees.....only). Our guarantee shall remain in force till unless a claim in writing is served upon us and if unpaid a suit or action to enforce such claim is filed against with in 6 months from the date, all your rights under this guarantee shall be forfeited and we shall be released and discharge from all liability there under.

Dtd the by its constituted attorney.

ANNEXURE-2

The BG must be of any of the below mentioned banks (consortium banks of BHEL):

State Bank of India, CITI Bank N A, Deutsche Bank AG, The Hongkong and Shanghai Banking

Corporation Limited, Standard Chartered Bank, The Royal Bank of Scotland N.V., Allahabad Bank, Andhra Bank, Bank of Baroda, Indian Overseas Bank, Canara Bank, Corporation Bank, Central Bank, Indian Bank, Oriental Bank of Commerce, Punjab National Bank, Punjab and Sind Bank, State bank of Hyderabad, Syndicate Bank, State Bank of Travancore, UCO Bank, Union Bank of India, United Bank of India, Vijaya Bank, IDBI Bank Ltd., Axis Bank, The Federal Bank Ltd., HDFC Bank, Kotak Mahindra Bank, ICICI Bank Ltd., Indusind Bank ,JP Morgan, and any other Central Public Sector Banks.

Note:

1. BG to be submitted in prescribed format from one of the consortium banks of BHEL or from a

reputed bank and confirmed by a consortium bank of BHEL. The BG confirmation charges shall

be borne by the vendor.

2. In case of private sector consortium banks a clause is to be incorporated in the text of bank

guarantee that it can be enforceable by being presented at any branch of the bank.

3. In case of bank guarantees given by Non Consortium banks (Private sector or Public sector),

the bank guarantees are to be enforceable in Jagdishpur-UP.

PERFORMANCE BANK GUARANTEE

(TO BE ISSUED ON APPROPRIATE VALID NON-JUDICIAL STAMP PAPER)

1. In accordance of M/s. Bharat Heavy Electricals Limited (A Government of India undertaking, a company incorporated under the Companies Act 1956 having its Registered Office at "BHEL

House", SIRI Fort, New Delhi 110 049) through its unit at JAGDISHPUR- 227817 (hereinafter called the Company') having entered into a contract with

.....hereinafter called ' the said contractor ' which term includes 'suppliers' for the purpose of this Bond and under the terms and conditions of the

contract No..... Dt Between BHEL, CSU &FP and as per the contract, the contractor / supplier is to furnish a performance Bank guarantee for Rs. for the due performance of the equipment to be supplied under the above

referred contract and for the fulfillment of all the terms and conditions of the contract, We(indicate the name of the bank) (herein after referred to as the bank) at the

request of (Contractor(s)) do here by undertake to pay the company an amount not exceeding Rs.....against any loss or damage caused to or suffered or

would be caused to or suffered by the company by reason of any breach by the said contractor (s) of any of the terms and conditions contained in the said agreement.

2. We(indicate the name of the bank with full address), do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Company stating that the amount claimed is due by way of loss or damage

caused to or would be caused to or suffered by the Company by reason of breach by the said

Contractor(s) of any of the terms and conditions contained in the said Agreement or by the

reason of the contractor(s) 'failure to perform' the said agreement. Any such demand made

on the Bank shall be conclusive as regards the amount due and payable by the Bank under

this guarantee. However, our liability under this guarantee shall be restricted to an amount

not exceeding Rs._____.

3. We undertake to pay unconditionally to the Company any money so demanded notwithstanding any dispute(s) raised by the Contractor in any suit, or proceedings pending

before any Court or Tribunal or Arbitration or before any other authority relating thereto our liability under this present being absolute and unequivocal. The payment under this guarantee

would not wait till the disputes have been decided by any Court or Tribunal or in the arbitration proceedings or by any other authority. The payment so made by us under this Bond shall be a valid discharge of liability for payment thereunder and the Contractor(s) shall have no claim against us for making such payment.

4. We.....(indicate the name of Bank), further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Company under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till _____Office / Department/ Division of the Company certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges this guarantee.

5. (i) Unless a demand or claim under this guarantee is made on us in writing on or before the

_____ (claim date) we shall be discharged from all the liability under this guarantee thereafter. But where such claim or demand has been preferred by the

Company with the Bank before the expiry of the said date, the claim shall be enforceable notwithstanding the fact that the said enforcement is effected after the said date.

(ii) For the purpose of this clause, any letter making demand on the Bank by BHEL, CSU&FP

dispatched by Registered Post with Ack. Due or by Telegram or by any Electronic media addressed to the above mentioned address of the Bank shall be deemed to be the claim / demand in writing referred to above irrespective of the fact as to whether and when the said letter reaches the Bank, as also any letter containing the said demand or claim is lodged with the bank personally.

6. We(indicate the name of Bank), further agree with the company that the Company shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said Contractor (s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Company against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by any reason of any such variation or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the company or any indulgence by the company to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating would, but for this provision, have effect of not so relieving us.

7. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s).

8. It shall not be necessary for the company to proceed against the contractor before proceeding against the guarantor-bank and the guarantee herein contained shall be enforceable against them notwithstanding any security, which the company may have obtained or obtain from the Contractor shall, at the time when proceedings are taken against the guarantor hereunder be outstanding or realised.

9. Any claim or dispute arising under the terms of this document shall only be enforced or settled in the Courts at Sultanpur-UP.

10. The guarantor hereby declare that it has power to execute this guarantee and the executant has full powers to do so on its behalf under the proper authorities granted to him/them by the guarantor.

11. We (indicate the name of Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of the company in writing.

12. Notwithstanding anything hereinbefore contained, our liability under this guarantee is restricted to Rs. _____ and the Guarantee shall be in force till _____ (validity/expiry date). Unless a claim in writing is served upon us within six months from _____(validity/expiry date) i.e. on or before _____(claim date), all the rights of the company under this guarantee shall be

forfeited and the guarantor shall be relieved and discharged from all their liabilities there under.

13. In witness whereof we....., (indicate the name of Bank) have hereunto setout Bank Seal the_____day _____month 2015

BANK E-MAIL ID:

BANK PHONE NO.

BANK FAX NO:

ANNEXURE- 3**TECHNO-COMMERCIAL COMPLIANCE STATEMENT**

ITEM DESCRIPTION :

DUE DATE OF OPENING :

TECHNICAL :

Sr.No	Specification Clause No	Technical Deviation	Remark/Reasons for seeking Deviations

(Need to mention the technical deviations from Tender enquiry in above table, else mention "No deviation ")

COMMERCIAL:

Sr.No	Specification Clause No	Commercial Deviation	Remark/Reasons for seeking Deviations

(Need to mention the commercial deviations from tender enquiry in above table, else mention "No deviation ")

We hereby confirm that except for above, there are no other Techno-Commercial Deviation

Signature of Authorised
Representative /Bidder

Name :

Designation:

Date:

Name of Organisation

ANNEXURE- 4**PREFERENCES/BENEFITS FOR MSEs:**

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

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

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

Sub target of 20% (i.e. 4% out of 20%) would be earmarked for procurement from Micro and Small Enterprises owned by the Scheduled Caste or Scheduled Tribe Entrepreneurs provided that in event of failure of such Micro and Small Enterprises to participate in the tender process or meet the tender requirements and the L1 price, the 4% sub-target for procurement ear-marked MSE owned by Scheduled Caste or Scheduled Tribe Entrepreneurs shall be met from other MSE Enterprises/s.

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

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

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

Certificate by Chartered Accountant on letter head

This is to Certify that M/S.(Hereinafter referred to as 'company') having its registered office atis registered under MSMED Act 2006, (Entrepreneur Memorandum No (Part-11dated: Category: (Micro/Small) (Copy enclosed).

Further verified from the Books of Accounts that the investment of the company as on date as per MSMED Act 2006 is as follows:

1. For Manufacturing Enterprises: Investment in plant and machinery (i.e. original cost excluding land and building and the items specified by the Ministry of Small Scale Industries vide its notification No.S.O.1722(E) dated October 5, 2006 :Rs.Lacs

2. For Service Enterprises: Investment in equipment (original cost excluding land and building and furniture, fittings and other items not directly related to the service rendered or as may be notified under the MSMED Act, 2006: RsLacs

(Strike off whichever is not applicable)

The above investment of Rs Lacs is within permissible limit of Rs -----Lacs for Micro/Small (Strike off which is not applicable) Category under MSMED Act 2006.

Or

The company has been graduated from its original category (Micro/ Small) (Strike off which is not applicable) and the date of graduation of such enterprise from its original category is -----(dd/mm/yyyy) which is within the period of 3 years from the date of graduation of such enterprise from its original category as notified vide 5.0. No. 3322(E) dated 01.11.2013 published in the gazette notification dated 04.11.2013 by Ministry of MSME.

Date:

(Signature)

Name -

Membership number -

Seal of Chartered Accountant

Annexure -5

THIRD PARTY NON-DISCLOSURE AGREEMENT

I, _____, on behalf of the _____(Name of Company), acknowledge that the information received or generated, directly or indirectly, while working with BHEL on contract is confidential and that the nature of the business of the BHEL is such that the following conditions are reasonable, and therefore:

I warrant and agree as follows:

I, or any other personnel employed or engaged by our company, agree not to disclose, directly or indirectly, any information related to the BHEL. Without restricting the generality of the foregoing, it is agreed that we will not disclose such information consisting but not necessarily limited to:

Technical information: Methods, drawings, processes, formulae, compositions, systems, techniques, inventions, computer programs/data/configuration and research projects.

Business information: Customer lists, project schedules, pricing data, estimates, financial or marketing data,

On conclusion of contract, I, or any other personnel employed or engaged by our company shall return to BHEL all documents and property of BHEL, including but not necessarily limited to: drawings, blueprints, reports, manuals, computer programs/data/configuration, and all other materials and all copies thereof relating in any way to BHEL's business, or in anyway obtained by me during the course of contract. I further agree that I, or any others employed or engaged by our company shall not retain copies, notes or abstracts of the foregoing.

This obligation of confidence shall continue after the conclusion of the contract also.

I acknowledge that the aforesaid restrictions are necessary and fundamental to the business of the BHEL, and are reasonable given the nature of the business carried on by the BHEL. I agree that this agreement shall be governed by and construed in accordance with the laws of country.

I enter into this agreement totally voluntarily, with full knowledge of its meaning, and without duress.

Dated at _____this ____ day of ____20__.

Name

Company

Signature