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14.0 REJECTION OF TENDER AND OTHER CONDITIONS

14.1 Acceptance of tender will rest with Purchaser and does not bind him to accept the lowest or any tender and reserves to itself full rights for the following without assigning any reasons whatsoever:

- a) To reject any or all the tenders.
- b) To split the work amongst two or more tenderers (where E&C is not in tenderer's scope).
- c) To award the work in part. (where E&C is not in tenderer's scope).
- d) To increase or decrease the quantities.
- e) To reject any commercial or technical deviation given in offer.

14.2 Standard pre-printed conditions of tenderer attached to offer will not be accepted and only those mentioned in the body of offer will be considered.

14.3 Purchaser will not be bound by any power of attorney granted by tenderer or by changes in composition of the firm made subsequent to award of Order/Contract. Purchaser may, however, recognize such power of attorney and changes after obtaining proper legal advice, the cost of which will be chargeable to the Seller/Contractor concerned.

14.4 If tenderer deliberately gives wrong information, Purchaser reserves the right to reject such an offer at any stage or cancel the Order/Contract, if awarded, and forfeit the security deposit and bank guarantee.


15.0 DEVIATIONS FROM NIT

15.1 Deviations (Commercial as well as Technical) from NIT are generally not acceptable. In case of deviations from NIT, the tenderer shall give cost of withdrawal of such deviation in Sealed Cover as per Annexure-II.

16.0 Loading For Commercial Deviations (where cost of withdrawal not given)

16.1 For deviations w.r.t. Payment terms, Liquidated damages, Firm prices and submission of E1/ E2 forms before claiming 10% payment, if a bidder chooses not to give any cost of withdrawal of deviation loading as per Annexure-VIII will apply.

17.0 Interest Rate for loading will be taken as Base rate of SBI (as applicable on the date of bid opening, Techno-commercial bid, in case of 2 part bids) + 6% for the period of relaxation sought by the bidders.

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18.0 DISCOUNT

Discount offered by any bidder in the original price bid, against the present Tender Enquiry, which is also indicated to be applicable to any other Enquiry, shall be considered against the present Tender Enquiry only. In case only percentage discount is indicated, the same shall be applicable to optional prices also.

Discount offered shall be valid for full duration of offer validity.


Any conditional discount shall not be considered for evaluation.

19.0 EVALUATION CRITERIA

- 19.1 Evaluation of the tender shall be on the basis of delivered cost, i.e. 'total cost to BHEL' w.r.t the finalized technical scope and commercial conditions (after considering, inter alia, Customs Duty and CENVAT/ VAT/ Service Tax/Entry Tax as applicable) and taking into consideration loadings, if any, and all available financial advantages.
- 19.2 Exchange rate (TT selling rate of State Bank of India) applicable on the date of Part-I bid opening shall be considered for evaluation of foreign bids. If the relevant day happens to be a bank holiday in India, then the FOREX rate as on the previous bank working day shall be taken for evaluation.
- 19.3 Foreign suppliers shall ensure that the benefits as applicable under Comprehensive Economic Partnership Agreement (CEPA) with Government of India are disclosed in the bid & relevant documents such as Certificate of Country of Origin, issued by the appropriate authority in the country of Export, is provided by the vendor along with dispatch documents. Bids shall be evaluated with such applicable benefits. In the event of Seller failing to provide appropriate documents for Purchaser to avail disclosed concessional duty benefits in India, financial loss, so incurred, will be to the Seller's account.
- 19.4 The quoted CFR price shall be loaded by the following to arrive at the Delivered Cost:
- Import duty as applicable at the time of Part-II (Price) bid opening.
 - Terminal handing charges at destination & other charges & Inland freight will be loaded at 1% of CFR value.

20.0 FOREIGN SUPPLIERS & INDIAN AGENTS OF FOREIGN SUPPLIERS

Please refer 'Annexure-V' for guidelines.

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21.0 MICRO & SMALL & MEDIUM ENTERPRISES

Extant regulations of Govt. of India titled “Public Procurement Policy for Micro & Small Enterprises (MSE’s) Order dated 23.03.2012” will be applicable.

22.0 Authorisation for participation in EPS portal through DSC

E-Tender Participation requirements

Either Principal or authorised agent shall register their Digital Signature Certificate (DSC) (Class 3- SHA2- 2048 BIT- SIGNING & ENCRYPTION). You are advised to pls go through the FAQ available in the web portal (<https://bheleps.buyjunction.in>). DSC shall be registered for the authorised person and all transaction done using that DSC against our tenders shall be taken as valid communication and shall be binding on principal/agent and is valid legally.

For foreign Principal


In case of Principal (being foreigner) they may apply for DSC through Indian embassy at their country and can register with us for participating in E-tenders. Details of the applicable procedure is available in the webpage <http://www.cca.gov.in/cca/>

For Indian agent

In case of agents participating/registering their DSC (of authorised person), it will be at the sole authorisation of principal to their agents to participate on their behalf and all transactions done using that DSC against our tenders shall be known as valid communication and shall binding on principal and is legally valid.

DSC Authorisation


Pls intimate the authorised person name, Mail ID for registering DSC with us to participate in E-Tenders

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GENERAL COMMERCIAL TERMS & CONDITIONS

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1.0 ACCEPTANCE OF ORDER

Seller/Contractor should acknowledge and accept the LOI/ Purchase Order issued by BHEL within 7 days of its receipt. Seller/Contractor should examine the LOI/ Purchase Order immediately upon receipt and bring to the notice of BHEL, within 7 days of receipt, any discrepancy with regard to scope of work, rates, taxes & duties, agreed terms & conditions etc. for due rectification. If the Seller/Contractor fails to give such intimation / acceptance within seven days, the Seller/Contractor shall be deemed to have agreed to supply the stores as per LOI/ Purchase Order.

2.0 CONTRACT

Contract between Purchaser and Seller/Contractor is merely a contract and shall not be treated as partnership between the parties to the contract.

3.0 PRICES

Prices shall be for the entire scope of work in line with the tender documents and subsequent clarifications/confirmations.

4.0 TAXES AND DUTIES

4.1 EXCISE DUTY for Indigenous purchase


4.1.1 Seller/Contractor is required to ensure that excise duty including cess, if any, is quoted as per the existing tariff on the date of the offer and all benefits as per existing rules have been considered.

4.1.2 Excise duty actually incurred by Seller/Contractor on self-manufactured items shall be reimbursed against documentary evidence.

Excise duty paid by bidder on inputs, bought out items, raw materials and components consigned directly from sources other than Seller/Contractor's factory/works shall be included by the bidder in the quoted ceiling amount of excise duty and the same shall be payable extra at actuals limited to the ceiling amount.

4.1.3 If excise duty is paid under protest or dispute, it shall not be reimbursed till the dispute is settled. If the Seller/Contractor claims/obtains any refund of the excise duty paid, the same shall be refunded to the Purchaser immediately

4.1.4 Invoice cum Excise duty gate pass (Excise Invoice) should contain the name of the ultimate consignee as per Order/Contract/ Special Conditions of Contract.

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4.1.5 If required by Purchaser, the Seller / Contractor will provide a certificate stating that CENVAT benefit has been availed of on the inputs and the same has been passed on to the Purchaser.

4.1.6 Excise duty shall be paid at actuals against documentary evidence but restricted to the amount and percentage indicated in the Order/Contract.

4.2 SALES TAX/VALUE ADDED TAX (VAT) for Indigenous purchase

4.2.1 Central Sales Tax / Value Added Tax shall be reimbursed only if the same is paid by the Seller / Contractor to the respective Govt. authorities on direct sales by the Seller/ Contractor to the Purchaser, meeting all statutory requirements and availing all exemptions/concessions under the respective Central Sales Tax / Value Added Tax Acts. The offer should clearly indicate CST/VAT percentage and the total amount along with concessional form(s), if any.

4.2.2 Purchaser is registered in Bangalore, Karnataka vide following Registration Numbers:


Central Sales Tax Registration No. : 00850070 w.e.f. 06-03-1999.

Karnataka TIN. : 29470052861

4.2.3 Central Sales Tax/Value Added Tax shall be reimbursed, as per tariff applicable, but restricted to the percentage and amount shown in the Order/Contract. If it is shown as included in the quoted price/ not applicable, it will not be reimbursed by the Purchaser.

4.2.4 For the purchase re-sold items, purchaser proposes to make sale-in-transit under section 6 (2) (b) of Central Sales Tax Act where goods movement is inter-state. Form-C shall be issued and exchanged against Form-E1/E2 based on quarterly transactions. Seller/Contractor is required to submit his request in the format enclosed at Annexure-VI within 30 days from end of the Quarter, giving State-wise invoice details. In compliance with the notification No. CCW/CR-44-2013-14 dt. 29/04/2014 issued by Commercial Tax Dept., Govt. of Karnataka, vendors shall submit all the requisite documents within 10 days of dispatch for the purpose of issuance of 'C' forms. Timely issuance of 'C' form will depend on the compliance of this condition.

Note: In case of non-receipt of E1/E2 forms amount of differential tax payable by BHEL shall be to vendors' account. Submission of E1/E2 forms shall be ensured by Vendor within the time specified in sales tax act.

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4.2.5 For the purchase re-sold items, VAT invoices, in format prescribed by the respective State Sales Tax Act, have to be submitted in the name of Nodal Agency, if specified in Special Conditions of Contract.

4.3 SERVICE TAX for Indigenous purchase

4.3.1 Service Tax and Cess leviable on taxable services for the time being in force paid by the Service Provider /contractor to the Government authorities directly shall only be paid at actuals against documentary evidence of Service tax payment (Service Tax remittance challan) made to concerned Service tax authorities corresponding to the tax claimed in the previous invoice / RAB, but restricted to the rate and amount mentioned in the order/contract. The offer should clearly indicate the percentage and the total amount of service tax as well cess. Cess to be indicated as separate line item in invoice.


4.3.2 Service provider/Contractor to ensure their registration for “Intended Service” to be provided, before claiming Service tax under the “intended category”. Decision of BHEL shall be final w.r.t. the “Intended category” in which the service will be falling.

4.3.3 If required by the Purchaser, the Service Provider/Contractor will provide a certificate stating that “CENVAT Benefit has been availed of on the input and the same has been passed on to the purchaser” or “CENVAT Benefit has not been availed of on the inputs”.

4.3.4 Vendor shall comply with the Point of Taxation Rules, as contemplated under the Service Tax Rules. In case, the CENVAT credit could not be availed by BHEL within the time limit (statutory), due to delay in submission of invoice(s) or for any other reason(s) attributable to vendor(s)/contractor(s), liability towards the loss of such CENVAT credit shall be to the vendor(s)/contractor(s) account. TDS shall be made for IT as per Income Tax act.

4.4 OTHER TAXES & LEVIES for Indigenous purchase

All taxes and duties other than Excise Duty, Sales Tax/ VAT, Service Tax shall be deemed to be included in the Ex-Works prices unless specified otherwise by the bidder in the price bid. No variation in other taxes and duties shall be payable by Purchaser. However, statutory variation in Octroi will be payable extra against documentary evidence. Anti-dumping duty, if any, shall be in the account of bidder and shall be included in their price. No separate payment shall be made by BHEL for the same.

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4.5 **CUSTOMS DUTY for Indigenous purchase**

- 4.5.1 Customs Duty element for imported items as per Special Conditions of Contract shall be included in the Ex-Works prices. No variation in customs duty and exchange rate for imported items shall be payable by Purchaser.
- 4.5.2 Seller/Contractor shall arrange for his own import license, if required, since Purchaser will not provide any import license. Therefore, Seller/Contractor alone shall be responsible for any delay in getting import license or non-availability of the same or completion of other related formalities. Purchaser shall not be responsible for any financial liability, whatsoever, on this account.
- 4.5.3 Essentiality Certificate or Project Authority Certificate (PAC) as per Import Policy, if required to avail concessional customs duty, shall be clearly specified in the offer. Import content (CIF value in rupees) with list of items, quantity, foreign currency, country of origin etc., shall be submitted by the bidder as part of Price bid.

4.6 **DIRECT TAX for Indigenous purchase**


- 4.6.1 Purchaser shall not be liable towards income tax of whatever nature including variations thereof, arising out of this Order/Contract, as well as tax liability of the Seller/Contractor and his personnel.
- 4.6.2 Deductions of Tax at source at the prevailing rates shall be effected by the Purchaser before release of payment, as a statutory obligation, if applicable. TDS certificate will be issued by the Purchaser as per statutory provisions.

4.7 **FOREIGN PURCHASE - Imports**


The offered prices shall be inclusive of all the Taxes and duties as applicable in the country of bidder / country of dispatch for the quoted price as per incoterms (FOB/CFR/CIF/CPT etc.). Any variation in the same will be in sellers account.

5.0 **STATUTORY VARIATION for Indigenous purchase**

- 5.1 If the rates for taxes and duties in respect of the quoted materials and/or services assumed by the Seller/Contractor are less than the tariff prevailing at the time of tendering, Seller/Contractor will be responsible for such under quotations. However, if the rates assumed are higher than the correct rates prevailing at the time of tendering, the difference will be to the credit of the Purchaser.

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- 5.2 Statutory Variations in Excise Duty, Service Tax and Central Sales Tax/Value Added Tax only on self-manufactured items/services rendered by vendor himself on the rates prevailing at the time of delivery/ completion in comparison to the date of offer, will be to the account of the Purchaser. No other variations such as on customs duty, exchange rate, minimum wages, prices of controlled commodities, any other input etc. shall be payable by the Purchaser.
- 5.3 Notwithstanding the above, where the actual completion of the supply occurs beyond the period stipulated in the Order/Contract or any extension thereof, variations referred to above, will be limited to the rates prevailing on the dates of such agreed completion periods only. For variations after the agreed completion periods, the Seller/Contractor alone shall bear the impact for the upward revisions and for downward revisions, purchaser shall be given the benefit of reduction in taxes/duties. This will be without prejudice to the levy of penalty for delay in delivery/completion schedule.
- 5.4 Any new tax structure (like Goods & Services Tax) as and when implemented by the Government shall become applicable in addition to or in lieu of existing tax structure.
- 6.0 PRICE BASIS:**
- 6.1 For Supply:**
- 6.1.1 Indigenous purchase** - Firm, till the completion of contract (or with PVC if specified in NIT). Ex-works, inclusive of packing & forwarding charges. Taxes, duties and freight to be paid in line clause no 4 above.
- 6.1.2 Foreign purchase:** Firm, till the completion of contract (or with PVC if specified in NIT). CFR/CPT/CIF/CIP Indian (air) port basis inclusive of testing, inspection, sea worthy packing & forwarding charges to be paid in line with GCC.
- 6.2 For E&C:**
- Firm till completion of the contract (or with PVC if specified in NIT). WCT if any, to be included in price. Service tax along with cess to be indicated separately and will be reimbursed at actuals. TDS shall be made for IT as per Income Tax act.
- 6.3 Prices shall remain Firm (or with PVC if specified in NIT) for any increase or decrease in the Order/Contract value (Ex-works) upto plus or minus 30% within contract period unless specified otherwise in NIT. The Purchaser shall have the right to increase or decrease quantities and scope upto the above extent of value and

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Seller/Contractor shall be bound to accept the same at the contracted prices without any escalation.

7.0 DRAWING SUBMISSION & APPROVAL:

Drawing submission & Approvals as per technical specification is the responsibility of the vendor.

8.0 DELIVERY TERMS

8.1 Indigenous Purchase

Goods shall be delivered on 'FOR Destination' basis to the named destination unless otherwise called for in the enquiry.

8.2 Foreign Purchase - Imports

8.2.1. Goods shall be dispatched by sea, unless stated otherwise in the enquiry or purchase order.


8.2.2. The goods shall be delivered on CFR basis to the ICD-BANGALORE unless specified otherwise in enquiry or Purchase order.

8.2.3 The quote should be inclusive of all charges, including testing, packing, inspection etc. Additionally ocean freight (LILO basis) for CFR, ICD BANGALORE shall also be quoted separately as per price format.

8.2.4. Goods shall be handled for ocean freight / air freight by BHEL's freight forwarder only, under FOB contracts and OBL / HAWB issued by BHEL appointed forwarder or his authorized agent(s) shall only be accepted for negotiation.

8.2.5 For CFR terms, shipped in Break Bulk/ Container, supplier shall quote the freight charges on LILO (LINER IN LINER OUT) basis. Alternately shipment by container is also acceptable and In such cases B/L should bear the endorsement that "14 free days for Container Detention is applicable" and it would be presumed by BHEL that the freight charges quoted is on LILO (LINER IN LINER OUT) basis including extra charges, if any, like Container Imbalance Charges, Trade Imbalance charges, Port congestion charges or any other charges payable to the Liner. No other charges other than the quoted Freight rate will be paid by BHEL excepting applicable Terminal Handling Charges, Container cleaning Charges, DO charges to Shipping Liner at Discharge Port.

8.2.6 In the event there is a delay by the Supplier in negotiating / submitting the document, any demurrage / wharfage arising out of the same shall be to the account of the Supplier and shall be deducted from the final payment. Also, in such cases, the Supplier shall authorize the Steamer / Shipping agent / transporter to freely release the consignment to BHEL by providing a "Surrender Bill of Lading". Over-seas Suppliers have to give a No-Objection Certificate to BHEL,

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authorizing BHEL to get the Delivery Order from the Steamer Agent without producing the Original Bill of Lading. This is required to ensure avoidance of incidence of demurrage that may arise in case of delayed presentation of documents by the Seller.

8.3 Delivery shall be staggered in the manner as indicated in the tender for each item. Vendors shall submit their offer accordingly.

9.0 TERMS OF PAYMENT

9.1 SUPPLY PACKAGES (Main Supply and Mandatory Spares)

9.1.1 For indigenous purchase

Hundred percent (100%) of basic price of materials supplied, as per PO, along with 100% taxes and duties (as applicable) & freight charges, shall be paid on pro-rata basis after 45 days from the date of receipt of goods & receipt of complete documents as per order/ contract subject to acceptance of materials.

9.1.2 For Foreign Purchase – Imports

Hundred percent (100%) payment on CAD basis after 45 days from the date of receipt of documents specified in PO at BHEL BANK. Respective bank charges to respective account.


9.1.3 PG TEST, INSTALLATION CHECK, SUPERVISION OF ERECTION / COMMISSIONING CHARGES

100% payment shall be released after successful completion of the activity.

Vendors shall submit documents for payment directly to BHEL. Payment will be released within 45 days after receipt of complete documents as per order/ contract.

Note:

- 1) For indigenous suppliers, if the documents are routed through Bank, then all bank charges will be to vendor's account.
- 2) Foreign bidders can opt for payment (less agency commission, if applicable) through irrevocable and unconfirmed letter of credit. In that case for evaluation purpose, prices of foreign bidders will be loaded on account of payment through LC, equal to loading specified against 'Payment through Bank' in Annexure-VIII. No loading will be done if foreign vendors agree for 75 days issuance LC or submit the documents on collection basis for payment within 75 days of submission of complete documents.

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- 3) LC opening/ negotiation/ confirmation charges will be to vendor's account.
- 4) Any negative PVC, if not adjusted in earlier payments, will be adjusted at the time of subsequent payment.

9.2 DOCUMENTS TO BE SUBMITTED BY VENDOR

9.2.1 For Recognition of Dispatch

Copy of the following documents by e-mail/ fax immediately on despatch:

- a. Invoice
- b. LR /BL/AWB
- c. Packing List
- d. Insurance Intimation
- e. Dispatch Clearance


9.2.2 For Claiming Payments (under clause 9.1.1, 9.2.1, 9.3.1): (under clause 9.1.1)

- a. Original Excise Invoice & Duplicate for transporter - original+3 copies
- b. Consignee Copy of LR
- c. Packing List - clearly showing number of packages, gross weight and net weight. - original+3 copies
- d. MDCC from BHEL/Customer - as per SCC - 4 copies
- e. Guarantee Certificate - Original + 3 copies
- f. Insurance Intimation - 4 copies
- g. PVC Calculation and copy of all applicable indices, if PVC applicable. - 4 copies
- h. Duty drawback documents (original excise invoice, original disclaimer certificate, original certificate from excise authority for payment of excise duty), if applicable. - original + 3 copies

It is the responsibility of the vendor to submit invoices along with documents required for effecting payment within the stipulated period mentioned in the applicable statute for this tender. Non-submission of invoices due to delay/reasons attributable to vendor resulting in / leading to loss of tax credit for BHEL will be into vendor's account.

(Under clause 9.1.2)

- a. Commercial Invoice - original+3 copies
- b. Original clean on board Bill of Lading or clean copy of OBL in case of Telex.
- c. Packing List - clearly showing number of packages, gross weight and net weight container wise also. - original+3 copies
- d. Delivery/ship/airplane schedule mentioning the estimated date of Arrival (ETA) at port & destination in case of CFR/CPT.

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- e. MDCC from BHEL/Customer – as per SCC – 4 copies
- f. Guarantee Certificate – Original + 3 copies
- g. Insurance Intimation - 4 copies
- h. PVC Calculation and copy of all applicable indices, if PVC applicable. – 4 copies
- i. Original Certificate of country of Origin issued by chamber of commerce.
- j. One set of original test certificates & O&M manual where called for.
- k. Fumigation certificate wherever cargo is packed in wooden packing or packing of plant origin material is used wherever called for.
- l. TUV/UL certificates where ever called for.

In case the Seller decides to negotiate all 3 originals of BL through negotiating Bank, non-negotiable documents (NND) consisting of copy of BL / HAWB & all originals at sl.no. 9.2.2 (Except OBL) will be couriered to Purchaser. Soft Copy of same documents at sl. 9.2.2 will also be sent by e-mail to the Purchaser at his e-mail address given in the PO with one copy to be mailed at ketan@bhelepd.com & rb@bhelepd.com. Other documents, as required, will be separately indicated in the Purchase Order.

Additional expenditure, if any, incurred by the Purchaser by way of detention / demurrage, resulting out of delay attributable to the Seller in providing negotiable documents, will be recovered from the Seller.

Note for 9.2.2 Additionally, vendor may furnish mfg clearance/drg/docs approval date etc. for the purpose of determining contractual delivery for expeditious processing of Invoices.

9.2.3 For Claiming Payment for Services involving Service Tax

- a. Invoice as per rule 4A of Service Tax Act – Original + 1 copy
- b. Copy of Service Tax registration certificate
- c. Copy of challan for Service Tax payment corresponding to service tax claimed in the previous invoice
- d. Certification for having carried out the work as applicable.

9.2.4 All your invoices against our order shall reach BHEL –EPD addressed to:
 HEAD OF DEPARTMENT/MATERIAL MANAGEMENT,
 BHEL – ELECTROPORCELAINS DIVISION,
 Opp. IISc, PROF. C N R RAO CIRCLE,
 MALLESWARAM, BANGALORE - 560 012