PPX-EM DEPARTMENT
BHARAT HEAVY ELECTRICALS LIMITED
HEEP: HARDWAR-249 403 (Uttarakhand)
TEL: +91 1334 28 5749

GLOBAL TENDER ENQUIRY
ENQUIRY NO. E/ E222/5/1724C2
DATE OF ISSUE: 18th Oct' 2025
ENQUIRY DUE DATE: 15th Nov' 2025 (By 1345 HRS IST)

ITEM: SILICON CARBIDE POWDER

The **Heavy Electrical Equipment Plant (HEEP)** located in Haridwar, is one of the major manufacturing plants of BHEL. The core business of HEEP includes design and manufacture of large size steam and gas turbines, turbo generators, heat exchangers, condensers and auxiliaries.

Sealed Bids are invited by HEEP Hardwar, from bidders for the supply of SILICON CARBIDE POWDER GRADE: F2/600 (BHEL Mat Code: TGEW55200087). The details are given in enclosed Tender Enquiry document no. E/ E222/5/1724C2.

The documents listed below form a part of this tender enquiry. Bidders are advised to study all the tender documents 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 full understanding of the implications thereof.

SL.NO.	LIST OF DOCUMENTS
1.	TENDER ENQUIRY NO. E/ E222/5/1724C2
2.	PRE-QUALIFICATION REQUIREMENT/ ANNEXURE -A
3.	FRAMEWORK CONFIDENTIALITY AGREEMENT (FCA)/ ANNEXURE -B
4.	GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS (GISTC) REV.10 FOR INDIAN BIDDERS/ ANNEXURE-C-1
5.	GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS (GISTC) REV.09 FOR FOREIGN BIDDERS/ ANNEXURE-C-2
6.	DOCUMENTS REQUIRED FROM BIDDERS/ANNEXURE-D
7.	TECHNICAL SPECIFICATION TG60451 REV: 03 Technical specification document shall be provided by BHEL, only after submitting FCA.

NOTE: - This is offline tender.
1.Offer shall be submitted to following address-
Tender Room
4th Floor, Administrative Building, HEEP
BHEL Haridwar 249403
2. Offer shall also be submitted through email at following mail ID:-
Sujit.kumar@bhel.in , tendercell.heep@bhel.in

For any further details, you may feel free to contact the following persons:

Mr. Sujit Kumar
Designation: Manager (PPX/EM)
4th Floor, Main Administrative Building
HEEP, BHEL
Hardwar- 249403
Uttarakhand, India
Email ID: sujit.kumar@bhel.in
Tel: +91 1334285021

For and on behalf of BHEL, Hardwar
(Sujit Kumar)
Manager (PPX-EM)

M/S. OPEN TENDER
BHEL
HARIDWAR249403
INDIA
-

DUEDATE **15-11-2025**

Vendor Code **00001**

SL	MATERIAL CODE ITEM DESCRIPTION	QUANTITY	UNIT	LOTNO	LOT QTY	DELIVERY SCHEDULE
1	TGEW55200087 SILICON CARBIDE POWDER SPEC: TG60451 REV: 03 GRADE: F2/600	25	KG	1	25	31/08/26

** IMPORTANT: This enquiry is 2 part tender. Techno-Commercial bid (Part-1) & Price Bids (Part-2) should be submitted in separate envelopes. These two envelopes should be submitted in a common sealed envelope. Techno-Commercial Bid shall contain detailed Technical Specification, Drawings Technical documents, Catalogues, taxes & duties, payment terms, delivery period, Validity of offer, Replica of Price Bid (Copy of price bid without price part) etc. The confirmation to the special terms & conditions must be submitted alongwith Techno-Commercial bid.

Standard Instructions:
TEST CERTIFICATE REQUIRED.
GUARANTEE CERTIFICATE REQUIRED.

Special Instructions:
1. THIS IS A GLOBAL OPEN TENDER INVITING PARTICIPATION FROM BOTH INDIAN AND FOREIGN BIDDERS (I.E. BIDDERS FROM OUTSIDE INDIA).
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2. THE PRE-QUALIFICATION REQUIREMENTS (PQR) HAVE BEEN COMPILED AND PLACED AT ANNEXURE-A. BIDDERS SHOULD ENSURE SUBMISSION OF COMPLETE DETAILS AND DOCIUMENTS AS CALLED FOR IN THESE REQUIREMENTS.THE OFFER SUBMITTED BY THE BIDDER WOULD BE SCRUTINISED WITH RESPECT TO PQR FIRST. TECHNO-COMMERCIAL OFFER OF ONLY THOSE BIDDERS SHALL BE EVALUATED, WHO MEET THE PQR.
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3. THE INTERESTED BIDDERS MAY GO THROUGH THE PQR AND OBTAIN COMPLETE TECHNICAL SPECIFICATIONS FROM BHEL AGAINST SUBMISSION OF NDA
THE NDA (ANNEXURE-B) CAN BE SUBMITTED IN SOFT COPY THRU EMAIL) FOR OBTAINING TECHNICAL DOCUMENTS. HOWEVER, HARD COPY OF THE FCA IS TO BE SUBMITTED ALONGWITH THE OFFER. THE CONTACT DETAILS OF INDIVIDUALS FOR OBTAINING TECHNICAL SPECIFICATIONS/DRAWINGS ARE AS FOLLOWS:
i) ARVIND DIMRI(ENGR.). TEL: EMAIL ID: dimri@bhel.in
ii) SUJIT KUMAR (MGR). TEL: EMAIL ID:sujit.kumar@bhel.in
iii) RAJPAL SINGH (MGR). TEL: EMAIL ID: rajpal@bhel.in

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4. THE OFFER SHALL BE SUBMITTED IN TWO PARTS I.E. PART-I (TECHNO-COMMERCIAL OFFER INCLUDING PQR DOCUMENTS) & PART-II (PRICE BID). PART-I & PART -II SHALL BE KEPT IN SEPARATE COVER.
PART-I SHALL BE OPENED ON THE DUE DATE SPECIFIED IN TENDER. PART-II (PRICE BID) OF ONLY THOSE BIDDERS WILL BE OPENED, WHO MEET PQR AND ARE TECHNO-COMMERCIALLY ACCEPTABLE. PRICE BIDS WOULD BE OPENED AT A LATER DATE AND INTIMATION FOR PRICE BID OPENINGWOULD BE NOTIFIED SEPARATELY.

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5. GENERAL INSTRUCTIONS AND STANDARD TERMS & CONDITIONS (GISTC) FOR F ARE ENCLOSED AT ANNEXURE-C1 & C2 (SEPARATE FOR INDIAN & FOREIGN BIDDER).OFFER MUST BE SUBMITTED INLINE WITH TERMS & INSTRUCTIONS MENTIONED IN GISTC. AN ENDOSED COPY GISTC IS TO BE SUBMITTED ALONGWITH THE OFFER, AS A TOKEN OF ACCEPTANCE. GISTC REV 09 FOR FOREIGN AND REV 10 FOR DOMESTIC BIDDER.
6. DEVIATIONS FROM ENQUIRY CONDITIONS/GISTC ARE GENERALLY NOT ACCEPTABLE. THE DEVIATIONS (IF ANY) ARE TO BE LISTED OUT CLEARLY IN THE OFFER. THE ACCEPTANCE OF THESE DEVIATIONS WOULD BE AT THE DISCRETION OF BHEL AND BHEL MAY REJECT THE OFFER OF BIDDER NOT MEETING THE ENQUIRY CONDITIONS.

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7. THE TENDER DOCUMENTS CAN BE DOWNLOADED FROM OUR WEBSITES http://www.bhel.com, https://hwr.bhel.com OR https://eprocure.gov.in. ANY CORRIGENDUM/AMEDNMENT WOULD BE UPLOADED ON OUR WEBSITES ONLY. THE SOFT COPY OF ALL DOCUMENTS (EXCLUDING TECHNICAL SPECs) ARE AVAILABLE ONLINE AND NO TENDER FEE IS APPLICABLE.

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8. THE EVALUATION OF THE BIDS WOULD BE DONE ON THE BASIS OF LANDED COST TO BHEL FOR TOTAL QTY . THE PRICES ARE TO BE QUOTED IN INTERNATIONALLY FREELY TRADABLE CURRENCY ONLY. THE EVALUATION CURRENCY FOR THIS TENDER SHALL BE INR.

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9. QUALITY REQUIREMENT ARE TO BE COMPLIED FOR THIS TENDER:-
CORELATED TEST CERTIFICATES FROM ORIGINAL MANUFACTURER IS REQUIRED.

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10. BIDDERS ARE REQUESTED TO SUBMIT THE OFFER WITH BEST POSSIBLE DELIVERY COMPLETION PERIOD.

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11. THE PRICES ARE TO BE QUOTED ON FIRM BASIS. BHEL RESERVES THE RIGHT TO REJECT THE OFFER OF BIDDERS SUBMITTING THEIR OFFER ON PVC BASIS.

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12. QUANTITY TOLERANCE OF +/- 5% IS ACCEPTABLE.

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13. E-INVOICING FOR INDIAN BIDDERS:
E-INVOICING UNDER GST HAS BEEN IMPLEMENTED W.E.F. 01/10/2022 FOR ALL THE TAXABLE PERSONS HAVING TURNOVER MORE THAN RS 10 CR. IT HAS BEEN PECIFIED BY THE GOVT. THAT IT IS MENDATORY TO MANTION A VALID UNIQUE INVOICE REFERENCE NO. (IRN) AND QR CODE AS GENERATED FROM GOVT. PORTAL ON A TAX INVOICE. BASED ON SUCH INFORMATION, GST ITC AS CLAMIED BY BHEL IN GST RETURNS SHALL BE MATCHED WITH

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CORRESPONDING DETAILS UPLOADED BY SUPPLIER IN E-INVOICING SYSTEM.

IN CASE THE VENDOR/CONTRACTOR DELAYS OR FALLS TO PROVIDE ALL DOCUMENTS AS PER THE PURCHASE ORDER/WORK ORDER AT THE TIME OF SUBMITTING TAX INVOICE TO BHEL, ANY SUBSEQUENT FINANCIAL LOSS TO BHEL ON ACCOUNT OF VENDOR / CONTRACTOR SHALL BE TO VENDOR'S / CONTRACTOR'S ACCOUNT. BHEL HAS FURTHER RIGHT TO TAKE NECESSARY STEPS TO PROTECTS ITS INTREST AT THE TIME OF RELEASE OF PAYMENT. THIS FURTHER REQUIRES INCLUSION OF IRN QR CODE ON TAX INVOICE AS ANNOUNCED BY GOVT. OF INDIA W.E.F. 01/04/2021
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14. GUIDELINES/INSTRUCTIONS ISSUED BY GOVERNEMNT OF INDIA FROM TIME TO TIME RELATING TO THE PROVISIONS OF THE TERMS & CONDITIONS MENTIONED IN THIS ENQUIRY SHALL BE COMPLIED FOR FINALISATION OF THIS TENDER.
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15. OFFERS RECEIVED AFTER SPECIFIED TIME OF THEIR SUBMISSION SHALL BE TREATED AS 'LATE OFFERS' AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.
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16. FOR ANY QUERIES REGARDING THE TENDER, YOU MAY FEEL FREE TO CONTACT THE FOLLOWING OFFICIALS:-
a. CONTACT PERSON 1:
NAME: MR. ARVIND DIMRI
DESIGNATION: ENGINEER (PPX-EM)
ADDRESS: 4TH FLOOR,MAIN ADMINISTRATIVE BUILDING, HEEP, BHEL, INDIA, PIN 249403
EMAIL ID: dimri@bhel.in
MOB:
b. CONTACT PERSON 2:
NAME: MR. SUJITT KUMAR
DESIGNATION: MANAGER (PPX-EM)
ADDRESS: 4TH FLOOR,MAIN ADMINISTRATIVE BUILDING, HEEP, BHEL, INDIA, PIN 249403
EMAIL ID: sujit.kumar@bhel.in
MOB: +
C. CONTACT PERSON 3:
NAME: MR. RAJPAL SINGH
DESIGNATION: MANAGER (PPX-EM)
ADDRESS: 4TH FLOOR,MAIN ADMINISTRATIVE BUILDING, HEEP, BHEL, INDIA, PIN 249403
EMAIL ID: rajpal@bhel.in
MOB:
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17. RISK PURCHASE:- FOLLOWING RISK PURCHASE CLAUSE SHALL BE APPLICABLE FOR THIS ENQUIRY-
IN CASE OF ABNORMAL DELAYS (BEYOND THE MAXIMUM LATE DELIVERY PERIOD AS PER LD CLAUSE) IN SUPPLIES / DEFECTIVE SUPPLIES OR NON-FULFILLMENT OF ANY OTHER TERM AND CONDITIONS GIVEN IN PURCHASE ORDER, BHEL MAY CANCEL THE PURCHASE ORDER IN FULL OR PART THEREOF, AND MAY ALSO MAKE THE PURCHASE OF SUCH MATERIAL FROM

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ELESWARE / ALTERNATIVE SOURCE AT THE RISK AND COST OF SUPPLIER . BHEL WILL TAKE ALL REASONABLE STEPS TO GET THE MATERIAL FROM ALTERNATE SOURCE AT OPTIMUM COST. IF BIDDER DOES NOT AGREE TO THE ABOVE RISK PURCHASE CLAUSE , BHEL RESERVE THE RIGHT TO REJECT THE OFFER. IN CASE FOR COMPELLING REASONS BHEL ACCEPTS THE OFFER WITHOUT ACCEPTANCE OF THIS CLAUSE BY THE BIDDER AND IN THE EVENTUALITY OF RISK PURCHASE , APPROPIATE ACTION WILL BE TAKEN AS PER BHEL EXTANT RULES.THIS WILL BE WITHOUT PREJUDICE TO ANY OTHER RIGHT OF BHEL UNDER THE CONTRACT OR UNDER GENERAL LAW.

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18. ACTION AGAINST BIDDERS / VENDOR / SUPPLIER / CONTRACTOR IN CASE OF DEFAULT-
IN ORDER TO PROTECT THE COMMERCIAL INTERESTS OF BHEL, BHEL SHALL TAKE ACTION AGAINST SUPPLIERS / CONTRACTORS BY THE WAY OF SUSPENSION OF BUSINESS DEALING , WHO EITHER FAIL TO PERFORM OR ARE IN DEFAULT WITHOUT ANY REASONABLE CAUSE, CAUSE LOSS OF BUSINESS / MONEY / REPUTATION / INDULGE IN MALPRACTICES , CHEATING BRIBERY , FRAUD OR ANY OTHER MISCONDUCT OR FORMATION OF CARTELS SO AS TO INFLUENCE THE BIDDING PROCESS OR INFLUENCE THE PRICE ETC.
SUSPENSION OF BUSINESS DEALING COULD BE IN THE FORM OF 'HOLD' OR 'BANNING' A SUPPLIER / CONTRACTOR OR A BIDDER AND SHALL BE AS PER " GUIDELINE FOR SUSPENSION OF BUSINESS DEALING WITH SUPPLIERS / CONTRACTORS" AVALIABLE AT BHEL'S WEBSITE "https://www.bhel.com/guidelines-suspension-business-dealing-suppliers contractors".

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19. MAKE IN INDIA CLAUSE IS NOT APPLICABLE FOR THIS ENQUIRY.

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20. EMD NOT APPLICABLE FOR THIS ENQUIRY.

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21.CONFLICT OF INTEREST CLAUSE-
A BIDDER SHALL NOT HAVE CONFLICT OF INTEREST WITH OTHER BIDDERS. SUCH CONFLICT OF INTEREST CAN LEAD TO ANTI-COMPETITIVE PRACTICES TO THE DETRIMENT OF PROCURING ENTITY'S INTERESTS. THE BIDDER FOUND TO HAVE A CONFLICT OF INTEREST SHALL BE DISQUALIFIED.A BIDDER MAY BE CONSIDERED TO HAVE A CONFLICT OF INTEREST WITH ONE OR MORE PARTIES IN THIS BIDDING PROCESS, IF :
A) THEY HAVE CONTROLLING PARTNER(S) IN COMMON; OR

B) THEY RECEIVE OR HAVE RECEIVED ANY DIRECT OR INDIRECT SUBSIDY /FINANCIAL STAKE FROM ANY OF THEM; OR

C) THEY HAVE SAME LEGAL REPRESENTATIVE /AGENT FOR PURPOSES OF THIS BID; OR

D) THEY HAVE RELATIONSHIP WITH EACH OTHER , DIRECTLY OR THROUGH COMMON THIRD PARTIES, THAT PUTS THEM IN A POSITION TO HAVE ACCESS TO INFORMATION ABOUT OR

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INFLUENCE ON THE BID OF ANOTHER BIDDER; OR

E) BIDDER PARTICIPATES IN MORE THAN ONE BID IN THIS BIDDING PROCESS. PARTICIPATION BY A BIDDER IN MORE THAN ONE BID WILL RESULT IN THE DISQUALIFICATION OF ALL BIDS IN WHICH THE PARTIES ARE INVOLVED. HOWEVER , THIS DOES NOT LIMIT THE INCLUSION OF THE COMONENTS/SUB ASSEMBLY /ASSEMBLIES FROM ONE BIDDING MANUFACTURER IN MORE THEN ONE BID; OR

F) IN CASES OF AGENTS QUOTING IN OFFSHORE PROCUREMENTS, ON BEHALF OF THEIR PRINCIPAL MANUFACTURES, ONE AGENT CAN NOT REPRESENT TWO MANUFACTURES OR QUOTE ON THEIR BEHALF IN A PARTICULAR TENDER ENQUIRY. ONE MANUFACTURER CAN ALSO AUTHORISE ONLY ONE AGENT/DEALER. THERE CAN BE ONLY ONE BID FROM THE FOLLOWING-
1. THE PRINCIPAL MANUFACTURER DIRECTLY OR THROUGH ONE INDIAN AGENT ON HIS BEHALF AND
2. INDIAN /FOREIGN AGENT ON BEHALF OF ONLY ONE PRINCIPAL.

OR

G) A BIDDER OR ANY OF ITS AFFILIATES PARTICIPATED AS A CONSULTANT IN THE PREPARATION OF THE DESIGN OR TECHNICAL SPECIFICATIONS OF THE CONTRACT THAT IS THE SUBJECT OF THE BID; OR

H) IN CASE OF HOLDING COMPANY HAVING MORE THAN ONE INDEPENDENTLY MANUFACTURING UNITS , OR MORE THAN ONE UNIT HAVING COMMON BUSINESS OWNERSHIP/ MANAGEMENT, ONLY ONE UNIT SHOULD QUOTE. SIMILER RESTRICTIONS WOULD APPLY TO CLOSELY RELATED SISTER COMPANIES. BIDDERS MUST PROACTIVELY DECLARE SUCH SISTER/COMMON BUSINESS MANAGEMENT UNITS IN SAME/SIMILAR LINE OF BUSINESS.
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22. ANY BIDDER FROM A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA WILL BE ELIGIBLE TO BID IN ANY PROCUREMENT ONLY IF THE BIDDER IS REGISTERED WITH THE COMPETENT AUTHORITY. THE DEFINIATION OF BIDDER (OR ENTITY) FROM A COUNTRY WHICH SHARES A LAND BORDER WITH INDIA IS MENTIONED AT CLAUSE 12 OF DOE ORDER.
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23. BREACH OF CONTRACT CLAUSE- AN AMOUNT EQUIVALENT TO 10% OF THE CONTRACT VALUE WILL BE RECOVERED IN CASE OF BREACH OF CONTRACT.
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General Instructions:
Please visit our site www.bhelhwr.co.in for latest version of
General Instructions and Standard Terms & Conditions (GISTC) for Tender

MATERIAL CODE ITEM DESCRIPTION	QUANTITY	UNIT	LOTNO

Enquiries. All the bidders/vendors must ensure compliance of latest GISTC.
Terms & Conditions printed overleaf of this Standard Tender
enquiry format are null & void.
For this procurement, Public Procurement (Preference to Make in India),
Order 2017 dated 15.06.2017 & 28.05.2018 and subsequent Orders issued
by the respective Nodal Ministry shall be applicable even if issued
after issue of this NIT but before finalization of contract / PO / WP
against this NIT.
In the event of any Nodal Ministry prescribing higher or lower
percentage of purchase preference and/ or local content in respect
of this procurement, same shall be applicable.
Default purchase preference under Make in India order shall be 20% to suppliers
with default minimum local content of 50% for all items / works / services.
For further details, please refer latest version of GISTC.
Procurements where the Estimated value to be procured is less than Rs. 5 lakhs
shall be exempted from Public Procurement (Preference to Make in India),
Order 2017 dated 15.06.2017 & 28.05.2018
Kindly produce GeM seller Id with documentary proof along with your Bids/offers
for case Value more than 25 Lacs.

SUJIT KUMAR

MANAGER

Annexure - A

Pre-Qualification Requirement (PQR)

PRE-QUALIFICATION REQUIREMENTS (TECHNICAL) FOR SILICONE CARBIDE POWDER (TG60451)

INTRODUCTION: Silicone Carbide Powder is used as a filler material in semi conducing varnish system used for End Corona Protection application on VPI winding bars and Bus bars of High Voltage Rotating Electrical Machines of voltage rating 21kV and above.

1. **ELIGIBLE VENDORS**: Vendor/Bidder should be either original manufacturer (OEM) or authorized Distributor of OEM. In case of quotation as Authorized Distributor, Vendor/Bidder to furnish supporting documents.

   In case of quotation by Authorized distributor of OEM, document from OEM to be submitted clearly mentioning that they will provide complete technical guarantee / warrantee of the material and will give complete technical support for the supplies related to this enquiry.

2. **EXPERIENCE:** The vendor should have the experience of successfully manufacturing (Dealer/Distributor of Original manufacturers are also allowed) and/or supplying the Silicone Carbide Powders – **Gr. F1 -400, Gr. F2 -600, Gr. F3 -800, Gr. F4 -1000** to OEMs of High Voltage Rotating Machine of voltage rating 21kV and above during last ten years from date of enquiry. In support of this, vendor to submit the following documents: -
   - 2.1. Copy of one unpriced purchase order of Silicone Carbide Powder.
   - 2.2. Copy of Test Certificates/ manufacturer's COA (may density, particle size etc.) for the Silicone Carbide Powder corresponding to purchase order submitted above as per clause 2.1.

3. **MANUFACTURING FACILITIES:** Vendor to confirm that they have all the in-house manufacturing facilities for above Silicone Carbide Powder meeting the requirements as per BHEL specification TG60451. Confirmation regarding the same to be submitted (In case of authorized Dealer of Original manufacturer, confirmation to be taken from principal supplier).

4. **TESTING FACILITIES:** Vendor to confirm that they have in-house test facilities (duly calibrated), sufficient to carry out all the test as per enquired specification TG60451. Confirmation regarding the same to be submitted (In case of authorized Dealer of Original manufacturer, confirmation to be taken from principal supplier).

5. **DATA SHEET:** Vendor to provide data sheet of the Silicone Carbide Powder providing details of physical as well as chemical properties along with performance and any other important information.

6. Vendor to confirm detailed technical requirements as per the enquired specification.

7. Vendor who is supplying this item to BHEL for the first time has to submit 400 grams of **Silicone Carbide Powder** sample free of cost for visual inspection and testing the material, shop trial and technical evaluation from BHEL application point of view.

NOTE

BHEL reserves the right to verify the information submitted by the vendor. In case the information is found to be false or incorrect, the offer shall be rejected.

07/12/23.	Suparna 07/12/23	7/12/2023
Priyadarshi Rahul	Suparna Majumdar	Anirudha Tijare
Manager / ISE & CPL	DGM / ISE & CPL	AGM / ISE, CPL & GRI

Annexure – B

Non-Disclosure Agreement

ANNEXURE (NON-DISCLOSURE AGREEMENT)

NON-DISCLOSURE AND PROPRIETARY INFORMATION AGREEMENT

BETWEEN _____ (Name of the Vendor)., having its registered offices in _____(Address of Vendor), registered under the no._____of the Companies' register of_____(Name of Place and Country), capital stock of_____(Value), with a place of business in _____(Name of Place and Country) (hereinafter referred to as _____(Name of Vendor)" which expression shall unless repugnant to the context shall include its successors & assigns.

AND

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

BACKGROUND

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

WHEREAS

A) the Parties wish to pursue exploratory discussions concerning a possible collaboration between them in relation to the Tender Enquiry No..._____ also mentioned in Exhibit l;

B) It is anticipated that during the possible discussions it may be necessary for BHEL to share certain confidential and proprietary information in written. oral: visual and/or physical: sample, form to the other party (collectively "Proprietary Information", more fully detailed in clause I herein below) for the purpose of enabling the parties to interact and deliberate the aforementioned order and take it further (hereinafter referred to as "Purpose")

The parties desire to protect such Proprietary Information and ensure that it is not disclosed to any third party without the permission of the party disclosing such Proprietary Information;

NOW, THEREFORE, the Parties have agreed as follows:

1. The term "Proprietary Information" shall mean any information or data of whatsoever kind of a confidential or proprietary nature disclosed by BHEL (hereinafter called the "Disclosing Party") to the vendor hereinafter called the "Receiving Party"), including but not limited to, commercial information, know-how and technical information in the form of designs, drawings, concepts, requirements, specifications, trade secrets, IPR, brand name, marketing plans & all other non-public information, software, interfaces, components, processes, or the like, that have been or will be disclosed by Disclosing Party to the Receiving Party pursuant to this Agreement, either in writing, orally or other form, which is designated as "Proprietary" or "Confidential" by the Disclosing Party by means of formal declaration or an appropriate stamp, legend or any other written or orally notice . Notwithstanding anything to the contrary contained hereinabove. all the drawings and other technical information shared regarding the above-mentioned order by the Disclosing Party shall be considered Proprietary Information with or without being marked as confidential /proprietary at the time of sharing the same.

2. Proprietary Information may be conveyed, without limitation, through any written or printed documents, samples, models, electronic form on disk, tape, other storage media or any other means of disclosing such Proprietary Information that Disclosing Party may elect to use during the life of this Agreement, but if Disclosing Party originally discloses information orally or visually, the Receiving Party will protect such information as Proprietary Information to the extent that the Disclosing Party

-identifies the Information as Proprietary at the time of original disclosure,
- summarizes the Proprietary Information in writing.

Information stored in electronic form on disk, tape, other storage media will be adequately marked if a proprietary legend displays when the information originally runs on a computer system and when the information is printed from its data file. Proprietary Information also includes any information which can be obtained by examination, testing or analysis of any hardware or material substance or any component part of such hardware or material substance provided by the Disclosing Party even though the requirements in Clause I for marking and designation have not been fulfilled.

3. The Disclosing Party, to the extent of its rights to do so, shall disclose to the other only the Proprietary Information which the Disclosing Party deems appropriate to fulfil the objectives

of this Agreement. The Parties hereby represent that the disclosure of Proprietary Information by and between themselves shall be made in compliance with, and subject to the Indian laws and regulations.

4. The Receiving Party hereby agrees and covenants that, from the effective date of this Agreement until the expiry date as per article 11 and the following period as per article 12, the Proprietary Information that it receives from the -Disclosing Party shall:

a) be protected and kept in strict confidence by the Receiving Party which must use the same degree of care it uses to protect its own confidential information and in no case less than a reasonable care;
b) be only disclosed to and used by those persons within the Receiving Party's organization or that of its parent or controlled companies who have a need to know and solely for the purposes specified in this Agreement, and be treated by such persons or entities with the same degree of care and subject to the same restrictions;
c) to procure that each third party to whom Proprietary Information is disclosed under this Agreement is made aware of the provisions of this Agreement prior to such disclosure to it and that each such third party is bound by obligations of confidentiality which are no less onerous than those contained in this Agreement;
d) neither be disclosed nor caused to be disclosed or made available, either directly or indirectly, to any third Party or persons other than those mentioned in subparagraph b) above or other persons upon which both of the contractual Parties shall agree in an amendment to this Agreement;
e) not to reverse engineer, disassemble or decompile any prototypes. software or other tangible objects which embody the Proprietary Information and which are provided to the Receiving Party hereunder:

f) not to copy, reproduce or reduce to writing any part of such Proprietary Information except as may be reasonably necessary for the purpose referred to in the Recitals of this Agreement

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

5. Any Proprietary Information and copies thereof disclosed by the Disclosing Party to the other shall remain the property of the Disclosing Party and shall be immediately returned or destroyed by the Receiving Party upon request or upon expiry of this Agreement.

6. The Receiving Party shall have no obligations or restrictions with respect to any Proprietary Information for which the Receiving Party can prove that:

a) is in or which comes into the public domain otherwise than as a result of a breach of this Agreement by any person to whom a disclosure of Proprietary Information is made as permitted under this Agreement or of any other duty of confidentiality relating to the Proprietary Information of which the Receiving Party has knowledge; or

b) it has been in its possession without restriction at the time of the disclosure, as evidenced by written documentation in its files; or

c) it has been lawfully received from a third Party without breach of this Agreement; or

d) It has been or is published without violation of this Agreement; or

e) Disclosure of such proprietary information required by law or by a court of competent jurisdiction.

7. With respect to any exchange of Proprietary Information which may occur as a result of this Agreement, it is expressly understood and agreed that the persons listed in Exhibit 2 shall, on behalf of the respective Parties, be the exclusive individuals authorized to receive from and transmit to the other Party Proprietary Information under this Agreement. Each Party may replace at any time its respective authorized individuals identified in such Exhibit 2, within its own organization. Any such new designation by a Party shall be made by written notice to the other at the address indicated in such Exhibit 2.

8. Any Proprietary Information which is identified as "Classified Information", or whose export is subject to an export license, shall be identified as such by the Disclosing Party at the time of disclosure and the disclosure, protection, use and handling thereof, shall remain subject to the security procedures and restrictions imposed by the Disclosing Party's Government.

9. The disclosure of Proprietary Information under this Agreement by either-the Disclosing Party to the Receiving Party shall not be construed as granting to the Receiving Party any right, whether express or implied by licence or otherwise, on the matters, inventions or discoveries

to which such information pertains, or as granting any trademark, patents, copyrights, trade secret right or other form of intellectual property right.

10. This Agreement covers the exchange of Proprietary Information which may be made by the Disclosing Party to the Receiving Party until ten years from signing of the agreement or any extension thereto which may be agreed upon by the Parties in writing. Proprietary information relevant to the Program detailed in Exhibit 1, already made available to the Receiving Party before the effective date, shall also be protected under this Agreement.

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

I l . The expiry of the period contemplated in Article 10 of this Agreement shall not relieve the Receiving Party from complying with the obligations imposed by Article 4 here above with respect to the use and protection of the Proprietary Information, received prior the date of such expiry, for a period often (10) years after such expiry.

12. The Parties are independent contractors. Each will bear all costs and expenses in connection with this Agreement. This Agreement is intended to facilitate only the exchange of Proprietary Information in connection with the contract entered between both the parties and is not intended to be, and shall not be construed to create a teaming agreement, joint venture, association, partnership, or other business organisation or agency arrangement and no Party shall have the authority to bind the other without the other Party's separate prior written agreement.

13. The Receiving Patty shall indemnify the Disclosing Party for all costs. expenses or damages that Disclosing Party incurs as a result of any violation of any provisions of this Agreement. This obligation shall include court. litigation expenses, and actual. reasonable attorney's fees. The Receiving also agrees that monetary damages may be inadequate compensation to the Disclosing Party in the event the Receiving Party breaches any provision of this Agreement. Therefore. the parties agree that in the event of a breach or threatened breach of confidentiality. the Disclosing Party shall also be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach or anticipated breach.

14.This Agreement shall be governed by and shall be interpreted in accordance with the substantive Indian laws. Irrespective of the foregoing each Party shall remain bound by the provisions of its own national laws and regulations with respect to the transfer or use of Classified Information or information whose export is subject to an export license.

15. All disputes among the Parties, in connection with or arising out of the existence, validity, construction, performance and termination of this Agreement (or any terms thereof), which the Parties are unable to resolve among themselves, shall be finally settled by an Arbitration as per the Arbitration & conciliation Act. 1966. The Arbitration shall be held in Haridwar (India), in English language, in accordance with the rules laid down in the Arbitration and Conciliation act of India 1996, of a sole arbitrator mutually appointed by both the parties. The courts of Haridwar shall have exclusive jurisdiction.

16. The foregoing constitutes the entire Agreement among the Parties with respect to the subject matter hereof and supersedes and cancels all prior representations, negotiations, commitments, undertakings, communications, either oral or written, acceptances, understandings and agreements among the Parties with respect to or in connection with any of the matters to which such Agreement applies or refers.

17. Notices to_____ (Name of Vendor) shall be made at the following address:

(Complete Address of Vendor)

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

Notices to BHEL shall be made at the following address:

BHARAT HEAVY ELECTRICALS LIMITED,

HEAVY ELECTRICAL EQUIPMENT PLANT,

Ranipur, Haridwar-249403 (Uttarakhand), India

Attention:

(Name of the PPX Incharge)

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

19-No failure or delay by either party in exercising on enforcing any right, remedy or power here under shall operate as a waiver hereof.

20-In the event that any provision of this Agreement shall be held by a court of competent jurisdiction to be unenforceable, the remaining portion hereof shall remain in full force & effect.

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

Date:

Signed for and on behalf of	Signed for and on behalf of
(Name of Vendor)	BHEL By:
By:	
Title:	Title:
Signature:	Signature:

EXHIBIT 1

to the NON-DISCLOSURE AGREEMENT between

_____

(Name of Vendor) and

BHARAT HEAVY ELECTRICALS LIMITED

dated:_____

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

-Description of Material or Services……for which the Enquiry issued / Purchase order to be placed

(Name of Vendor) list of products that require an exchange of Proprietary

_____

Information which may be occur during the discussions and negotiations in view of a possible cooperation for the above programs:

EXHIBIT 2

to the NON-DISCLOSURE AGREEMENT between
(Name of Vendor) _____

and
Bharat Heavy Electricals Ltd.

Dated_____

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

For **(Name of Vendor)**	For Bharat Heavy Electricals Ltd.
(Name of Person)	Mr.
Tel.	Tel. 01334
Fax	Fax 01334
Address.	Address. Main Administration Building BHEL, HEEP, Haridwar India
	Mr.
Tel.	Tel. 01334
Fax	Fax 01334
Address.	Address. Main Administration Building BHEL, HEEP, Haridwar India

Annexure – C
General Instructions and Standard Terms and Conditions (GISTC)

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1. GENERAL

These general terms & conditions shall apply to all Tender Enquiries, notice inviting tenders, request for quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd, HEEP, Haridwar, INDIA (hereinafter referred to as BHEL or the Purchaser). In case of placement of order, these conditions will become part of Purchase Order (P.O.) until unless the deviations are specifically agreed by BHEL.

2. ORIGIN OF QUOTATION

A bidder shall not have conflict of interest with other bidders. Bidders having a conflict of interest shall not be eligible to participate in the tender process.

In this regard, the declaration given in Annexure-3 regarding "Conflict of interest" is required to be submitted by bidders alongwith the tender, which should be signed by the authorized signatory of the bidder.

3. SUBMISSION OF TENDER

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

Quotation against Enquiry No._____
Dated: _____
Due on: _____

To,

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

Bid/Quotation can also be submitted through email communication at email address: **tendercell.heep@bhel.in**.

All vendors submitting their bids through e-mail are advised to have following clear subject line: -

1. Tender Enquiry Reference No._____
2. Bid Opening Date (Part 1, Techno-Commercial). _____

Vendor to submit their bids as attachment (pdf format) with password protection and share the password through mail (tendercell.heep@bhel.in) after 1.45 pm (IST) on the day of bid opening. However, if no password is received up to 4.00 pm (IST), bids will not be opened and will be ignored. Submission of bids through email shall be considered as consent to open the bid without physically witnessing the event. The total size of the mail including both attachments must not exceed 25 MB.

b) TENDER ROOM is located at: Room No. - 415, 4th Floor, Main Admin. Building, BHEL-HEEP, Haridwar.

c) In case of Three/Two Part Bid, technical bid containing technical offer, duly signed and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.

d) The bid/quotation must be posted before due date, keeping allowance for postal transit time. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer/bid shall be signed and stamped in each page by authorized representative of the bidder.

f) The bids of the bidders who are on the debarred list and also the bids of the bidders, who engage the services of the debarred firms, shall be rejected. The list of firms debarred by BHEL is available on BHEL website www.bhel.com. Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.

g) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion of such PMD vendor from BHEL's approved vendor list.

h) The bidders will submit Integrity Pact, duly signed by their authorized signatories, along with their bids wherever applicable as per tender terms.

i) In case of open tender, technically qualified unregistered bidders may apply online for registration through https://www.bhel.com/supplier-registration.

j) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL can also consider awarding of part of the tendered quantity to other than L1 bidder at L1 counter offered rates, if the quantity offered by the L1 bidder is less than the quantity tendered for.

k) In cases of e-Tendering (Online bidding through e-portal), offline bid submitted in hard copy or in any other form by the bidders shall not be accepted. Only e-portal bid shall be accepted. Also, the technical

bids and/or the financial bids of different bidders received from the same IP address shall be outrightly rejected and shall not be considered for further evaluation.

l) No interest shall be payable on the security deposit or any other money due to the supplier.

4. TENDER OPENING

Tender opening is scheduled to start in the Tender Room at 2:00 PM, on the due date. Therefore, bid/ quotations must reach this office vide tender Box/ email (as detailed in Sl. No. 3-a) latest by 1:45 PM on due date. Only participating bidders are allowed to attend tender opening. **TENDERS RECEIVED AFTER THE SPECIFIED TIME OF THEIR 'SUBMISSION' WILL BE TREATED AS LATE TENDERS AND SHALL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.** The bidders or their authorized representatives may be allowed to attend tender opening if duly authorized by their principals, through a tender specific letter on that particular day. General authorization letter is not acceptable.

Note: - Foreign bidders willing to attend the bid opening have to provide the requisite documents to the concerned Purchase executives for arranging gate pass for them.

5. SPECIFICATION, DRAWINGS & STANDARD

a) Bidders must give their detailed specification in the quotation along with relevant technical literature/ catalogue etc. against the tender enquiry.
b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry. If these documents are not furnished, the offer is liable to be rejected.
c) Wherever national / international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.
d) All Drawings and Standards are proprietary of BHEL. It must not be used in anyway detrimental to the interest of BHEL or without permission of BHEL.

6. PRICE SCHEDULE

a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.

b) Prices quoted should not be more than the prices quoted to any other BHEL units / offices / divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid.

c) Bidders need to quote their prices on CIF any sea port in Mumbai (unless other seaport is specified in the tender enquiry) or FCA basis to the named airport in any Internationally freely tradable currency only. The name of the currency should be clearly indicated in the bids.

d) For sea transportation, BHEL reserves the right to reject offers not quoting as per tender terms.

In case BHEL decides to accept FOB delivery terms, following loading criteria shall be used for arriving at equivalent CIF prices. –

1. By 5% in case of shipment in 20 ft/40 ft GP containers,
2. Or, by 10% for other types of containers or Breakbulk cargo.

The suppliers are required to submit packing details and the type of cargo, whether container cargo or breakbulk cargo, in their offers. In case, suppliers do not provide packing detail and type of cargo in their quotation, then loading by maximum value i.e. 10% will be done on quoted FOB price. Equivalent CIF will be worked out in the above manner for offers quoting on FOB basis and the CIF so calculated will be used to work out comparative status of the prices against the tender.

e) For evaluation of bids, 0.25 % of CIF Value / Equivalent CIF towards port handling charges and 1.5 % of CIF Value or actual freight charges as per BHEL freight rate contract, whichever is higher, shall be loaded towards inland freight in the prices for ascertaining the landed cost to decide the comparative status of the prices.

f) **Basis of Evaluation for Bid / Quotation in foreign currency:**

Currency of Evaluation shall be INR. Currency exchange rate (TT selling rates of SBI) for evaluation of the bid / quotation received in foreign currency will be as follows:

i. Single part bid – Date of tender opening.
ii. Two / Three-part bid – Date of part 1 opening.
iii. Reverse auction – Date of part-1 opening.

Note: - Financial evaluation of bids will be on the basis of Landed Cost to BHEL.

g) **Evaluation of Indian Agents Commission:**

1. BHEL prefers to deal directly with manufacturer, wherever required, for procurement of Goods. However, if the Foreign Principal desires to avail services of an Indian Agent then the Principal should ensure mandatory submission of Agency Agreement.
2. The FOB / CIF price quoted will be deemed to be inclusive of Indian Agency commission. Agency commission as disclosed by the bidder in his quoted FOB / CIF price and if payable by BHEL shall be converted to Indian Rupees at TT buying rates of exchange prevailing on technical bid opening date which shall not be subjected to any further exchange rate variation. The same will be paid in Indian Rupees on receipt & acceptance of Materials or its installation at destination, as the case may be.
3. In a tender either the OEM/ Principal or its authorized Indian agent can bid, but both cannot bid simultaneously for same item / product in the same Tender. If both OEM / Principal and its authorized agent submit their bids separately, in that case only the offer of OEM / Principal can be considered
4. If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.

h) **While submitting your bids please clearly indicate:**

1. Expected weight of goods (lots wise).
2. The size of packed goods.
3. Whether the goods can be dispatched in containers?
4. Port of Loading.
5. Port of Discharge.

7. REVERSE AUCTION

Wherever Reverse Auction (RA) is declared in the special terms and conditions of tender enquiry, the following shall be applicable and Bidders to confirm their acceptance for the same:

"BHEL shall resort to Reverse Auction (RA) for this tender (*RA Guidelines are available at www.bhel.com*).

Price bids of all eligible techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in RA. In case any bidder does not participate in online Reverse Auction, the bidder's sealed envelope price bid along with the applicable loading, if any, shall be considered for ranking."

8. DELIVERY TERMS

a) Goods shall be dispatched by sea, unless otherwise agreed in the tender enquiry or purchase order.

b) The Trans-shipment is not permissible in case of Break Bulk Cargo. In rest of the cases, Trans-Shipment condition in BHEL purchase order/letter of credit will be as per Uniform Custom and Practice for documentary credits, UCP 600, of International Standard Banking procedures issued by International Chamber of Commerce (ICC).

c) Any demurrage/Godown Rent payable to the Port Authorities due to any delay attributable to the supplier will be recovered from supplier's account.

d) A Certificate of Origin (COO) sanctioned in country of origin from chamber of commerce of the manufacturing country is to be provided mandatorily. However, a certificate of origin (COO) from the countries under the restricted list of Govt. of India will not be acceptable.

e) For reasons of delay in receipt of documents from suppliers or due to the same being found to be incomplete, and/or faulty, the suppliers shall be responsible to reimburse in all demurrages/ wharfages, if any paid by BHEL (for stated reasons).

f) Except Ex-works cases, load port charges shall be settled by the supplier and not be passed on to BHEL in the form of destination charges.

g) In the event of bidder offering CIF delivery terms for delivery in FCL (Full Container Load), the bidder shall provide 21 days' time free of detention for General Purchase Container/High Cube Container and 14 days for the other types from the date of delivery at delivery port. Wherever the detention free period offered is less than the above specified period, the consequential cost at port of clearance shall be to the account of the bidder. Number of detention free days must be mentioned on Bill of Lading (BL).

h) In case of CIF delivery, Port congestion charges or any additional charges claimed by shipping line till delivery at destination port shall be to the bidder's account.

i) The shipping line should be ready to move the containers to consignees nominated CFS (Container Freight Station) yard and Indian agent of shipping line should issue Cargo Arrival Notice (CAN) 7 days in advance for filing the IGM (Import General Manifest) at discharge port.

j) In case of CIF contract, bidder to supply the material through a Certified Sea worthy vessel.

k) The invoices being issued by shipping lines must be in the name of BHEL. Any loss in GST due to submission of discrepant document will be recovered from supplier / vendor.

l) While booking the shipment, bidder to also finalize **destination charges** and the same should appear over BL or agreed tariff to be provided to BHEL before arrival of shipment.

m) If cargo is stuffed in container, then the same should be allowed to be moved to CFS of importers choice without any additional charges.

n) NNDs (Non-Negotiable Documents) (preferably with OBLs) should be sent to BHEL as detailed in Para "o" (below), at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to BHEL Nominated CFS.

o) **Information related to OBL / AWB Documents:**

I. Consignee name and address should be same as mentioned in the Purchase order.

II. Notify party: Name and address will be as follows :(For discharge port Mumbai or Nhava Sheva)

Bharat Heavy Electricals Limited
14th Floor World Trade Centre-1, Cuffe Parade, Colaba,
Mumbai -400005
Email: mssea@bhel.in (in case of Sea Shipments)
Email: msair@bhel.in (in Case of Air shipments)

For latest update, please refer our web site: https://hwr.bhel.com

III. OBL should clearly mention the Indian agent address and contact details.

IV. OBL should be issued as per UCP 600.

V. In case of shipments other than FOB, OBL should mention the container detention free period.

VI. In case of placement of an Order, BHEL requests bidder to supply one Original Bill of Lading/AWB directly to BHEL Mumbai office (Address at Para 'o' above) with other non-negotiable documents to ensure timely clearance of goods. The other Original Bill of Ladings (BL) may be routed through bank based on the other agreed terms and conditions of purchase order.

9. PENALTY/ LIQUIDATED DAMAGE (LD) FOR LATE DELIVERY

a) Where items of Purchase Order are independently usable.

PENALTY/LD for Late Deliveries shall be applicable @0.5% per week or part thereof on the value of respective delayed supplies subject to a maximum of 10% of the value of respective delayed supplies. Value of delayed supplies will mean the Gross Value payable to the vendor (Before LD) against such supplies excluding taxes and duties.

b) Where the total items are required for a main equipment and items are interdependent.

PENALTY/LD for Late Deliveries shall be applicable @0.5% per week or part thereof on total value of Purchase Order subject to maximum of 10% of the total value of Purchase Order. Purchase Order value for this purpose shall be the Total Gross Value payable to the vendor (Before penalty/LD) excluding taxes and duties.

In case of CIF shipment where BHEL accepts the date of inspection as the date of delivery for the purpose of penalty/LD, the vendor has to ensure the shipment within 30 days for containerized cargo and 45 days maximum for Break bulk cargo from the date of inspection. Any delay, beyond this period, which is not attributable to BHEL shall be considered for application of penalty/LD.

In case of FOB shipment, where date of BL is considered as date of delivery for the purpose of LD, or in case where BHEL accepts the date of inspection as the date of delivery for the purpose of LD, vendor has to intimate the readiness of cargo after inspection to BHEL nominated Freight forwarder minimum 15 days in advance for containerized cargo and 30 days in advance for Break bulk cargo before the FOB delivery date or from the date of inspection, respectively.

The delay in shipment due to late intimation to BHEL nominated freight forwarder and not attributable to BHEL will be considered for application of PENALTY/LD.

c) **Delivery in Case of Rejection**: In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

d) Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.

e) Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.

f) Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.

g) The delivery date for LD purpose will be the Bill of Lading Date/ Air way bill date/ Inspection date, as applicable.

h) BHEL will load maximum Penalty/LD under LD clause, to the extent the same is not agreed by the bidder, for the purpose of working out the comparative statement of prices of bidders.

i) Payment shall not in any way relieve the vendor from any of its obligations & liabilities under the contract.

j) Penalty/LD, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of Penalty/LD, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. PENALTY/LD leviable upon the supplier is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the supplier. Grant of any provisional time extension shall by no means be considered as waiver of BHEL rights under the contract or law.

10. PAYMENT TERMS

a) BHEL's standard payment term is Payment after receipt and acceptance of materials / items at HEEP, BHEL-Store or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.

b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment term.

c) Where the payments are through bank, the documents may be presented for negotiation through BHEL designated banks which will be specified in Purchase order. Original Documents should be submitted within 5 days of vessel sailing and receipt of OBL from shipping line.

NNDs (Non-Negotiable Documents) (preferably with OBLs) should be sent to BHEL as detailed in Para "8(o)" (above), at least 7 days in advance i.e. 7 days before the arrival of vessel so as to enable BHEL to move the containers to BHEL Nominated CFS.}

d) In case BHEL agrees for payment through LC, the same shall be irrevocable, unconfirmed and will be opened 30 days prior to the scheduled delivery and will be valid for a period of 60 days.

e) 100% payment shall be made within 90 days from material entry date subject to submission of non-discrepant documents by vendor and acceptance of material by BHEL as per terms and conditions of Purchase Order. In case any objection is found in documents/material, BHEL will notify the same to supplier within 15 days of receipt of material. In such a case, the payment shall be made to the vendor within 90 days of the day such objection is satisfactorily addressed by the vendor.

f) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.

The loading criteria for the different payment terms shall be as under:

Payment Terms	Days of Loading
Within 90 days of supply reckoned from material entry date	No Loading
Against documents through bank (CAD):	105
Letter of Credit (LC)	120
Usance LC	No Loading if usance period is > 120 Days.
	Loading of days difference i.e. difference between 120 days and usance period if the usance period is < 120 days.

*Loading for any deviation in the payment terms wrt NIT terms shall be done as follows:

Repo rate + 4% shall be considered for loading for the period of relaxation sought by bidders.

11. BANK GUARANTEE

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

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

a) Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 18 months from the date of receipt. If the

delivered product is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) or FOR - BHEL Stores / designated destination basis within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate based on the contract conditions. In case the defects attributable to Seller are detected during processing of the goods at BHEL or at our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.

b) In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

c) The bidder shall have to pay 5% incidental charges while taking back supplied material if it is found rejected on receipt. The rejected material shall be sent back only after receipt of replacement/ submission of BG/refund of amount paid.

13. QUALITY REQUIREMENT

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

14. VALIDITY

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

15. RIGHT OF ACCEPTANCE

a) **BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR** reserves the right to reject any or all the bids/ quotations. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.

b) Any discount / revised offer / bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer / bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.

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

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

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

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

16. TRANSIT INSURANCE

a) For despatches on CIF or DDP basis, the Transit Insurance shall be in the scope of the seller.

b) For despatches on CFR, FOB & FCA basis, the Transit Insurance will be covered by BHEL under its open Marine Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR/GR/BL/ AWB, Invoice value etc.) to Purchase department, BHEL, Ranipur, Haridwar (Uttarakhand -India) within 07 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages / losses suffered by the Purchaser

17. PHYTOSANITARY CERTIFICATE

a) As per the Indian Law, all consignments being imported into India by air / sea require a phytosanitary certificate from the country of origin-if articles have been packed with wooden packaging materials. This is mandatory. Please confirm in your offer / dispatch documents that the required phytosanitary certificate will be submitted.

b) Packaging material means any kind of material of plant origin used for packing which include hay, straw wood shavings, wood chips, saw dust, wood waste, wooden pallets, dunnage mats, wooden packages, coir pith, peat or sphagnum moss etc.

18. BREACH OF CONTRACT, REMEDIES AND TERMINATION

BREACH OF CONTRACT:

The following shall amount to breach of contract:

i. Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time.

ii. The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.

iii. The Supplier/Vendor delivers equipment/ material not of the contracted quality.

iv. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause.

v. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.

vi. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.

vii. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor.

viii. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.

ix. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.

x. Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

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

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

REMEDIES IN CASE OF BREACH OF CONTRACT:

1- Wherein the period as stipulated in the notice issued under above clause has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.

2- Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.

3- Wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed.

4- In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.

5- If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
   a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract.
   b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.

6- In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.

7- It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.

8- In addition to the above, imposition of PENALTY/LD, debarment, termination, de-scoping, short-closure, etc., shall be applied as per provisions of the contract.

Note:

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

a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.

b) In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners; or sole proprietorship firm owned by any partner(s) as a sole proprietor.

PENALTY/LD against delay in executed supply in case of Termination of Contract:

a) Penalty/LD against delay in executed supply shall be calculated in line with "Clause 9(j)", for the delay attributable to Supplier/Vendor. For limiting the maximum value of penalty/LD, contract value shall be taken as Executed Value of supply till termination of contract.

b) Method for calculation of "LD against delay in executed supply in case of termination of contract" is given below.

i. Let the time period from scheduled date of start of supply till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1
ii. Let the value of executed supply till the time of termination of contract= X
iii. Let the Total Executable Value of supply for which inputs/fronts were made available to Supplier/Vendor and were planned for execution till termination of contract = Y
iv. Delay in executed supply attributable to Supplier/Vendor i.e. T2=[1-(X/Y)] x T1
v. Penalty/LD shall be calculated in line with penalty/LD clause [Clause 9(j)] of the Contract for the delay attributable to Supplier/Vendor taking "X" as Contract Value and "T2" as period of delay attributable to Supplier/Vendor.

19. FORCE MAJEURE CLAUSE

1. "Force Majeure" shall mean circumstance which is:

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

Such circumstances include but shall not be limited to:

i) War, hostilities, invasion, act of foreign enemies.

ii) Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.

iii) Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.

iv) Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.

v) Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.

vi) Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.

vii) Epidemic, pandemic etc.

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

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

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

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

i) Constitute a default or breach of the Contract.

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

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

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

20. CONSEQUENTIAL LOSS

Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever arising out of or in connection with this contract.

21. NON-DISCLOSURE AGREEMENT

The bidders shall enter into the Non-disclosure agreement separately. Format attached.

22. CARTEL FORMATION

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

23. SETTLEMENT OF DISPUTES / ARBITRATION

SETTLEMENT OF DISPUTE

If any dispute or difference of any kind whatsoever shall arise between BHEL and the Supplier/Vendor, arising out of the contract for the performance of the work whether during the progress of contract termination, abandonment or breach of the contract, it shall in the first place referred to Designated Engineer for amicable resolution by the parties. Designated Engineer (to be nominated by BHEL for settlement of disputes arising out of the contract) who within 60 days after being requested shall give written notice of his decision to the contractor. Save as hereinafter provided, such decision in respect of every matter so referred shall forthwith be given effect to by the Supplier/Vendor who shall proceed with the work with all due diligence, whether he or BHEL desires to resolve the dispute as hereinafter provided or not.
If after the Designated Engineer has given written notice of this decision to the party and no intention to pursue the dispute has been communicated to him by the affected party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the Supplier/Vendor being dissatisfied with any such decision or if amicable settlement cannot be reached then all such disputed issues shall be resolved through conciliation in terms of the BHEL Conciliation Scheme 2018 as per below.

CONCILIATION

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

ARBITRATION

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

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

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

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

5- The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be Haridwar.

6- The Governing law of contract shall be the substantive law of India.

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

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

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

10- In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the

aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

11- In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of Sl. No. 10 given above. Disputes having cumulative value of less than 10 crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

24. JURISDICTION

The Court situated at Haridwar shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

GOVERNING LAWS

The contract shall be governed by the Law for the time being in force in the Republic of India.

25. INFORMATION TO THE BIDDERS

a) Purchase related information is available at our Business-to- Business (B2B) Portal available on our website https://hwr.bhel.com The user ID & password can be obtained by sending a request to concerned purchase executives.

b) Intimate your change in mail address or communication address or changes, if any, by email to AGM (SDX/MM) at hwsdc@bhel.in giving your bidder Code.

c) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site https://hwr.bhel.com

d) Copy of this Tender Enquiry is being sent through the post/ Courier / E-mail or by any existing means.

e) Invoice description and Unit of measurement should be strictly in accordance with Purchase order.

f) Unit of measurement for dimension and weight used in the bid submitted by the vendor must exactly match the units stated in the tender enquiry. Any discrepancy between these units is not acceptable.

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

bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.

h) Supplier must upload digitally signed e-Invoice on B2B portal (https://hwr.bhel.com) for processing of Bills. In other cases, inked signed hard copy of Invoice to be submitted for processing of Bills.

26. RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRs), 2017

All provisions of Order No. F.No.7/10/2021-PPD(1) dated 23/2/2023 of Department of Expenditure (DoE) shall be applicable for this tender enquiry (Order copy is available at https://doe.gov.in/procurementpolicy-divisions).

Accordingly, any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in Annexure I of the said Order of DoE.

The definition of Bidder from a country which shares a land border with India shall be as defined at Sl.No. 12 of the said order.

Registration with the competent authority as stipulated in the said order shall be responsibility of the bidder.

Bidder has to submit a certificate certifying following along with the offer:
"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that bidder (.... Name of Bidder) is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that bidder (.....Name of bidder) fulfils all requirements in this regard and is eligible to be considered"

If the bidder is from such country which shares a land border with India, the evidence of valid registration by the Competent Authority shall be attached along with offer. Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.

27. NOTE

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

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

c) In the event of our customer order covering this tender being cancelled /placed on hold /otherwise modified, BHEL would be constrained to accordingly cancel / hold / modify the tender at any stage of execution.

d) In order to protect the commercial interests of BHEL, it becomes necessary to take action against suppliers/ contractors by way of suspension of business dealings, who either fail to perform or are in default without any reasonable cause, cause loss of business / money / reputation, indulged in malpractices, cheating, bribery, fraud or any other misconducts or formation of cartel so as to influence the biding process or influence the price etc. Guidelines for Suspension of Business Dealings with Suppliers / Contractors shall prevail over which is available at BHEL website http://www.bhel.com.

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

f) BHEL reserves its right to reject an offer due to unsatisfactory past performance by the respective Vendor in the execution of any contract to any BHEL project / Unit.

g) The offers of the bidders who are under suspension and also the offers of the bidders, who engage the services of the debarred firms /principal/agents, shall be rejected. The list of debarred firms is available on BHEL web site www.bhel.com.

h) "BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life / permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below;

1. **Victim**: Any person who suffers permanent disablement or dies in an accident as defined below.
2. **Accident**: Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious, occurrence caused during the manufacturing / operation and works incidental thereto at BHEL factories/ offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving , overhaul, renovation and retrofitting , trial operation, performance guarantee testing undertaken by the company or during any works / during working at BHEL Units/ Offices/ townships and premises/ project sites.
3. **Compensation in respect of each of the victims**:
   - **i.** In the event of death or permanent disability resulting from Loss of both limbs: Rs. 10,00,000/- (Rs. Ten Lakh).
   - **ii.** In the event of other permanent disability: Rs. 7,00,000/- (Rs. Seven Lakh). **Permanent Disablement**: A disablement that is classified as a permanent total disablement under the proviso to Section 2(I) of the Employees Compensation Act, 1923."

i) The bidder must comply with applicable laws, rules and regulations throughout the terms of the contract for conducting business and fulfilling obligations under this contract.

Annexure-1

ONE SIDED

NON-DISCLOSURE AGREEMENT

THIS NON DISCLOSURE AGREEMENT (this "**Agreement**") entered into on this …….. day of June, 20.. (the "**Effective Date**") By and Between **Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India),** a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "**BHEL**" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL"),
And
ABC, a Company incorporated under the laws of …….. and having its registered office at …… (hereinafter referred to as "ABC").
The party who is receiving information would be referred as Receiving Party and the party who is disclosing information would be referred as Disclosing Party, as the context requires.
WHEREAS
(A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose of ……products in India ('the Purpose');
(B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;
(C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and
(D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

NOW, THERFORE and in consideration of the promises made herein, their mutual and individual interests, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

1. PURPOSE: Purpose to ne mentioned here.

2. DISCLOSING PARTY. means a Party that discloses the confidential information to the other party under this agreement.

3. RECEIVING PARTY means a Party that receives the confidential information from the other party under this agreement.

4. Confidential Information
(a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.

(b) (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.
(ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.
(c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:
(1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;
(2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;
(3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or
(4) is hereafter furnished to the Receiving Party by a third party, as a matter of right and without restriction on disclosure.
(d) Notwithstanding any other provision of this Agreement, the Receiving Party shall be permitted to disclose Confidential Information if such disclosure is in response to a valid order of a court or other governmental body, provided, however, that the Receiving Party shall be required to give prior notice in writing to the Disclosing Party so that the Disclosing Party may seek an appropriate protective order including that the Confidential Information so disclosed be used only for the purposes for which the order was issued;

5. Disclosure

In consideration of the disclosure of Confidential Information, the Recipient hereby agrees to:
(a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
(b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;
(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
(f) not disclose any Confidential Information received by it to any third party; and
(g) not to copy or reverse engineer any such Confidential Information.
(h) not to use the Confidential Information for any purpose other than the Transaction.

(i) not use the information for any scientific research or any other research.
(j) Confidential information does not include information:
a. Which is generally available to the public other than as a result of a breach of this Agreement; or
b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or
c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or
d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
(k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement

6. Restriction on Use

(a) The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
(i) disclose the Confidential Information to any third party; or
(ii) use the Confidential Information for any purpose other than the permitted Purpose.
(b) The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
(c) The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
(d) The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.
(e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information

(a) The Receiving Party represents and warrants that it shall protect the Confidential Information received with utmost care and diligence.

(b) All Confidential Information shall be promptly returned to the Disclosing Party after the Receiving Party's need for it has expired, or upon request of the Disclosing Party, and in any event, upon completion or termination of this Agreement.

8. No Further Warranties

The Confidential Information shall be disclosed on an "**as is**" basis only and without any warranties of any kind, including but not limited to, warranties of merchantability or fitness for a particular purpose.

9. No Further Business Arrangement

Nothing contained herein shall be construed to obligate either Party to enter into any further agreements with each other. This Agreement does not create any other business arrangement, including but not limited to any partnership, agency or joint venture, between the Parties.

10. Term

The term of this Agreement shall commence on the Effective Date and valid for the period of two (2) years. The Disclosing party shall have a right to terminate this Agreement by giving a written notice of 30 days to the Receiving Party. However, the Receiving Party obligation to protect and restrict the use of Confidential Information under this Agreement shall continue until such time as the Disclosing Party discloses it to the public or when it otherwise becomes part of the public domain through no action of the Receiving Party.

11. Injunctive remedy

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity. The affected Discloser shall be entitled to recover all its damages, costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this

agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

14. Survival

The provisions of Clauses 8, 9 & 10 of this Agreement, and the rights and obligations contained there under shall not terminate upon termination of this Agreement.

15. Governing Law & Dispute Resolution

The contract shall be governed by the Law for the time being in force in the Republic of India. Civil Court having original Civil Jurisdiction at (name of Place) shall alone have exclusive jurisdiction in regard to all matters in respect of this agreement.

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.
The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties. Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be _____ (the place from where the contract is issued)

16. No Publication

Neither Party shall disclose, publicise or advertise in any manner the discussions or negotiations contemplated by the Agreement without the prior written consent of the other Party, except as may be required by law.

17. Miscellaneous

(a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
(b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.
(c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
(d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
(e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.
(f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

All notices, documents, consents, approvals or other communications (a `Notice') to be given hereunder shall be in writing and shall be transmitted by first class registered or recorded delivery mail to the person at the address specified herein below, or by telex, facsimile or other electronic means in a form generating a record copy to the party being served at the relevant address for that party shown herein below. Any Notice sent by mail shall be deemed to have been duly served on receipt of delivery confirmation. Any Notice sent by telex facsimile or other electronic means shall be deemed to have been duly served at the time of transmission.

Notice if to:

BHEL, then to,

_____

_____

Phone : Fax :
E-mail :

ABC, then to,

(Name)_____
(Designation)_____
Phone :
Fax :
E-mail :

19. Counterparts, Telefax Signatures

This Agreement may be signed in two counterparts, each of which is to be considered an original, and taken together as one and the same document.

IN WITNESS WHEREOF, of their Agreement to the terms and conditions contained herein, the undersigned have caused this Agreement to be executed by their duly authorized representatives:

For Bharat Heavy Electricals Limited	**For ABC**
Signature: …… **Name:** **Designation:**	**Signature: ……** **Name:** **Designation:**
Signature: …….. **Name:** **Designation:**	**Signature: ……..** **Name:** **Designation:**

Annexure-2

BOTH SIDED

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into at _____on this ___day of _____ ("Effective Date") by and between;
M/s ABC, a company incorporated under the Laws of Companies Act 1956 and having their registered office at ……. New Delhi – ……. (the "**Discloser** " or "ABC"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns.
AND
M/S XYZ_____, a company incorporated under the laws of _____ and having its principle place of business _____ and registered office at _____ represented by its _____ (the "**Recipient**"" or "_____"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns
Where appropriate, the **Discloser,** the **Recipient** shall individually / neutrally be referred to as "**Party**", and both together as **Parties**. WHEREAS….
A) In connection with …… (describe transaction/cooperation) or any successor or replacement transaction (the Transaction), the Parties may have exchanged and wish further to exchange certain information on a confidential basis

B) The Parties wish to define their rights and obligations with regard to such information and protect its confidentiality

1. Definition of Confidential Information

(a) For purposes of this Agreement, "Confidential Information" means the information as well as any data or information that is proprietary of the Discloser and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method; (ii) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets; (iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies; (iv) plans for products or services, and customer or supplier lists. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Recipient acknowledges that the Confidential Information is proprietary to the respective Discloser and that the Discloser regards all of its Confidential Information as secrets.

(b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known to the Recipient without a duty of confidentiality prior to receiving the Confidential Information from the respective Discloser; (ii) becomes rightfully known to the Recipient from a third-party source not known (after diligent inquiry) by the Recipient to be under an obligation to the respective Discloser to maintain confidentiality; (iii) is or becomes publicly available through no

fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, but only to the extent of any such disclosure, although the requirements of paragraph 4 hereof shall apply prior to any disclosure being made; and (v) is or has been independently developed by the Recipient without violation of the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

In consideration of the disclosure of Confidential Information, the Recipient hereby agrees to:
(a) treat as confidential and safeguard all information disclosed and/or its Affiliates in connection

(b) hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);

(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;

(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;

(f) not disclose any Confidential Information received by it to any third party; and

(g) not to copy or reverse engineer any such Confidential Information.

(h) not to use the Confidential Information for any purpose other than the Transaction.

(i) not use the information for any scientific research or any other research.

(j) Confidential information does not include information:

a. Which is generally available to the public other than as a result of a breach of this Agreement; or

b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or

c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or

d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or

e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended

(k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the

accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement.

3. Use of Confidential Information

The Recipient agrees to use the Confidential Information solely for the Transaction and not for any purpose other than as authorized by this Agreement without the prior express written consent of an authorized representative of **parties**. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Recipient hereunder. Nothing contained herein is intended to modify the parties' existing agreement of the Transaction. All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

4. Term

This Agreement will terminate (i) 5 (five) years after its effective date or (ii) upon effectiveness of a Transaction related agreement provided that such agreement contains confidentiality/non- disclosure provisions- whichever occurs earlier.
Notwithstanding the foregoing, the Recipient's and Discloser's duty to hold in confidence Confidential Information that was disclosed during such term as above.

5. Remedies

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. The affected Discloser shall be entitled to recover all its damages and costs.

6. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the

parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

7. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

8. No Binding Agreement for Transaction

The parties agree that neither party will be under any legal obligation of any kind whatsoever with respect to the Transaction by virtue of this Agreement, except for the matters specifically agreed to herein.

9. Applicable Law and Disputes

This Agreement shall be governed by and interpreted in accordance with the laws of India. Any dispute or difference arising out of or in relation to this Agreement, which cannot be resolved through negotiation, would be settled through arbitration in accordance with the Arbitration & Conciliation Act,1996 time being in force, by appointing sole arbitrator with mutual consent. The seat of arbitration shall be New Delhi. The language of be used in the arbitral proceedings shall be English.
Any dispute or difference arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination or the legal relationships established by this Agreement, which cannot be settled amicably within sixty (60) calendar days from the notification by one Party to the other Party of such dispute, shall be resolved by appointing sole arbitrator with mutual consent. The parties shall choose a retired judge of High court of Delhi from the panel list of Delhi International Arbitration Center, High Court of Delhi with mutual consent within 30 days from the date of failure of settlement. The fee of the arbitrator shall be shared by both the parties. The parties however shall bear the cost of arbitration its own.
This NDA shall be governed, construed and interpreted in accordance with the laws of India. Courts at …….. shall alone have exclusive jurisdiction over any matter arising out of or in connection with this NDA.

10. Miscellaneous

(g) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

(h) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

(i) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction/arbitral tribunal to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

(j) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.

(k) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors and permitted assigns. and designees.

(l) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

For Recipient: _____

<<<Mr. ____, designation (____)>>>

For Discloser : _____

<<<Mr. ____, designation (_____)>>>

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Witness 1: _____

Witness 2: _____

Annexure-3

Declaration for treatment of cases regarding conflict of interest

The bidder notes that a conflict of interest would said to have occurred in the tender process and execution of the resultant contract, in case of any of the following situations:

a) If its personnel have a close personal, financial, or business relationship with any personnel of BHEL who are directly or indirectly related to the procurement or execution process of the contract, which can affect the decision of BHEL directly or indirectly;
b) The bidder (or his allied firm) provided services for the need assessment/ procurement planning of the Tender process in which it is participating;
c) Procurement of goods directly from the manufacturers/suppliers shall be preferred. However, if the OEM/Principal insists on engaging the services of an agent, such agent shall not be allowed to represent more than one manufacturer/ supplier in the same tender. Moreover, either the agent could bid on behalf of the manufacturer/ supplier or the manufacturer/ supplier could bid directly but not both. In case bids are received from both the manufacturer/ supplier and the agent, bid received from the agent shall be ignored. However, this shall not debar more than one Authorized distributor (with/ or without the OEM) from quoting equipment manufactured by an Original Equipment Manufacturer (OEM) in procurements under a Proprietary Article Certificate.
d) A bidder participates in more than one bid in this tender process. Participation in any capacity by a Bidder (including the participation of a Bidder as a partner/ JV member or sub-contractor in another bid or vice-versa) in more than one bid shall result in the disqualification of all bids in which he is a party. However, this does not limit the participation of an entity as a sub-contractor in more than one bid if he is not bidding independently in his own name or as a member of a JV.

The Bidder declares that they have read and understood the above aspects, and the bidder confirms that such conflict of interest does not exist and undertakes that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder{s), in this regard. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.

(Signature of the authorized signatory of the bidder)

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1. GENERAL

These general terms & conditions shall apply to all Tender Enquiries, Notice Inviting Tenders, Request for Quotations concerning the supply of goods and / or rendering of services to Bharat Heavy Electricals Ltd, HEEP, Haridwar (hereinafter referred to as BHEL or the Purchaser). In case of placement of order, these conditions will become part of Purchase Order (P.O.) until unless the deviations are specifically agreed by BHEL.

2. ORIGIN OF QUOTATION

A bidder shall not have conflict of interest with other bidders. Bidders having a conflict of interest shall not be eligible to participate in the tender process.

In this regard, the declaration given in Annexure-3 regarding "Conflict of interest" is required to be submitted by bidders alongwith the tender, which should be signed by the authorized signatory of the bidder.

3. SUBMISSION OF TENDER

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

Quotation against Enquiry No._____
Dated: _____
Due on: _____

To,

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

Bid/Quotation can also be submitted through email communication at email address: **tendercell.heep@bhel.in**.

All vendors submitting their bids through e-mail are advised to have following clear subject line: -

1. Tender Enquiry Reference No._____

2. Bid Opening Date (Part 1, Techno-Commercial). _____

Vendor to submit their bids as attachment (pdf format) with password protection and share the password through mail (tendercell.heep@bhel.in) after 1.45 pm (IST) on the day of bid opening. However, if no password is received up to 4.00 pm (IST) bids will not be opened and will be ignored. Submission of bids through email shall be considered as consent to open the bid without physically witnessing the event. The total size of the mail including both attachments must not exceed 25 MB.

b) TENDER ROOM is located at: Room No. - 415, 4th Floor, Main Admin. Building, BHEL-HEEP, Haridwar.

c) In case of Three/Two Part Bid, technical bid containing technical offer, duly signed and un-priced copy of the Price Bid should be kept in one envelope. Price Bid containing only the price should be kept in a separate envelope. All envelopes indicating Part-1 or Part-2 or Part-3 as the case may be to be put in a bigger envelope. Please note that un-priced bid should be the exact replica of price bid but without prices.

d) The bid / quotation must be posted before due date, keeping allowance for postal transit time. Quotations sent by any mode but not received in time will be ignored. Tender received through authorized E-mail is also acceptable. However, in time submission of tender in tender box shall be the responsibility of the bidder, sent through any mode. Documents submitted with the offer / bid shall be signed and stamped in each page by authorized representative of the bidder.

e) The bids of the bidders who are on the debarred list and also the bids of the bidders, who engage the services of the debarred firms, shall be rejected. The list of firms debarred by BHEL is available on BHEL web site www.bhel.com. Bid should be free from correction, overwriting, using corrective fluid, etc. Any interlineation, cutting, erasure or overwriting shall be valid only if they are attested under full signature(s) of person(s) signing the bid else bid shall be liable for rejection.

f) Being PMD vendor, if you are not quoting against this tender enquiry, please send your regret letter positively for our reference with valid reasons for not participating in the tender enquiry. Repeated lack of response on the part of bidder may lead to deletion of such PMD vendor from BHEL's approved vendor list.

g) The bidders will submit Integrity Pact, duly signed by their authorized signatories, along with their bids wherever applicable as per tender terms.

h) In case of open tender, technically qualified unregistered bidders may apply online for registration through https://www.bhel.com/supplier-registration.

i) BHEL reserves the right to award tendered quantities among more than one bidder (after acceptance of L1 price by the other bidders). BHEL can also consider awarding of part of the tendered quantity to other than L1 bidder at L1 counter offered rates, if the quantity offered by the L1 bidder is less than the quantity tendered for.

j) In cases of e-Tendering (Online bidding through e-portal), offline bid submitted in hard copy or in any other form by the bidders shall not be accepted. Only e-portal bid shall be accepted. Also, the technical bids and/or the financial bids of different bidders received from the same IP address shall be outrightly rejected and shall not be considered for further evaluation.

k) No interest shall be payable on the security deposit or any other money due to the supplier.

4. TENDER OPENING

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

5. SPECIFICATION, DRAWINGS & STANDARD

a) Bidders must give their detailed specification in the quotation along with relevant technical literature/ catalogue etc. against the tender enquiry.
b) The Bid should be accompanied with relevant copies of catalogues, drawings or specification as per tender enquiry. If these documents are not furnished, the offer is liable to be rejected.
c) Wherever national / international (N/IN) standards are referred, the latest N/IN standards are to be followed. Mention year & date of standard revision that shall be followed for the supply.
d) All Drawings and Standards are proprietary of BHEL. It must not be used in any way detrimental to the interest of BHEL or without permission of BHEL.

6. PRICE SCHEDULE

a) Kindly quote your prices in figures and words both. In case of any discrepancy in value, the prices quoted in words shall be considered for evaluation and establishing L1 status.
b) Prices quoted should not be more than the prices quoted to any other BHEL units / offices / divisions. Vendor to submit copy of latest Purchase Order placed by any unit of BHEL for similar items in the technical bid.
c) Prices should be quoted on F.O.R. Destination basis. The offers quoted on other than F.O.R destination basis may result in non-consideration of such bids.
d) In case BHEL accepts the EX-Works prices, such offers will be loaded by 1.5% of EX-Works value towards freight or with actual freight charges as per BHEL freight rate contract whichever is higher.
e) Applicable IGST / CGST / SGST and any other statutory levy should be indicated separately and clearly in the bid / quotation.
f) If it is not otherwise specified by BHEL, bidders can dispatch goods through any Indian Bank Association approved transporter.
g) Any demurrage/godown rent payable to the transporter or godown's owner due to any delay attributed by the supplier shall be recovered from supplier's account.
h) Currency of Evaluation shall be INR.

Note: Financial evaluation of L1, L2 ….. Status will be on the basis of Landed Cost to BHEL.

7. REVERSE AUCTION

Wherever Reverse Auction (RA) is declared in the special terms and conditions of tender enquiry, the following shall be applicable and Bidders to confirm their acceptance for the same:
"BHEL shall resort to Reverse Auction (RA) for this tender (*RA Guidelines are available at www.bhel.com*).

Price bids of all eligible techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in RA. In case any bidder does not participate in online Reverse Auction, the bidder's sealed envelope price bid along with the applicable loading, if any, shall be considered for ranking."

8. DELIVERY TERMS

a) Goods shall be delivered on 'FOR Destination' basis to the named destination unless otherwise called for in the tender enquiry.
b) Commencement of delivery period shall be reckoned from the date of PO / LOI or any other agreed milestone.

9. PENALTY/ LIQUIDATED DAMAGES (LD) FOR LATE DELIVERY

a) Where items of Purchase Order are independently usable
Penalty/ Liquidated Damages (LD) for Late Deliveries shall be applicable @0.5% per week or part thereof on the value of respective delayed supplies subject to a maximum of 10% of the value of respective delayed supplies. Value of delayed supplies will mean the Gross Value payable to the vendor (Before LD) against such supplies excluding taxes and duties.

b) Where the total items are required for a main equipment and items are interdependent
Penalty/Liquidated Damages (LD) for Late Deliveries shall be applicable @0.5% per week or part thereof on total value of Purchase Order subject to maximum of 10% of the total value of Purchase Order. Purchase Order value for this purpose shall be the Total Gross Value payable to the vendor (Before Penalty/LD) excluding taxes and duties.

c) Bidders are requested to quote the best delivery meeting the delivery requirements. BHEL reserves the right to reject the offers not meeting BHEL's delivery requirement.

d) Bidder shall deliver the goods in the manner and schedule agreed under the terms and conditions of Purchase order.

e) Delivery in Case of Rejection: In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

f) **Delivery Against Bank Documents**: In case payment terms quoted by bidder are documents through bank, and the delivery terms being "FOR Haridwar / FOR Transporter Godown" then date of delivery will be date of intimation by transporter / bidder of delivery of material at Haridwar for the LD purpose.

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

h) BHEL will load maximum penalty under LD clause, to the extent the same is not agreed by the bidder, for the purpose of working out the comparative statement of prices of bidders.

i) Payment of Penalty/ Liquidated Damages (LD) shall not in any way relieve the vendor from any of its obligations & liabilities under the contract.

j) Penalty/ Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. Penalty/ Liquidated Damages leviable upon the supplier is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by BHEL on account of delay/breach on the part of the supplier. Grant of any provisional time extension shall by no means be considered as waiver of BHEL rights under the contract or law.

10. PAYMENT TERMS

a) BHEL's standard payment term is Payment after receipt and acceptance of materials / items at HEEP, BHEL-Stores or at desired destination unless otherwise specified in Special Terms attached to the tender enquiry.
b) BHEL reserves the right to accept or reject the offer of the bidder who quotes the payment term other than BHEL's standard payment terms.
c) Loading on account of deviation in payment terms shall be done as per extant rules of BHEL-Haridwar.
d) Irrespective of the value of the invoice amount, the bidder / vendor should necessarily upload the despatch & invoice details on BHEL SUVIDHA portal at https://suvidha.bhel.in/suvidha/, prior to despatch. All documents as per PO checklist, along with additional documents (if any), must be uploaded on the portal. It is mandatory that tax invoices with a net amount (including taxes) exceeding Rs Five lakhs uploaded on the portal are digitally signed using a Class 3 Digital Signature Certificate (DSC) issued by a licensed Certifying Authority. Submission of invoice document in hard copy is allowed for invoices with a net amount (including taxes) equal to and upto Rs Five lakhs, in case they were not digitally signed and uploaded on the portal. The material will not be accepted inside BHEL in absence of the above.
e) 100% payment along with taxes, freight & insurance shall be made within 90/ 60/ 45 days (as applicable) from material entry date subject to submission of non-discrepant documents by vendor

and acceptance of material by BHEL as per terms and conditions of Purchase Order. In case of any objection in documents/acceptance of material, the same shall be informed to vendor within 15 days of delivery of the material. In such a case, the payment shall be made to the vendor within 90/ 60/ 45 days (as applicable) of the day such objection is removed by the vendor.

f) For MSMEs (covered under MSME Act), wherever such status claimed by vendor and accepted by BHEL, the payment shall be made within 45 days for Micro and Small category and 60 days for Medium category from material entry date or as prescribed in the relevant act. Other conditions w.r.t. submission of dispatch documents and acceptance of material shall remain the same as elaborated above in Sl. No. 10(d).

g) Adherence to the above time schedule of payment is contingent upon Vendor complying with GST Rules w.r.t availment of Input Tax Credit by BHEL.

h) In case GST credit is delayed / denied to BHEL, due to non / delayed receipt of goods and / or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reason not attributable to BHEL, GST amount shall be recoverable from Vendor along with interest levied / leviable on BHEL.

i) The taxes and duties that are reimbursed would be the ones applicable as on the contractual Purchase order delivery date or the amount actually paid whichever is less.

j) **<u>The loading criteria for the different payment terms shall be as under</u>:**

Payment Terms	Days of Loading
From material entry date within 90 /60/ 45 (as applicable) days of supply.	No Loading
Against documents through bank (CAD):	60 days – For Micro & Small categories; 75 days – For Medium Category; 105 days – For Normal Category
Letter of Credit (LC)	120 days
Usance LC	No Loading if usance period is > 120 Days.
	Loading of days difference i.e. difference between 120 days and usance period if the usance period is < 120 days.

*Loading for any deviation in the payment terms wrt NIT terms shall be done as follows:

Repo rate + 4% shall be considered for loading for the period of relaxation sought by bidders.

11. TAXES & DUTIES

a) The Supplier/Vendor shall pay all (save the specific exclusions as enumerated in this clause) taxes, fees, license, charges, deposits, duties, tools, royalty, commissions, other charges, etc. which may be levied on the input goods & services consumed and output goods & services delivered in course of his operations in executing the contract. In case BHEL is forced to pay any of such taxes/duties, BHEL shall have the right to recover the same from his bills or otherwise as deemed fit along with the applicable overheads @5% and interest on the total value (i.e. amount paid by BHEL + overhead). However, provisions regarding **GST** on output supply (goods/service) and TDS/TCS as per Income Tax Act shall be as per following clauses.

b) GST (Goods and Services Tax)

1. GST as applicable on output supply (goods/services) are excluded from Supplier/Vendor's scope; therefore, contractor's price/rates shall be **exclusive** of GST. Reimbursement of GST is subject to compliance of following terms and conditions. BHEL shall have the right to deny payment of GST and to recover any loss to BHEL on account of tax, interest, penalty etc. for non-compliance of any of the following condition.
2. The admissibility of GST, taxes and duties referred in this chapter or elsewhere in the contract shall be limited to direct transactions between BHEL & its Supplier/Vendor. BHEL shall not consider GST on any transaction other than the direct transaction between BHEL & its Supplier/Vendor.
3. Supplier/Vendor shall obtain prior written consent of BHEL before billing the amount towards such taxes. Where the GST laws permit more than one option or methodology for discharging the liability of tax/levy/duty, BHEL shall have the right to adopt the appropriate one considering the amount of tax liability on BHEL/Client as well as procedural simplicity with regard to assessment of the liability. The option chosen by BHEL shall be binding on the Contractor for discharging the obligation of BHEL in respect of the tax liability to the Supplier/Vendor.
4. Supplier/Vendor has to submit GST registration certificate of the concerned state. Supplier/Vendor also needs to ensure that the submitted GST registration certificate should be in active status during the entire contract period.
5. Supplier/Vendor has to issue Invoice/Debit Note/Credit Note indicating HSN/SAC code, Description, Value, Rate, applicable tax and other particulars in compliance with the provisions of relevant GST Act and Rules made thereunder.
6. Supplier/Vendor has to submit GST compliant invoice within the due date of invoice as per GST Law. In case of delay, BHEL reserves the right of denial of GST payment if there occurs any hardship to BHEL in claiming the input thereof. In case of goods, Supplier/Vendor has to provide scan copy of invoice & GR/LR/RR to BHEL before movement of goods starts to enable BHEL to meet its GST related compliances. Special care should be taken in case of month end transactions.
7. Supplier/Vendor has to ensure that invoice in respect of such services which have been provided/completed on or before end of the month should not bear the date later than last working day of the month in which services are performed.

8. Subject to other provisions of the contract, GST amount claimed in the invoice shall be released on fulfilment of all the following conditions by the Supplier/Vendor: -
   a) Supply of goods and/or services have been received by BHEL.
   b) Original Tax Invoice has been submitted to BHEL.
   c) Supplier/Vendor has submitted all the documents required for processing of bill as per contract/ purchase order/ work order.
   d) In cases where e-invoicing provision is applicable, Supplier/Vendor is required to submit invoice in compliance with e-invoicing provisions of GST Act and Rules made thereunder.
   e) Supplier/Vendor has filed all the relevant GST return (e.g. GSTR-1, GSTR-3B, etc.) pertaining to the invoice submitted and submit the proof of such return along with immediate subsequent invoice. In case of final invoice/ bill, contractor has to submit proof of such return within fifteen days from the due date of relevant return.
   f) Respective invoice has appeared in BHEL's GSTR - 2A for the month corresponding to the month of invoice and in GSTR-2B of the month in which such invoices has been reported by the contractor along with status of ITC availability as "YES" in GSTR-2B. Alternatively, BG of appropriate value may be furnished which shall be valid at least one month beyond the due date of confirmation of relevant payment of GST on GSTN portal or sufficient security is available to adjust the financial impact in case of any default by the Supplier/Vendor.
   g) Supplier/Vendor has to submit an undertaking confirming the payment of all due GST in respect of invoices pertaining to BHEL.
9. Any financial loss arising to BHEL on account of failure or delay in submission of any document as per contract/purchase order/work order at the time of submission of Tax invoice to BHEL, shall be deducted from Supplier/Vendor's bill or otherwise as deemed fit.
10. TDS as applicable under GST law shall be deducted from Supplier/Vendor's bill.
11. Supplier/Vendor shall comply with the provisions of e-way bill wherever applicable. Further wherever provisions of GST Act permit, all e-way bills, road permits etc. required for transportation of goods needs to be arranged by the contractor.
12. Supplier/Vendor shall be solely responsible for discharging his GST liability according to the provisions of GST Law and BHEL will not entertain any claim of GST/interest/penalty or any other liability on account of failure of Supplier/Vendor in complying the provisions of GST Law or discharging the GST liability in a manner laid down thereunder.
13. In case declaration of any invoice is delayed by the vendor in his GST return or any invoice is subsequently amended/altered/deleted on GSTN portal which results in any adverse financial implication on BHEL, the financial impact thereof including interest/penalty shall be recovered from the Supplier/Vendor's due payment.
14. Any denial of input credit to BHEL or levy of any tax liability on BHEL due to non-compliance of GST Law by the Supplier/Vendor in any manner, will be recovered along with liability on account of interest and penalty (if any) from the payments due to the Supplier/Vendor.
15. In the event of any ambiguity in GST law with respect to availability of input credit of GST charged on the invoice raised by the contractor or with respect to any other matter having impact on BHEL, BHEL's decision shall be final and binding on the Supplier/Vendor.

16. Variation in Taxes & Duties:
Any upward variation in GST shall be considered for reimbursement provided supply of goods and services are made within schedule date stipulated in the contract or approved extended schedule for the reason solely attributable to BHEL. However downward variation shall be subject to adjustment as per actual GST applicability.
In case the Government imposes any new levy/tax on the output service/goods after price bid opening, the same shall be reimbursed by BHEL at actual. The reimbursement under this clause is restricted to the direct transaction between BHEL and its Supplier/Vendor only and within the contractual delivery period only.
In case any new tax/levy/duty etc. becomes applicable after the date of Bidder's offer but before opening of the price Bid, the Bidder/ Supplier/Vendor must convey its impact on his price duly substantiated by documentary evidence in support of the same before opening of price bid. Claim for any such impact after opening the price bid will not be considered by BHEL for reimbursement of tax or reassessment of offer.

c) INCOME TAX:
TDS/TCS as applicable under Income Tax Act, 1961 or rules made thereunder shall be deducted/collected from Supplier/Vendor's bill.

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

e) In case of directly dispatchable items to Customer's Site, BHEL-Haridwar will inform the GST registration number of the respective customer which must be mentioned on the vendor's invoice. Vendor to ensure availability of such information from BHEL-Haridwar before dispatch of any material. However, while filing GSTN-1, BHEL Haridwar GSTN number to be quoted.

Note: - Vendors must ensure compliance of all the applicable rules and procedure as envisaged in the GST Regime. Any loss to BHEL-Haridwar due to fault / non-compliance by the vendor will be to the vendor's account.

12. BANK GUARANTEE

In case the bank guarantees are required to be deposited towards security deposit/performance guarantee or for any other purpose as per the terms of this tender enquiry, such bank guarantees of the requisite value in the denominated currency of the purchase order should be from one of the Indian branches of BHEL consortium banks and the bank guarantee should be in the proforma as prescribed by BHEL. The proforma of bank guarantee and the list of consortium banks are displayed at BHEL website https://hwr.bhel.com. However, in case the bank guarantee is not from BHEL consortium banks, then the

bidder has to get the bank guarantee confirmed from one of the Indian branches of BHEL consortium banks and the bank charges for such confirmation will be borne by the bidder.

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

a) Goods shall comply with the specifications for material, workmanship and performance. Unless otherwise specified, the warranty shall be for a period of 18 months from the date of receipt. If the delivered product is found non-compliant during the warranty period, leading to rejection, the Seller shall arrange free replacement / repair of goods, within one month from the date of intimation or any mutually agreed period. The rejected goods shall be taken away by the Seller at his cost and replaced on Delivered Duty Paid (DDP) or FOR - BHEL Stores / designated destination basis within such period. In the event of the Seller's failure to comply, Purchaser may take action as appropriate based on the contract conditions. In case the defects attributable to Seller are detected during processing of the goods at BHEL or at our subcontractor's works, the Seller shall be responsible for free replacement / repair of the goods as required by BHEL.

b) In case the material is rejected, then date of replacement will be considered as the actual date of delivery.

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

14. QUALITY REQUIREMENT

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

b) For Indian suppliers, the 3rd party inspection charges are paid by BHEL. Hence, in all such cases, where bids have been received from both Indian and Foreign bidders, the offers of Indian bidders shall be loaded by 0.20% to work out the comparative status of the prices.

15. VALIDITY

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

16. RIGHT OF ACCEPTANCE

a) BHARAT HEAVY ELECTRICALS LIMITED HARIDWAR reserves the right to reject any or all the bids/ quotations. BHEL also reserves the right to increase or decrease the tendered quantities. Bidders should be prepared to accept order for reduced quantity without any extra charges.
b) Any discount / revised offer / bids submitted by a bidder on its own shall be considered, provided it is received on or before the due date and time of offer / bid submission (Part-1). Conditional discounts shall not be considered for evaluation of tenders.
c) Unsolicited discounts / revised offers / bids given after Part-1 bid opening shall not be accepted. No change in price will be permitted within the validity period asked for in the tender enquiry.
d) In case of changes in scope and / or technical specification and / or commercial terms & conditions having price implication, techno-commercially acceptable bidders shall be asked by BHEL to submit the impact of such changes on their price bids. In case a bidder opts to submit revised price bid instead of impact called for then the latest price bid shall prevail. However, in both situations, original price bid will be necessarily opened.
e) The bidder whose bid is technically not accepted will be informed & EMD wherever submitted shall be returned after finalization of contract. EMD shall be forfeited in the event of bidder opting out after tender opening.
f) BHEL reserves the right to short close the existing Purchase Order / Rate Contract / Work Order or any extension thereof at any stage.

17. TRANSIT INSURANCE

a) In case of Ex-Works dispatch by seller, Transit Insurance will be covered by BHEL under its open Insurance Policy. Seller shall inform dispatch particulars (Purchase Order, RR /GR, Invoice value etc.) to Purchase Department, BHEL, Ranipur, Haridwar (Uttarakhand-India) within 7 days of dispatch for BHEL to arrange insurance coverage in its policy. Failure on the part of seller to inform dispatch particulars will make him liable to pay for any transit damages/ losses suffered by the Purchaser.
b) In case of FOR Destination dispatch by seller, Transit Insurance shall be arranged by seller.

18. BREACH OF CONTRACT, REMEDIES AND TERMINATION

BREACH OF CONTRACT:

The following shall amount to breach of contract:
i. Non-supply of material/ non-completion of work by the Supplier/Vendor within scheduled delivery/ completion period as per contract or as extended from time to time.
ii. The Supplier/Vendor fails to perform as per the activity schedule and there are sufficient reasons even before expiry of the delivery/ completion period to justify that supplies shall be inordinately delayed beyond contractual delivery/ completion period.
iii. The Supplier/Vendor delivers equipment/ material not of the contracted quality.

iv. The Supplier/Vendor fails to replace the defective equipment/ material/ component as per guarantee clause.
v. Withdrawal from or abandonment of the work by the Supplier/Vendor before completion as per contract.
vi. Assignment, transfer, subletting of Contract by the Supplier/Vendor without BHEL's written permission resulting in termination of Contract or part thereof by BHEL.
vii. Non-compliance to any contractual condition or any other default attributable to Supplier/Vendor.
viii. Any other reason(s) attributable to Vendor towards failure of performance of contract. In case of breach of contract, BHEL shall have the right to terminate the Purchase Order/ Contract either in whole or in part thereof without any compensation to the Supplier/Vendor.
ix. Any of the declarations furnished by the contractor at the time of bidding and/ or entering into the contract for supply are found untruthful and such declarations were of a nature that could have resulted in non-award of contract to the contractor or could expose BHEL and/ or Owner to adverse consequences, financial or otherwise.
x. Supplier/Vendor is convicted of any offence involving corrupt business practices, antinational activities or any such offence that compromises the business ethics of BHEL, in violation of the Integrity Pact entered into with BHEL has the potential to harm the overall business of BHEL/ Owner.

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

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

REMEDIES IN CASE OF BREACH OF CONTRACT:

1- Wherein the period as stipulated in the notice issued under above clause has expired and Supplier/Vendor has failed to remedy the breach, BHEL will have the right to terminate the contract on the ground of "Breach of Contract" without any further notice to contractor.
2- Upon termination of contract, BHEL shall be entitled to recover an amount equivalent to 10% of the Contract Value for the damages on account of breach of contract committed by the Supplier/Vendor. This amount shall be recovered by way of encashing the security instruments like performance bank guarantee etc available with BHEL against the said contract. In case the value of the security instruments available is less than 10% of the contract value, the balance amount shall be recovered from other financial remedies (i.e. available bills of the Supplier/Vendor, retention amount, from the money due to the Supplier/Vendor etc. with BHEL) or the other legal remedies shall be pursued.

3- Wherever the value of security instruments like performance bank guarantee available with BHEL against the said contract is 10% of the contract value or more, such security instruments to the extent of 10% contract value will be encashed.

4- In case the amount recovered under sub clause (a) above is not sufficient to fulfil the amount recoverable then; a demand notice to deposit the balance amount within 30 days shall be issued to Supplier/Vendor.

5- If Supplier/Vendor fails to deposit the balance amount within the period as prescribed in demand notice, following action shall be taken for recovery of the balance amount:
   a. from dues available in the form of Bills payable to defaulted Supplier/Vendor against the same contract.
   b. If it is not possible to recover the dues available from the same contract or dues are insufficient to meet the recoverable amount, balance amount shall be recovered from any money(s) payable to Supplier/Vendor under any contract with other Units of BHEL including recovery from security deposits or any other deposit available in the form of security instruments of any kind against Security deposit or EMD.

6- In-case recoveries are not possible with any of the above available options, Legal action shall be initiated for recovery against defaulted supplier/Vendor.

7- It is an agreed term of contract that this amount shall be a genuine pre-estimate of damages that BHEL would incur in completion of balance contractual obligation of the contract through any other agency and BHEL will not be required to furnish any other evidence to the Supplier/Vendor for the purpose of estimation of damages.

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

Note:

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

a) In case defaulted Supplier/Vendor is the Sole Proprietorship Firm, any Sole Proprietorship Firm owned by same Sole Proprietor.

b) In case defaulted Supplier/Vendor is The Partnership Firm, any firm comprising of same partners/ some of the same partners; or sole proprietorship firm owned by any partner(s) as a sole proprietor.

Penalty/LD against delay in executed supply in case of Termination of Contract:

Penalty/ LD against delay in executed supply shall be calculated in line with Clause No. 9(j), for the delay attributable to Supplier/Vendor. For limiting the maximum value of LD, contract value shall be taken as Executed Value of supply till termination of contract.

Method for calculation of "Penalty/LD against delay in executed supply in case of termination of contract" is given below. LD

i. Let the time period from scheduled date of start of supply till termination of contract excluding the period of Hold (if any) not attributable to contractor = T1

ii. Let the value of executed supply till the time of termination of contract= X

iii. Let the Total Executable Value of supply for which inputs/fronts were made available to Supplier/Vendor and were planned for execution till termination of contract = Y

iv. Delay in executed supply attributable to Supplier/Vendor i.e. T2=[1-(X/Y)] x T1

v. Penalty/ LD shall be calculated in line with LD clause [Clause 9(j)] of the Contract for the delay attributable to Supplier/Vendor taking "X" as Contract Value and "T2" as period of delay attributable to Supplier/Vendor.

19. FORCE MAJEURE CLAUSE

1. "Force Majeure" shall mean circumstance which is:
   a) beyond control of either of the parties to contract,
   b) either of the parties could not reasonably have provided against the event before entering into the contract,
   c) having arisen, either of the parties could not reasonably have avoided or overcome, and
   d) is not substantially attributable to either of the parties

   And

   Prevents the performance of the contract.

   Such circumstances include but shall not be limited to:

   i. War, hostilities, invasion, act of foreign enemies.
   ii. Rebellion, terrorism, revolution, insurrection, military or usurped power, or civil war.
   iii. Riot, commotion or disorder by persons other than the contractor's personnel and other employees of the contractor and sub-contractors.
   iv. Strike or lockout not solely involving the contractor's personnel and other employees of the contractor and sub-contractors.
   v. Encountering munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the contractor's use of such munitions, explosives, radiation or radio- activity.
   vi. Natural catastrophes such as earthquake, tsunami, volcanic activity, hurricane or typhoon, flood, fire, cyclones etc.
   vii. Epidemic, pandemic etc.

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

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

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

5. Delay or non-performance by either party hereto caused by the occurrence of any event of Force Majeure shall not-
   i. Constitute a default or breach of the Contract.
   ii. Give rise to any claim for damages or additional cost expense occasioned thereby, if and to the extent that such delay or non-performance is caused by the occurrence of an event of Force Majeure.
6. BHEL at its discretion may consider short closure of contract after 1 year of imposition of Force Majeure in line with extant guidelines. In any case, Supplier/Vendor cannot consider deemed short-closure after 1 year of imposition of Force Majeure

20. CONSEQUENTIAL LOSS

Neither party shall be liable to the other for any indirect or consequential loss or damage, including but not limited to loss of use, loss of profits, or loss of contracts, or special, punitive, exemplary losses whatsoever arising out of or in connection with this contract.

21. NON-DISCLOSURE AGREEMENT

The bidders shall enter into the Non-disclosure agreement separately. Format attached.

22. CARTEL FORMATION

The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict

competitiveness or to introduce cartelization in the bidding process. In case, the Bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.

23. SETTLEMENT OF DISPUTE/ ARBITRATION

Settlement of Dispute -

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

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

CONCILIATION

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

ARBITRATION

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

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

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

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

5- The Arbitration proceedings shall be in English language and the seat and venue of Arbitration shall be Haridwar.

6- The Governing law of contract shall be the substantive law of India.

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

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

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

10- In case the disputed amount Claim, Counter claim including interest is Rs. 10 crores and above, the parties shall be within their rights to take recourse to remedies other than Arbitration, as may be available to them under the applicable laws after prior intimation to the other party. Subject to the aforesaid conditions, provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or re-enactment thereof as amended from time to time, shall apply to the arbitration proceedings under this clause.

11- In case, multiple arbitrations are invoked (whether sub-judice or arbitral award passed) by any party to under this contract, then the cumulative value of claims (including interest claimed or awarded) in all such arbitrations shall be taken in account while arriving at the total claim in dispute for the subject contract for the purpose of Sl. No. 10 above. Disputes having cumulative value of less than 10

crores shall be resolved through arbitration and any additional dispute shall be adjudicated by the court of competent jurisdiction.

12- **In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:**
In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Sector Enterprises (CPSEs)/ Port Trusts inter se and also between CPSEs and Government Departments/Organizations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by either party for resolution through AMRCD (Administrative Mechanism for Resolution of CPSEs Disputes) as mentioned in DPE OM No. 05/0003/2019-FTS-10937 dated 14-12-2022 as amended from time to time.

24. JURISDICTION

The Court situated at Haridwar shall alone have exclusive jurisdiction in regard to all matters in respect of the Contract.

GOVERNING LAWS

The contract shall be governed by the Law for the time being in force in the Republic of India.

25. DEMURRAGE RESPONSIBILITY

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

26. CONDITIONS FOR AVAILING MICRO & SMALL ENTERPRISES (MSE) BENEFITS

MSE Suppliers can avail the intended benefits only if they submit valid "Udhyam Registration certificate" with the offer.

1. However, credentials of all MSE suppliers will be verified before advancing the intended benefits.
2. MSE bidders claiming SC/ST status will have to submit SC/ST certificate of the Proprietor from competent authority. Attested (notarized or attested by Gazetted officer) copy to be submitted along with the offer.
3. In case techno-commercial accepted bidders include MSE source and their prices (based on landed cost – considering quoted prices) are within the price band of 15% w.r.t. L-1 bidder, then BHEL can offer **25%** of quantity of respective item (rounded off to nearest number) to MSE bidders at L-1 price and in case, more than one MSE bidder is in 15 % band and the same is accepted by more than one MSE bidders then **25%** quantities of respective items will be considered for ordering on proportionate basis amongst MSE bidders.

4. There will be minimum of 3% reservation for women owned MSEs within the above mentioned 25% reservation.
5. The reservation for MSEs owned by SC/ST will be 6.25% {25% out of target of 25% - refer para 4 of Public Procurement Policy for the Micro and Small Enterprises (MSEs)}.
6. The definition of MSEs owned by Women Entrepreneurs is clarified as under:
   a) In case of proprietary MSE, proprietor shall be Woman.
   b) In case of partnership MSE, the Woman partners shall be holding at least 51% of share in the unit.
   c) In case of Private Limited companies, at least 51% share shall be held by Women promoters.
7. The definition of MSEs owned by SC/ST is clarified as under:
   a) In case of proprietary MSE, proprietor(s) shall be SC/ST.
   b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% of shares in the unit.
   c) In case of Private Limited companies, at least 51% share shall be held by SC/ST promoters.
8. While distributing the **25%** quantity amongst MSE bidders the decimal points in quantity shall be ignored for all the bidders except the L-1 amongst MSE bidders. Balance quantity after allocating the quantity to other MSE bidders ignoring the quantities in decimal, shall be given to L-1 (amongst MSE) bidder. However, if there are more than one MSE bidder at the same price level than preference for additional quantities due to ignoring off the decimal (as mentioned above) shall be given to the bidder offering favorable terms to BHEL and if the conditions offered are also same then preference will be given to the bidder having high SPR rating.
9. In case there are more than one MSE bidders (with different landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given to the MSE bidder with lowest landed cost.
10. In case there are more than one MSE bidders (with same landed cost to BHEL) within 15% price band of lowest bidder and quantity to be offered is 1 no. only, then preference shall be given first, based on the favorable terms in the bid and in case terms are also same, the bidder with high SPR rating shall be given preference.
11. If L1 bidder is MSE bidder, entire quantity will be given to such MSE bidder only.
12. Note: It may however be noted that MSE guidelines as on date (Date of Technical Bid Opening Part-1) shall prevail.
13. As per the OM No. F.No. 1(2)(1)/2016-MA dtd. 09.02.2017 issued from the Office of Development Commissioner (Micro, Small & Medium Enterprises), Traders and agents should not be allowed to avail the benefits extended under the PP Policy. In view of this, it is clarified that benefits of MSE (such as EMD Waiver, Tender fee exemption, Price preference, Payment preference etc.) will be given only to those MSE Vendors who are manufacturers of offered items against the NIT. No MSE benefits shall be provided to Agents / Stockists / Dealers / Traders etc. for the items offered but not manufactured by themselves.

27. INFORMATION TO THE BIDDERS

a) Purchase related information is available at our Business-to- Business (B2B) Portal available on our website https://hwr.bhel.com . The user ID & password can be obtained by sending a request to concerned purchase executives.

b) Intimate your change in mail address or communication address or changes, if any, by email to AGM (SDX/MM) at hwsdc@bhel.in giving your bidder Code.
c) Unit of measurement for dimension and weight used in the bid submitted by the vendor must exactly match the units stated in the tender enquiry. Any discrepancy between these units is not acceptable.
d) Please resolve your rejections and unexecuted overdue purchase order immediately which are posted at our B2B Portal, which can be visited through our site https://hwr.bhel.com
e) The Bidder declares that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other bidder(s). This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process. In case, the bidder is found having indulged in above activities, suitable action shall be taken by BHEL as per extant policies/ guidelines.
f) Supplier must upload digitally signed e-Invoice on B2B portal for processing of Bills. In other cases, inked signed hard copy of Invoice to be submitted for processing of Bills at https://hwr.bhel.com.

28. MAKE IN INDIA (GOVT-NOTIFICATION)

A. For this procurement, the local content to categorize a supplier as Class-I local supplier / Class-II local supplier/ Non-local supplier and purchase preference to Class-I local supplier, is as defined in Public Procurement (Preference to Make in India), Order 2017 dated 19.07.2024 issued by DPIIT. In case of subsequent orders issued by the nodal ministry, changing the definition of local content for the items of the NIT, the same shall be applicable even if issued after issue of this NIT, but before opening of Part-II bids against the NIT.
B. Vendors shall specifically confirm if they are Class-I local supplier or Class-II local supplier or not as per the above-mentioned notification. Accordingly, the 'Class-I local supplier'/ 'Class-II local Supplier' at the time of bidding shall be required to indicate percentage of local content and provide self-certification that the offered item meets the local content requirement for 'Class-I local supplier'/ 'Class-II local Supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.
C. In cases of Procurement for a Value in Excess of Rs. 10 Crores, the 'Class-I local supplier'/ 'Class-II local Supplier' shall be required to provide a Certificate from the Statutory Auditor or Cost Auditor of the Company (in the case of companies) or from a practicing Cost Accountant or practicing Chartered Accountant (in respect of suppliers other than companies) indicating the percentage of Local Content.
D. For contracts valuing more than Rs 10 crores, local content (in cases of self-certification submitted by bidders at the time of tendering) will be re-verified during execution of contract by Cost/Chartered Accountant, and in case of defaults, penalty upto 10% of the contract value shall be imposed.

29. RESTRICTIONS UNDER RULE 144(XI) OF THE GENERAL FINANCIAL RULES (GFRs), 2022

All provisions of Order No. F.No.7/10/2021-PPD(1) dated 23/2/2023 of Department of Expenditure (DoE) shall be applicable for this tender enquiry (Order copy is available at https://doe.gov.in/procurementpolicy-divisions).

Accordingly, any bidder from a country which shares a land border with India will be eligible to bid in any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority, specified in Annexure I of the said Order of DoE.

The definition of Bidder from a country which shares a land border with India shall be as defined at Sl.No. 12 of the said order.

Registration with the competent authority as stipulated in the said order shall be responsibility of the bidder.

Bidder has to submit a certificate certifying following along with the offer:
"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that bidder (.... Name of Bidder) is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that bidder (.....Name of bidder) fulfils all requirements in this regard and is eligible to be considered"

If the bidder is from such country which shares a land border with India, the evidence of valid registration by the Competent Authority shall be attached along with offer. Registration of the bidder with Competent Authority should be valid at the time of submission of bids and at the time of acceptance of the bids.

30. NOTE

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

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

c) In the event of our customer order covering this tender being cancelled /placed on hold /otherwise modified, BHEL would be constrained to accordingly cancel / hold / modify the tender at any stage of execution.

d) If any bidder/ supplier/ contractor during pre-tendering/ tendering/ post tendering/ award/ execution/ post-execution stage indulges in malpractices, cheating, bribery, fraud or and other misconduct or formation of cartel so as to influence the bidding process or influence the price or acts or omits in any manner which tantamount to an offence punishable under any provision of the Indian Penal Code, 1860 or any other law in force in India, then, action may be taken against such bidder/ supplier/ contractor as per extant guidelines of the company available on www. bhel.com and/or under applicable legal

provisions Guidelines for Suspension of Business Dealings with Suppliers / Contractors shall prevail which is available at BHEL website http://www.bhel.com.

e) Any change in applicable rates of Tax or any other statutory levies (Direct / Indirect) or any new introduction of any levy by means of statute and its corresponding liability for the deliveries beyond the agreed delivery date for reasons not attributable to BHEL will be to vendors account. BHEL will not reimburse the same and any subsequent claim in this respect will be summarily rejected.

f) BHEL reserves its right to reject an offer due to unsatisfactory past performance by the respective Vendor in the execution of any contract to any BHEL project / Unit.

g) The offers of the bidders who are under suspension and also the offers of the bidders, who engage the services of the debarred firms /principal/agents, shall be rejected. The list of debarred firms is available on BHEL web site www.bhel.com.

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

i) BHEL shall recover the amount of compensation paid to victim(s) by BHEL towards loss of life / permanent disability due to an accident which is attributable to the negligence of contractor, agency or firm or any of its employees as detailed below;

1. **Victim**: Any person who suffers permanent disablement or dies in an accident as defined below.
2. **Accident**: Any death or permanent disability resulting solely and directly from any unintended and unforeseen injurious, occurrence caused during the manufacturing / operation and works incidental thereto at BHEL factories/ offices and precincts thereof, project execution, erection and commissioning, services, repairs and maintenance, trouble shooting, serving , overhaul, renovation and retrofitting , trial operation, performance guarantee testing undertaken by the company or during any works / during working at BHEL Units/ Offices/ townships and premises/ project sites.
3. **Compensation in respect of each of the victims**:
   - **i.** In the event of death or permanent disability resulting from Loss of both limbs: Rs. 10,00,000/- (Rs. Ten Lakh).
   - **ii.** In the event of other permanent disability: Rs. 7,00,000/- (Rs. Seven Lakh).
4. Permanent Disablement: A disablement that is classified as a permanent total disablement under the proviso to Section 2(I) of the Employees Compensation Act, 1923."

j) The bidder must comply with applicable laws, rules and regulations throughout the terms of the contract for conducting business and fulfilling obligations under this contract.

Annexure-1

ONE SIDED

NON-DISCLOSURE AGREEMENT

THIS NON DISCLOSURE AGREEMENT (this "**Agreement**") entered into on this …….. day of June, 20.. (the "**Effective Date**") By and Between **Bharat Heavy Electricals Limited (a Public Sector Undertaking of Government of India),** a company incorporated under the Companies Act, 1956 and having its registered office at having its registered office at "BHEL House", Siri Fort, New Delhi - 110 049, India (hereinafter referred to as "**BHEL**" of which the expression shall unless repugnant to the context or the meaning thereof be deemed to include its successors and permitted assigns) (hereinafter referred to as "BHEL"),
And
ABC, a Company incorporated under the laws of …….. and having its registered office at …… (hereinafter referred to as "ABC").
The party who is receiving information would be referred as Receiving Party and the party who is disclosing information would be referred as Disclosing Party, as the context requires.
WHEREAS
(A) The Disclosing Party and The Receiving Party wish to explore and discuss the potential of certain mutually advantageous business relationships for _____, for the purpose of ……products in India ('the Purpose');
(B) The Disclosing Party, in furtherance of such business relationship, will disclose certain information, including but not limited to, scientific, development, financial, marketing, sales or other proprietary information;
(C) The Receiving Party and the Disclosing Party wish to protect and preserve the confidentiality of such information provided by the Disclosing Party to the Receiving Party by preventing its unauthorized disclosure and use, in accordance with the terms of this Agreement; and
(D) The Receiving Party agrees to hold such information in strict confidence and not to disclose or to use, directly or indirectly, for any purpose other than the performance of this Agreement

NOW, THERFORE and in consideration of the promises made herein, their mutual and individual interests, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the Parties agree as follows:

1. PURPOSE: Purpose to ne mentioned here.

2. DISCLOSING PARTY. means a Party that discloses the confidential information to the other party under this agreement.

3. RECEIVING PARTY means a Party that receives the confidential information from the other party under this agreement.

4. Confidential Information
(a) Subject to the provisions of this Agreement, all information disclosed by the Disclosing Party to the Receiving Party, shall be deemed to be "Confidential Information" for the purposes of this Agreement.

(b) (i) It is clarified that Confidential Information shall include, but is not limited to, any trade secret, technique, strategy, component, concept, program, report, study, memorandum, correspondence, documentation, information, manual, record, data, technology, product, plan, design, procedure, method, invention, sample, notes, summaries, analyses, compilations and other writings, producing any such sample, medium, test data relating to any research project, work in progress, future development, engineering, manufacturing, marketing, pricing, billing, servicing, financing, personnel matter, its present or future products, sales, suppliers, clients, customers, employees, investors, or any other information which the Disclosing Party provides to the Receiving Party whether in oral, written, graphic or electronic form and whether or not such information is identified as such by an appropriate stamp or marking. The Confidential Information shall also include all reports, notes or other material prepared by the Receiving Party based on the Confidential Information and/ or any discussion thereon.
(ii) Confidential Information includes information disclosed by the Disclosing Party or by any individual, firm or corporation controlled by, controlling, or under the common control of the Disclosing Party.
(c) Confidential Information shall not include any information which the Receiving Party can demonstrate to the Disclosing Party:
(1) is now, or has become, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;
(2) is known by the Receiving Party at the time of receiving such information as evidenced by its records;
(3) is discovered/independently developed by the Receiving Party independent of any disclosures by the Disclosing Party; or
(4) is hereafter furnished to the Receiving Party by a third party, as a matter of right and without restriction on disclosure.
(d) Notwithstanding any other provision of this Agreement, the Receiving Party shall be permitted to disclose Confidential Information if such disclosure is in response to a valid order of a court or other governmental body, provided, however, that the Receiving Party shall be required to give prior notice in writing to the Disclosing Party so that the Disclosing Party may seek an appropriate protective order including that the Confidential Information so disclosed be used only for the purposes for which the order was issued;

5. Disclosure

In consideration of the disclosure of Confidential Information, the Recipient hereby agrees to:
(a) Shall treat as confidential and safeguard all information disclosed and/or its Affiliates in connection
(b) to hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);
(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;
(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;
(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;
(f) not disclose any Confidential Information received by it to any third party; and
(g) not to copy or reverse engineer any such Confidential Information.
(h) not to use the Confidential Information for any purpose other than the Transaction.

(i) not use the information for any scientific research or any other research.
(j) Confidential information does not include information:
a. Which is generally available to the public other than as a result of a breach of this Agreement; or
b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or
c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or
d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or
e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended
(k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement

6. Restriction on Use

(a) The Receiving Party and its Representatives shall hold the Confidential Information received from the Disclosing Party in confidence, and shall not, directly or indirectly:
(i) disclose the Confidential Information to any third party; or
(ii) use the Confidential Information for any purpose other than the permitted Purpose.
(b) The Receiving Party shall not use the Confidential Information for any purpose or in any manner, which would constitute a violation of any applicable laws or regulations, directly or indirectly.
(c) The Confidential Information shall be the property of the Disclosing Party. No rights, licenses or interests including, but not limited to, trademarks, inventions, copyrights or patents are implied, transferred or granted in relation to the Confidential Information provided by the Disclosing Party to the Receiving Party under this Agreement.
(d) The Receiving Party shall not reproduce the Confidential Information in any form except as needed for the Purpose of the Agreement as set out above or with the prior written consent of the Disclosing Party.
(e) All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

7. Protection of Confidential Information

(a) The Receiving Party represents and warrants that it shall protect the Confidential Information received with utmost care and diligence.
(b) All Confidential Information shall be promptly returned to the Disclosing Party after the Receiving Party's need for it has expired, or upon request of the Disclosing Party, and in any event, upon completion or termination of this Agreement.

8. No Further Warranties

The Confidential Information shall be disclosed on an "**as is**" basis only and without any warranties of any kind, including but not limited to, warranties of merchantability or fitness for a particular purpose.

9. No Further Business Arrangement

Nothing contained herein shall be construed to obligate either Party to enter into any further agreements with each other. This Agreement does not create any other business arrangement, including but not limited to any partnership, agency or joint venture, between the Parties.

10. Term

The term of this Agreement shall commence on the Effective Date and valid for the period of two (2) years. The Disclosing party shall have a right to terminate this Agreement by giving a written notice of 30 days to the Receiving Party. However, the Receiving Party obligation to protect and restrict the use of Confidential Information under this Agreement shall continue until such time as the Disclosing Party discloses it to the public or when it otherwise becomes part of the public domain through no action of the Receiving Party.

11. Injunctive remedy

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. Such injunctive relief shall be in addition to any other remedies available hereunder, whether at law or in equity. The affected Discloser shall be entitled to recover all its damages, costs and fees, including reasonable attorneys' fees, incurred in obtaining any such relief. Further, in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and expenses.

12. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of

storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

13. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

14. Survival

The provisions of Clauses 8, 9 & 10 of this Agreement, and the rights and obligations contained there under shall not terminate upon termination of this Agreement.

15. Governing Law & Dispute Resolution

The contract shall be governed by the Law for the time being in force in the Republic of India. Civil Court having original Civil Jurisdiction at (name of Place) shall alone have exclusive jurisdiction in regard to all matters in respect of this agreement.

Except as provided elsewhere in this Contract, in case amicable settlement is not reached between the Parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the Contract; or, the respective rights and liabilities of the Parties; or, in relation to interpretation of any provision of the Contract; or, in any manner touching upon the Contract, then, either Party may, by a notice in writing to the other Party refer such dispute or difference to arbitration. The arbitration shall be conducted by three arbitrators, one to be appointed by each of the Parties and a third arbitrator to be appointed by the mutual consent of the two arbitrators so appointed by the Parties.
The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the Parties. Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be _____ (the place from where the contract is issued)

16. No Publication

Neither Party shall disclose, publicise or advertise in any manner the discussions or negotiations contemplated by the Agreement without the prior written consent of the other Party, except as may be required by law.

17. Miscellaneous

(a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.
(b) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.
(c) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.
(d) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.
(e) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors, assigns and designees.
(f) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

18. Notices

All notices, documents, consents, approvals or other communications (a `Notice') to be given hereunder shall be in writing and shall be transmitted by first class registered or recorded delivery mail to the person at the address specified herein below, or by telex, facsimile or other electronic means in a form generating a record copy to the party being served at the relevant address for that party shown herein below. Any Notice sent by mail shall be deemed to have been duly served on receipt of delivery confirmation. Any Notice sent by telex facsimile or other electronic means shall be deemed to have been duly served at the time of transmission.

Notice if to:

BHEL, then to,

_____

_____

Phone : Fax :
E-mail :

ABC, then to,

(Name)_____
(Designation)_____
Phone :
Fax :
E-mail :

19. Counterparts, Telefax Signatures

This Agreement may be signed in two counterparts, each of which is to be considered an original, and taken together as one and the same document.

IN WITNESS WHEREOF, of their Agreement to the terms and conditions contained herein, the undersigned have caused this Agreement to be executed by their duly authorized representatives:

For Bharat Heavy Electricals Limited	**For ABC**
Signature: …… **Name:** **Designation:**	**Signature: ……** **Name:** **Designation:**
Signature: …….. **Name:** **Designation:**	**Signature: ……..** **Name:** **Designation:**

Annexure-2

BOTH SIDED

NON-DISCLOSURE AGREEMENT

THIS AGREEMENT (the "Agreement") is entered into at _____on this ___day of _____ ("Effective Date") by and between;
M/s ABC, a company incorporated under the Laws of Companies Act 1956 and having their registered office at …… New Delhi – …….. (the "**Discloser** " or "ABC"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns.
AND
M/S XYZ_____, a company incorporated under the laws of _____ and having its principle place of business _____ and registered office at _____ represented by its _____ (the "**Recipient**"" or "_____"), which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successor in interest, designates, and permitted assigns
Where appropriate, the **Discloser,** the **Recipient** shall individually / neutrally be referred to as "**Party**", and both together as **Parties**. WHEREAS….
A) In connection with …… (describe transaction/cooperation) or any successor or replacement transaction (the Transaction), the Parties may have exchanged and wish further to exchange certain information on a confidential basis

B) The Parties wish to define their rights and obligations with regard to such information and protect its confidentiality

1. Definition of Confidential Information

(a) For purposes of this Agreement, "Confidential Information" means the information as well as any data or information that is proprietary of the Discloser and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) any scientific or technical information, invention, design, process, procedure, formula, improvement, technology or method; (ii) any concepts, reports, data, know-how, works-in-progress, designs, development tools, specifications, computer software, source code, object code, flow charts, databases, inventions, information and trade secrets; (iii) any marketing strategies, plans, financial information, or projections, operations, sales estimates, business plans and performance results relating to the past, present or future business activities of such party, its affiliates, subsidiaries and affiliated companies; (iv) plans for products or services, and customer or supplier lists. Confidential Information need not be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated Confidential Information. The Recipient acknowledges that the Confidential Information is proprietary to the respective Discloser and that the Discloser regards all of its Confidential Information as secrets.

(b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known to the Recipient without a duty of confidentiality prior to receiving the Confidential Information from the respective Discloser; (ii) becomes rightfully known to the Recipient from a third-party source not known (after diligent inquiry) by the Recipient to be under an obligation

to the respective Discloser to maintain confidentiality; (iii) is or becomes publicly available through no fault of or failure to act by the Recipient in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation, but only to the extent of any such disclosure, although the requirements of paragraph 4 hereof shall apply prior to any disclosure being made; and (v) is or has been independently developed by the Recipient without violation of the terms of this Agreement or reference or access to any Confidential Information.

2. Disclosure of Confidential Information

In consideration of the disclosure of Confidential Information, the Recipient hereby agrees to:
(a) treat as confidential and safeguard all information disclosed and/or its Affiliates in connection

(b) hold the Confidential Information in strict confidence and to take all necessary precautions to protect such Confidential Information (including, without limitation, all precautions the Recipient employs with respect to its own confidential materials);

(c) limit disclosure of any Confidential Information to its concerned directors, officers and employees, (collectively "Representatives") strictly only to who have a need to know such Confidential Information in connection with the Transaction between the parties to which this Agreement relates, and only for that purpose;

(d) advise its Representatives of the proprietary nature of the Confidential Information and of the obligations set forth 2 in this Agreement and require in writing such Representatives to keep the Confidential Information confidential;

(e) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information;

(f) not disclose any Confidential Information received by it to any third party; and

(g) not to copy or reverse engineer any such Confidential Information.

(h) not to use the Confidential Information for any purpose other than the Transaction.

(i) not use the information for any scientific research or any other research.

(j) Confidential information does not include information:

a. Which is generally available to the public other than as a result of a breach of this Agreement; or

b. Which is already in the possession of Recipient without restriction prior to any disclosure hereunder: or

c. Which is or has been lawfully disclosed to Recipient by someone who is free lawfully to disclose the same without confidentiality restrictions: or

d. Which is independently developed by Recipient or its Affiliates and no Confidential information disclosed hereunder has been used directly or indirectly in such development; or

e. Whose applicable period of confidentiality pursuant hereto, or such other period specifically agreed to in writing by the parties, has ended

(k) This agreement is not intended to, and does not, oblige either party to enter into any further agreements or to proceed with the transaction, any possible relationship or other transaction. Recipient

acknowledges that Discloser makes no representation or warranty whether express or implied, as to the accuracy or completeness of Confidential information, and Discloser disclaims any and all liability unless contained in any definitive agreement.

Each Party will comply with all applicable data protection laws and regulations. Where applicable in particular if one Party receives access to and processes personal data on behalf of the other party in connection with this Agreement and such processing agreement, the Parties will enter into any required data processing of other data protection agreement.

3. Use of Confidential Information

The Recipient agrees to use the Confidential Information solely for the Transaction and not for any purpose other than as authorized by this Agreement without the prior express written consent of an authorized representative of **parties**. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Recipient hereunder. Nothing contained herein is intended to modify the parties' existing agreement of the Transaction. All the title and rights in the Confidential Information shall be reserved with the respective Discloser and/or its licensors and no rights or obligations other than those expressly set out in this Agreement are granted or to be implied from this Agreement. In particular no license is granted to the Recipient, directly or indirectly, by this Agreement relating to any invention, discovery, patent, copyright or other industrial or intellectual property right now or in the future.

4. Term

This Agreement will terminate (i) 5 (five) years after its effective date or (ii) upon effectiveness of a Transaction related agreement provided that such agreement contains confidentiality/non- disclosure provisions- whichever occurs earlier.
Notwithstanding the foregoing, the Recipient's and Discloser's duty to hold in confidence Confidential Information that was disclosed during such term as above.

5. Remedies

The Recipient acknowledges that the Confidential Information to be disclosed hereunder is commercially sensitive of a unique and valuable character, and that the unauthorized dissemination of the Confidential Information would destroy or diminish the value of such information. The damages that would result from the unauthorized dissemination of the Confidential Information would be impossible to calculate. Therefore, Recipient hereby agrees that the affected Discloser shall be entitled to injunctive relief preventing the dissemination of any Confidential Information in violation of the terms hereof. The affected Discloser shall be entitled to recover all its damages and costs.

6. Return of Confidential Information

Recipient shall immediately return and redeliver to the respective Discloser all tangible material embodying the Confidential Information provided hereunder and all notes, summaries, memoranda, drawings, manuals, records, excerpts or derivative information deriving there from and all other documents or materials ("Notes") (and all copies of any of the foregoing, including "copies" that have been converted to computerized media in the form of image, data or word processing files either manually or by image capture) based on or including any Confidential Information, in whatever form of

storage or retrieval, upon the earlier of (i) the completion or termination of the dealings between the parties contemplated hereunder; (ii) the termination of this Agreement; or (iii) any breach of this agreement, in which case the party in breach shall also be liable towards the Disclosers under the law and this Agreement or (iv) at such time as the respective Discloser may so request; provided however that the Recipient may retain such of its documents as is necessary to enable it to comply with its document retention policies. Alternatively, the Recipient, with the written consent of the respective Discloser may immediately destroy any of the foregoing embodying Confidential Information (or the reasonably non-recoverable data erasure of computerized data) and, upon request, certify in writing such destruction by an authorized officer of the Recipient supervising the destruction).

7. Notice of Breach

Recipient shall notify the Disclosers immediately upon discovery of any unauthorized use or disclosure of Confidential Information by Recipient or its Representatives, or any other breach of this Agreement by Recipient or its Representatives, and will cooperate with efforts by the Discloser regain possession of Confidential Information and prevent its further unauthorized use.

8. No Binding Agreement for Transaction

The parties agree that neither party will be under any legal obligation of any kind whatsoever with respect to the Transaction by virtue of this Agreement, except for the matters specifically agreed to herein.

9. Applicable Law and Disputes

This Agreement shall be governed by and interpreted in accordance with the laws of India. Any dispute or difference arising out of or in relation to this Agreement, which cannot be resolved through negotiation, would be settled through arbitration in accordance with the Arbitration & Conciliation Act,1996 time being in force, by appointing sole arbitrator with mutual consent. The seat of arbitration shall be New Delhi. The language of be used in the arbitral proceedings shall be English.
Any dispute or difference arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination or the legal relationships established by this Agreement, which cannot be settled amicably within sixty (60) calendar days from the notification by one Party to the other Party of such dispute, shall be resolved by appointing sole arbitrator with mutual consent. The parties shall choose a retired judge of High court of Delhi from the panel list of Delhi International Arbitration Center, High Court of Delhi with mutual consent within 30 days from the date of failure of settlement. The fee of the arbitrator shall be shared by both the parties. The parties however shall bear the cost of arbitration its own.
This NDA shall be governed, construed and interpreted in accordance with the laws of India. Courts at …….. shall alone have exclusive jurisdiction over any matter arising out of or in connection with this NDA.

10. Miscellaneous

(g) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

(h) Any failure by a Discloser to enforce the Recipient's strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

(i) Although the restrictions contained in this Agreement are considered by the parties to be reasonable for the purpose of protecting the Confidential Information, if any such restriction is found by a court of competent jurisdiction/arbitral tribunal to be unenforceable, such provision will be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable. If it cannot be so modified, rewritten or interpreted to be enforceable in any respect, it will not be given effect, and the remainder of the Agreement will be enforced as if such provision was not included.

(j) Any notices or communications required or permitted to be given hereunder may be delivered by hand, deposited with a nationally recognized overnight carrier, electronic-mail, or mailed by certified mail, return receipt requested, postage prepaid, in each case, to the address of the other party first indicated above (or such other addressee as may be furnished by a party in accordance with this paragraph). All such notices or communications shall be deemed to have been given and received (a) in the case of personal delivery or electronic-mail, on the date of such delivery, and (b) in the case of delivery by a nationally recognized overnight carrier, on the third business day following dispatch.

(k) Parties shall not directly or indirectly assign or transfer it by operation of law or otherwise without the prior written consent of the Disclosers, which consent will not be unreasonably withheld. All obligations contained in this Agreement shall extend to and be binding upon the parties to this Agreement and their respective successors and permitted assigns. and designees.

(l) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

For Recipient: _____

<<<Mr. ____, designation (____)>>>

For Discloser : _____

<<<Mr. ____, designation (_____)>>>

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Witness 1: _____

Witness 2: _____

Annexure-3

Declaration for treatment of cases regarding conflict of interest

The bidder notes that a conflict of interest would said to have occurred in the tender process and execution of the resultant contract, in case of any of the following situations:

a) If its personnel have a close personal, financial, or business relationship with any personnel of BHEL who are directly or indirectly related to the procurement or execution process of the contract, which can affect the decision of BHEL directly or indirectly;
b) The bidder (or his allied firm) provided services for the need assessment/ procurement planning of the Tender process in which it is participating;
c) Procurement of goods directly from the manufacturers/suppliers shall be preferred. However, if the OEM/Principal insists on engaging the services of an agent, such agent shall not be allowed to represent more than one manufacturer/ supplier in the same tender. Moreover, either the agent could bid on behalf of the manufacturer/ supplier or the manufacturer/ supplier could bid directly but not both. In case bids are received from both the manufacturer/ supplier and the agent, bid received from the agent shall be ignored. However, this shall not debar more than one Authorized distributor (with/ or without the OEM) from quoting equipment manufactured by an Original Equipment Manufacturer (OEM) in procurements under a Proprietary Article Certificate.
d) A bidder participates in more than one bid in this tender process. Participation in any capacity by a Bidder (including the participation of a Bidder as a partner/ JV member or sub-contractor in another bid or vice-versa) in more than one bid shall result in the disqualification of all bids in which he is a party. However, this does not limit the participation of an entity as a sub-contractor in more than one bid if he is not bidding independently in his own name or as a member of a JV.

The Bidder declares that they have read and understood the above aspects, and the bidder confirms that such conflict of interest does not exist and undertakes that they will not enter into any illegal or undisclosed agreement or understanding, whether formal or informal with other Bidder{s), in this regard. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.

In case, the Bidder is found having indulged in above activities, the same will be considered as a violation of the tender conditions, and suitable action shall be taken by BHEL as per extant policies/ guidelines.

(Signature of the authorized signatory of the bidder)

Annexure – D

Documents Required from Bidders

Documents Required From Bidders

S No	Tender Term and Condition	Confirmation from bidder
GENERAL REQUIREMENTS		
1	Bidder to provide the documents as per pre-qualification requirements (PQR). Check list attached.	
2	Bidder to submit technical offer (Unpriced bid)	
3	Bidder to submit Non Deviation Certificate for commercial terms or endorsed copy of BHEL GISTC	
QUALITY REQUIREMENTS		
1	Bidder to confirm that corelated test certificates from original manufacturer will be provided.	

PRE-QUALIFICATION REQUIREMENT

Terms and Conditions of PQR Clauses	Confirmation from Bidder/Supporting docs.
PRE-QUALIFICATION REQUIREMENTS (TECHNICAL) FOR SILICONE CARBIDE POWDER (TG60451) **INTRODUCTION:** Silicone Carbide Powder is used as a filler material in semi conducing varnish system used for End Corona Protection application on VPI winding bars and Bus bars of High Voltage Rotating Electrical Machines of voltage rating 21kV and above.	
1. **ELIGIBLE VENDORS**: Vendor/Bidder should be either original manufacturer (OEM) or authorized Distributor of OEM. In case of quotation as Authorized Distributor, Vendor/Bidder to furnish supporting documents. **In case of quotation by Authorized distributor of OEM, document from OEM to be submitted clearly mentioning that they will provide complete technical guarantee / warrantee of the material and will give complete technical support for the supplies related to this enquiry.**	
2. **EXPERIENCE:** The vendor should have the experience of successfully manufacturing (Dealer/Distributor of Original manufacturers are also allowed) and/or supplying the Silicone Carbide Powders – **Gr. F1 -400, Gr. F2 -600, Gr. F3 -800, Gr. F4 -1000** to OEMs of High Voltage Rotating Machine of voltage rating 21kV and above during last ten years from date of enquiry. In support of this, vendor to submit the following documents: - 2.1. Copy of one unpriced purchase order of Silicone Carbide Powder. 2.2. Copy of Test Certificates/ manufacturer's COA (may density, particle size etc.) for the Silicone Carbide Powder corresponding to purchase order submitted above as per clause 2.1.	
3. **MANUFACTURING FACILITIES:** Vendor to confirm that they have all the in-house manufacturing facilities for above Silicone Carbide Powder meeting the requirements as per BHEL specification TG60451. Confirmation regarding the same to be submitted (In case of authorized Dealer of Original manufacturer, confirmation to be taken from principal supplier).	
4. **TESTING FACILITIES:** Vendor to confirm that they have in-house test facilities (duly calibrated), sufficient to carry out all the test as per enquired specification TG60451. Confirmation regarding the same to be submitted (In case of authorized Dealer of Original manufacturer, confirmation to be taken from principal supplier).	
5. **DATA SHEET:** Vendor to provide data sheet of the Silicone Carbide Powder providing details of physical as well as chemical properties along with performance and any other important information.	
6. Vendor to confirm detailed technical requirements as per the enquired specification.	
7. Vendor who is supplying this item to BHEL for the first time has to submit 400 grams of **Silicone Carbide Powder** sample free of cost for visual inspection and testing the material, shop trial and technical evaluation from BHEL application point of view. **NOTE** BHEL reserves the right to verify the information submitted by the vendor. In case the information is found to be false or incorrect, the offer shall be rejected.	