

# **Bharat Heavy Electricals Ltd.,**

(A Government of India undertaking)

## **Electronics Division**

PB No.2606, Mysore Road, Bangalore-560026, India

**Ref: MDSSCPV052/Advt/02**

**Date: 26.07.2019**

### **Addendum to RFQ: MDSSCPV052 dated 08.07.2019**

The following change is made in the tender document of RFQ No MDSSCPV052 dated 08.07.2019.

The terms of delivery for foreign bidders is changed as CIF ICD Bangalore (Ocean mode of shipment)

And tender due date is extended to 02.08.2019

All other terms and conditions of the tender remain unchanged.

**AGM (SC&PV/MM)**

# **Bharat Heavy Electricals Ltd.,**

(A Government of India undertaking)

## **Electronics Division**


PB No.2606, Mysore Road, Bangalore-560026, India

Sealed quotations are invited under two part bid system for manufacturing and supply of 157 mm DWS Multi Solar Silicon Wafer as per BHEL technical specification.

RFQ NO and date	MDSSCPV052 dated 08.07.2019
RFQ due date & time	02.08.2019 up to 13.00 hrs (IST)
Date, Time & Venue of Part-I Bid Opening	02.08.2019 after 13.30 hrs (IST) New Engineering Building 2nd Floor Bharat Heavy Electricals Limited PB NO 2606, Mysore road, Bangalore-560 026. INDIA
Date, Time & Venue of Price Bid opening	Will be intimated later for technically accepted vendors
Address for Communication & Contact Person in BHEL	Mr. Muhammed Shakir/ Mr. Ramachandra, SC&PV MM Department, BHEL Electronics Division, PB NO 2606, Mysore road, Bangalore-560 026. INDIA Email: <a href="mailto:muhammedshakir@bhel.in">muhammedshakir@bhel.in</a> , <a href="mailto:ramachandra@bhel.in">ramachandra@bhel.in</a> Telephone number: +91 80 26989665, +91 80 26998476

**Signature of Tenderer with Seal**

# REQUEST FOR QUOTATION

	<b>BHARAT HEAVY ELECTRICALS LIMITED</b> Electronics Division PB No. 2606, Mysore Road Bangalore - 560026 INDIA	RFQ NUMBER: <b>MDSSCPV052</b>  RFQ DATE : 08.07.2019	Due Date/Day: 02.08.2019 FRI Time : 13:00 HRS Tender Box : Reception Area Opening Venue: NEW ENGG. BLDG
MMI:PU:RF:003	(address for communication) :		(for all correspondence)
		Purchase Executive : MUHAMMEDSHAKIR M K Phone : 080 26989665 Fax : E-mail: muhammedshakir@bhel.in	

SI No.	Description	Qty	Unit	Delivery qty	Delivery Date
1	PV0679040463 157 mm DWS Multi Solar Silicon Wafer * HSN/SAC : 3818 Doc No.- PS439407 Rev - 01 Test Certificate	4,500,000	NO	4,500,000	24.09.2019

Total Number of Items - 1

- 1.
- 2.

## TWO PART BID - SUBMIT TECHNICAL AND PRICE BID IN SEPARATE SEALED COVERS

**NOTES:**

1. This RFQ is governed by:
    - a) INSTRUCTIONS TO BIDDERS/SELLERS and GENERAL CONDITIONS OF CONTRACT FOR PURCHASE available at <http://edn.bhel.com> (**RFQ-PO Terms & Conditions**)
    - b) Any other specific Terms and Conditions mentioned.
  2. Bidders / Representatives who would like to be present during opening of offers are required to furnish authorization letter for the same.
- \* The HSN/SAC no mentioned against the line items in the RFQ are indicative only.

For and On behalf of BHEL.

MUHAMMEDSHAKIR M K  
Semiconductors & Pho

1 OF 1



A4-10

**PURCHASE SPECIFICATION  
GROUP : PHOTOVOLTAICS**

**PS- 439 - 407**

REV. 01

PAGE 01 OF 02

**TECHNICAL SPECIFICATION**

1. MATERIAL : 157 mm Square Diamond Wire Saw  
Multi Crystalline Solar Silicon wafer

2. APPLICATION : It is used as starting material for Solar Photovoltaic cells production.

SL. NO.	CHARACTERISTICS	VALUE	UNIT	TESTING METHODS / REF. STANDARDS.
1.0	APPEARANCE	As cut cleaned		Unaided Visual inspection.
1.1	SURFACE CONDITION			
1.2	SAW MARKS DEPTH	<=15 microns		Visual inspection and surface profiling.
2.0	DIMENSIONS			
2.1	Size (Side to Side)	157±0.25 mm		Vernier/Go-No Go gauges
2.2	Shape	Square		
2.3	Thickness	170 to 200 microns		ASTM-F533
2.4	TTV (Total Thickness Variation)	<=30 microns		ASTM-F533
2.5	BOW	<=50 microns		ASTM-F534

Wafers shall be free from surface stains, water marks, chips, breakages and pin holes.

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Rev. 01 Thickness revised.

APPROVED BY :

SR 

PREPARED

SC 

ISSUED

Engg.

DATE

17-07-2019



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## PURCHASE SPECIFICATION GROUP : PHOTOVOLTAICS

PS- 439 - 407

REV. No. 01

PAGE 02 OF 02

### 3.0 CHARACTERISTICS

3.1	TYPE	P(Boron, Gallium doped)	ASTM-F42
3.2	RESISTIVITY	0.8 – 2.0 ohm.cm	Four point probe
3.3	OXYGEN CONCENTRATION	$\leq 5 * 10^{17}$ Atoms/CM <sup>3</sup>	ASTM-F121
3.4	CARBON CONCENTRATION	$\leq 8 * 10^{17}$ Atoms/CM <sup>3</sup>	ASTM-F123
3.5	Brick Life time	$\geq 5$ micro seconds	ASTM F28-91

### 4.0 PACKING

1. Wafers shall be packed in carton box with proper paddings to absorb transit handling shocks.
2. Each carton box shall have 100 nos. of wafers with a label giving manufacturer name, quantity and wafer characteristics.
3. The small carton boxes containing 100 nos. each of wafers shall be packed in a bigger carton box with foam fitments (cushions) on all the sides.
4. Each lot must be accompanied with a test certificate certifying the wafer characteristics.

### 5.0 NOTE

1. Wafers shall be free from edge chips, cracks, micro cracks, pin holes, stains, water marks and any other contamination.
2. Supplier shall replace free of cost the defective wafers found in the packets at the time of actual processing of the wafers into solar cells.

### 6.0 SAMPLING SIZE FOR INSPECTION AT BHEL

#### I. Visual Inspection :

Single Sampling Plan as per IS:10673-1983, General Inspection Level I, AQL 1.0 %.

#### II. Dimension and Resistivity measurement :

Single Sampling Plan as per IS:10673-1983, Special Inspection Level S-4, AQL 2.5 %.

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**SPECIAL TERMS**

This RFQ is also governed by INSTRUCTIONS TO BIDDERS/SELLERS and GENERAL CONDITIONS OF CONTRACT FOR PURCHASE available at <http://edn.bhel.com> (RFQ-PO Terms & Conditions). The special terms and conditions mentioned below supersedes the general conditions of contract, for contradictory clauses if any.

1. Quotation shall be submitted in two part bid

**Part 1:** Unpriced offer i.e. "Techno-commercial Bid" with filled in BHEL Standard commercial terms and conditions along with purchase specification, integrity pact, etc if any in a sealed envelope and must be super scribed as "**Techno-commercial Bid**" and **RFQ number**.

**Part 2:** Priced offer i.e. "Price Bid" containing price summary in a separate sealed envelope and must be super scribed "**Price Bid**".

Both these envelopes shall be enclosed in a single sealed envelope super scribed with RFQ number and due date of tender and any other details as called for in the tender document

2. BHEL standard terms of payment

**For Indian bidders:**

100% sight draft with 45 days credit,

**For foreign bidders:**

100% open credit with 45 days credit,

Note: Deviated payment terms and corresponding loading factors mentioned in clause I (ii) of instructions to bidders (DOC No. BHEL: EDN: ITB- SHOP: REV 03), are not applicable for this tender.

3. Terms of delivery :

**CIF ICD Bangalore- Ocean mode shipment (For foreign bidders)**

**Door Delivery to BHEL EDN Stores, Bangalore with Freight and Insurance paid.**

4. Price is to be quoted on **per wafer basis**. Purchase order will be placed on number of wafer basis. L1 (Lowest Price) vendor shall be evaluated by BHEL on price per wafer basis.
5. **Price variation clause** will be applicable for the unit rate in PO to take care of market trend in solar wafer price. The unit price in PO will be varied as the variations in the average price of 156 mm High Eff multi solar Wafer, as per [www.pvinsights.com](http://www.pvinsights.com), displayed under the heading "Solar PV wafer Weekly Spot Price". The reference price will be average price of 156 mm High Eff multi solar Wafer as on Techno-commercial bid opening date. The unit rate in PO will be allowed to vary (increase/ decrease) for each lot of supply, in the ratio of 1:1 for variations (increase/ decrease) in average price of 156 mm High Eff multi solar Wafer prevailing on invoice date with respect to the reference price. The bidder has to submit the price in the enclosed price bid format.
6. **Delivery Schedule:** BHEL requires delivery at a rate of 5 lakhs wafers per month from date of PO.
7. **Order Splitting:** BHEL reserve the right to Split the order quantity in the ratio of 60:40 to L1, and L2 vendors respectively subjected to L2 vendor accept to supply as per L1 negotiated price. In case, L2 vendor does not accept to supply as per L1 negotiated price, the counter offer will be extended to subsequent vendors ie L3,L4,L5.... In case no subsequent vendor accept to supply in L1 price, balance quantity will be ordered on L1 only. The decision of BHEL shall be final on this matter.

**8. Evaluation of offers:** L1 vendor (lowest Bidder) will be decided based on 'Cost to BHEL' value after considering the applicable loading factors and other costs including packing & forwarding, applicable duties including safeguard duty, taxes, etc if it is in the scope of BHEL.

**9. Integrity Pact (IP):** The bidder shall sign an "INTEGRITY PACT" in the formats enclosed.

(a) IP is a tool to ensure that activities and transactions between the Company and its Bidders/ Contractors are handled in a fair, transparent and corruption free manner. Following Independent External Monitor have been appointed by BHEL with the approval of CVC to oversee implementation of IP in BHEL.

Mrs Pravin Tripathi, IA & AS (retd.),  
D-243, Anupam Gardens,  
Lane 1B, Neb Sarai, Sainik Farms,  
New Delhi – 110068,  
Ph: +91 11 295 33206/ 29531715  
Email: pravin.tripathi@gmail.com

(b) The IP as enclosed with the tender is to be submitted (duly signed by authorized signatory who signs in the offer) along with techno-commercial bid. Only those bidders who have entered into such an IP with BHEL would be competent to participate in the bidding. In other words, entering into this Pact would be a preliminary qualification.

(c) Please refer Section-8 of IP for Role and Responsibilities of IEMs. In case of any complaint arising out of the tendering process, the matter may be referred to the IEM mentioned in the tender.

Note: No routine correspondence shall be addressed to the IEM (phone/ post/ email) regarding the clarifications, time extensions or any other administrative queries, etc on the tender issued. All such clarification/ issues shall be addressed directly to the tender issuing (procurement) department.

**10. In case of changes in scope of the tender** and/ or technical specifications and commercial terms & conditions by BHEL during techno commercial evaluation, the same will be communicated only to the bidders who are participated in the tender. The techno-commercially qualified bidders will be asked for submitting impact price bid, if any is applicable as per BHEL purchase policy and guidelines.

**11. Changes in Statutory Levies:** If any rate of Tax are increased or decreased, a new tax is introduced, an existing tax is abolished or any change in interpretation or application of any tax occurs in the course of execution of the contract within the contractual delivery period, which was or will be assessed on the bidder in connection with performance of the contract, an equitable adjustment of the contract price or deduction there from, as the case may be. However, these adjustments would be restricted to direct transactions between BHEL and the bidder/ agent of foreign bidder (if applicable). These adjustments shall not be applicable on procurement of raw materials, intermediary components, etc. by the bidder/ agent.

**12. Preference to Make in India:** 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 /WO against this this NIT. In the event of any Nodal Ministry prescribing higher or lower percentage of purchase preference and/ or local content in respective of this procurement, same shall be applicable.

**13. Offers with non-acceptance of BHEL terms, are liable for rejection.**

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**RFQ No.** : MDSSCPV052 dated 08.07.2019

**Supplier Name** :

**Offer Ref** :

**Contact Details** :

**Registered Office:-**

Address :

Telephone No. :

Email :

**Manufacturing plant:-**

Address :

Telephone No. :

Email :

**Ordering party (To be filled if different from Manufacturer)**

Address :

Telephone No. :

Email :

**Contact person :-**

Name :

Office Address :

Telephone No. :

Mobile No. :

Email :

**Contact person in India (if any) :-**

Name:

Office Address :

Telephone No. :

Mobile No. :

Email :

**Signature of Tenderer with Seal**



**Pre Qualification Criteria**

<b>PQC Criteria</b>		
	<b>Particulars</b>	<b>Bidder's Confirmation</b>
1	The offer shall be submitted only by the original multi crystalline silicon wafer manufacturers.	Name of original multi crystalline silicon wafer manufacturer, complete address & contact details with email address, website.
2	Vendor should have a minimum of 100 MW/annum in-house PV-grade multi-crystalline wafer manufacturing capacity.	Multi-crystalline wafer manufacturing capacity in MW/annum: _____
3	Vendor should have supplied at least 10,00,000 pieces of 156/156.75/157 mm multi crystalline high efficiency solar silicon wafers to Indian Solar Cell manufacturers or solar cell manufacturers of other than vendor's country of origin during the period from 1.1.2016 to 30.06.2019.	Documentary evidence to be provided (Delivery details/ AWB/ BL mentioning port of delivery/ Packing List, etc)
4	Price variation clause: Price variation clause will be applicable for the unit rate in PO to take care of market trend in solar wafer price. The unit price in PO will be varied with respect to the variations of reference price. The reference price will be average price of 156 mm High Eff multi solar (Poly) Wafer as per pvinsights website, displayed under the heading "Solar PV wafer Weekly Spot Price". The unit rate in PO will be allowed to vary (increase/ decrease) for each lot of supply, in the ratio of 1:1 for variations (increase/ decrease) in reference price between invoice date for the lot and techno-commercial bid opening date of the tender. The bidder has to submit the price in the enclosed price bid format.	Agreed / Not Agreed
5	The bidder shall sign an "INTEGRITY PACT" in the formats enclosed.	Agreed / Not Agreed

**Signature of Tenderer with Seal**

<b>TECHNICAL</b>		
<b>Sl. No.</b>	<b>Particulars</b>	<b>Bidder's Confirmation</b> Please indicate deviations, if any.
1.	<b>Silicon Wafer as per BHEL Technical Specification</b> 157 mm DWS Multi Solar Silicon Wafer offered shall comply as per BHEL Technical Specification PS 439 407 REV 01	Please confirm
2.	<b>Certificate of conformance/ Test report</b> to be issued for each lot mentioning technical details and the same to be shared with BHEL before material dispatch, thus to obtain clearance from BHEL for shipment. The Certificate of conformance/ Test report shall mention BHEL Purchase Order Number, invoice number and quantity supplied.	Please confirm
<b>COMMERCIAL</b>		
<b>Sl. No.</b>	<b>Particulars</b>	<b>Bidder's Confirmation</b> Please indicate deviations, if any.
1	<b>Currency of offer:</b> Please specify the currency of your offer	
2.	<b>Terms of Payment</b>	
	<b>i) For Foreign Vendors</b>  a. BHEL standard payment term is 100% sight draft with 45 days credit,	Please confirm
	<b>ii) For Indian Vendors</b>  BHEL standard payment term is 100% payment with 45 days credit,	Please confirm
3.	<b>Terms of Delivery</b>	
	<b>i) For Foreign Vendors</b>  CIF ICD Bangalore (Ocean mode of shipment)	Please confirm
	<b>ii) For Indian Vendors</b>  Door Delivery to BHEL Stores, Bangalore with Freight and Insurance paid	Please confirm
4.	<b>Country of origin:</b> Please specify country of origin.	Country of origin:

**Signature of Tenderer with Seal**

5.	<b>Validity:</b> Quotation should remain valid for 45 days from the RFQ due date.	Quotation Validity :
6.	<b>Delivery Schedule required by BHEL:</b>  BHEL requires delivery at a rate of 5 lakhs wafers per month from date of PO.	Vendor delivery schedule :
7	<b>Penalty for delayed delivery:</b> 0.5 % per week for undelivered portion subject to a maximum of 10 % . Loading factor will be applicable for non-acceptance of penalty clause, Non- Acceptance: 10% Partial Acceptance (X%): (10- X)%	Acceptable / Not Acceptable
8.	<b>Price basis:</b> Price is to be quoted on <b>per wafer basis</b> . Purchase order will be placed on number of wafer basis. L1 (Lowest Price) vendor shall be evaluated by BHEL on price <b>per wafer basis</b> .	Please confirm
9.	<b>Order Splitting:</b> BHEL reserve the right to Split the order quantity in the ratio of 60:40 to L1, and L2 vendors respectively subjected to L2 vendor accept to supply as per L1 negotiated price. In case, L2 vendor does not accept to supply as per L1 negotiated price, the counter offer will be extended to subsequent vendors ie L3,L4,L5.... In case no subsequent vendor accept to supply in L1 price, balance quantity will be ordered on L1 only. The decision of BHEL shall be final on this matter.	Acceptable/ Not acceptable
10.	<b>BHEL Guidelines for Indian Agents of Foreign Suppliers:</b> Supplier shall adhere to “BHEL Guidelines for Indian Agents of Foreign Suppliers “in case the supplier has Indian Agent.	Acceptable / Not Acceptable
11	<b>Acceptance of Reverse Auction:</b> BHEL EDN reserves the right to adopt Reverse Auction at any point of time after technical evaluation, at its discretion. BHEL may also open the price bids at its discretion.	Acceptable / Not Acceptable
12	<b>Taxes and Duties: (To be filled by Indian vendors)</b> Please indicate percentage of applicable taxes and duties Please specify whether the unit price offered is inclusive/ exclusive of taxes and duties	GST: Others if any (please specify):  Inclusive/ Exclusive

**Signature of Tenderer with Seal**

13	<b>Eligibility under Preference to Make in India Order:</b> For this procurement, Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017 & 28.05.2018 and subsequent orders. Please specify if you are eligible to claim the benefits of Indian vendor for supply of PV Modules to BHEL against Public Procurement (Preference to Make in India), Order 2017 dated 15.06.2017. If yes, the required documents evidencing the eligibility as per the order, has to be submitted."	Yes/No, If yes, required documents to be submitted
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Place:

Date:

**Signature of Tenderer with Seal**

**UNPRICED BID**

**RFQ No.** : MDSSCPV052 dated 08.07.2019  
**Supplier Name** :  
**Offer Ref** :

<b>Sl. No.</b>	<b>Item Description</b>	<b>Quantity offered</b>	<b>Currency</b>
1	157 mm DWS Multi Solar Silicon Wafer offered shall comply as per BHEL Technical Specification PS 439 407 REV 01	45,00,000 Nos	

**NOTE:**

1. Technical and commercial terms shall be as per techno-commercial bid.

Place:

Date:

**Signature of Tenderer with Seal**

**PRICE BID**

**RFQ No.** : MDSSCPV052 dated 08.07.2019  
**Supplier Name** :  
**Offer Ref** :

<b>Sl. No.</b>	<b>Item Description</b>	<b>Quantity offered</b>	<b>Price per No</b>	<b>Currency</b>
1	157 mm DWS Multi Solar Silicon Wafer offered shall comply as per BHEL Technical Specification PS 439 407 REV 01	45,00,000 Nos		

**NOTE:**

2. Technical and commercial terms shall be as per techno-commercial bid.

Place:

Date:

**Signature of Tenderer with Seal**

## INTEGRITY PACT

### **Between**

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

### **and**

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

### Preamble

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

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

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

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

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

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

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

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

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



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

- 2.1 The Bidder(s)/ Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
- 2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material, immaterial or any other benefit which he/ she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
- 2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- 2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant Indian Penal Code (IPC) and Prevention of Corruption Act; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- 2.1.4 Foreign Bidder(s)/ Contractor(s) shall disclose the name and address of agents and representatives in India and Indian Bidder(s)/ Contractor(s) to disclose their foreign principals or associates. The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- 2.2 The Bidder(s)/ Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.
- 2.3 The Bidder(s)/ Contractor(s) shall not approach the Courts while representing the matters to IEMs and will await their decision in the matter.

## **Section 3 - Disqualification from tender process and exclusion from future contracts**

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

## **Section 4 - Compensation for Damages**

- 4.1 If the Principal has disqualified the Bidder from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent Earnest Money Deposit/ Bid Security.
- 4.2 If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to



demand and recover from the Contractor liquidated damages equivalent to 5% of the contract value or the amount equivalent to Security Deposit/ Performance Bank Guarantee, whichever is higher.

### **Section 5 - Previous Transgression**

- 5.1 The Bidder declares that no previous transgressions occurred in the last 3 years with any other company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- 5.2 If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

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

- 6.1 The Principal will enter into agreements with identical conditions as this one with all Bidders and Contractors. In case of sub-contracting, the Principal contractor shall be responsible for the adoption of IP by his sub-contractors and shall continue to remain responsible for any default by his sub-contractors.
- 6.2 The Principal will disqualify from the tender process all bidders who do not sign this pact or violate its provisions.

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

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

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

- 8.1 The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- 8.2 The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, BHEL.
- 8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all contract documentation of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) will grant the monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his contract documentation. The same is applicable to Sub-contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Sub-contractor(s) with confidentiality in line with Non- disclosure agreement.
- 8.4 The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the contract provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

- 8.5 The role of IEMs is advisory, would not be legally binding and it is restricted to resolving issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders. At the same time, it must be understood that IEMs are not consultants to the Management. Their role is independent in nature and the advice once tendered would not be subject to review at the request of the organization.
- 8.6 For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation, and submit their joint recommendations to the Management.
- 8.7 The IEMs would examine all complaints received by them and give their recommendations/ views to CMD, BHEL, at the earliest. They may also send their report directly to the CVO and the Commission, in case of suspicion of serious irregularities requiring legal/ administrative action. IEMs will tender their advice on the complaints within 10 days as far as possible.
- 8.8 The CMD, BHEL shall decide the compensation to be paid to the Monitor and its terms and conditions.
- 8.9 IEM should examine the process integrity, they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging mala fide on the part of any officer of the organization should be looked into by the CVO of the concerned organisation.
- 8.10 If the Monitor has reported to the CMD, BHEL, a substantiated suspicion of an offence under relevant Indian Penal Code/ Prevention of Corruption Act, and the CMD, BHEL has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.11 The number of Independent External Monitor(s) shall be decided by the CMD, BHEL.
- 8.12 The word 'Monitor' would include both singular and plural.

### **Section 9 - Pact Duration**


- 9.1 This Pact shall be operative from the date IP is signed by both the parties till the final completion of contract for successful bidder and for all other bidders 6 months after the contract has been awarded. Issues like warranty / guarantee etc. should be outside the purview of IEMs.
- 9.2 If any claim is made/ lodged during currency of IP, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/ determined by the CMD, BHEL.

### **Section 10 - Other Provisions**

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




- 10.2 Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- 10.3 If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- 10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.5 Only those bidders / contractors who have entered into this agreement with the Principal would be competent to participate in the bidding. In other words, entering into this agreement would be a preliminary qualification.

  
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 For & On behalf of the Principal  
 ಜಿ. ಪೊನ್ನುಗುರುಪಾಕಿಯಮ್, ಅ.ಮ.ಪ್ರ./ಎಸ್.ಸಿ. & ಪಿ.ವಿ.(ಎಂ.ಎಂ)  
 जी.पोन्नगुरुपाकियम, अ.म.प्र./एस.सी. एवं पी.वी. (एम. एम)  
 G.PONNUGURUPACKIAM, AGM/SC&PV (MM)  
 BHEL-EDN, MYSORE ROAD, BENGALURU-560026  
 (Office Seal)

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

Place BANGALORE

Date \_\_\_\_\_

Witness:   
 (Name & Address) \_\_\_\_\_  
 ರಾಮಚಂದ್ರ, ಹಿರಿಯ ಉ.ಪ್ರ.ವ್ಯ./ಎಸ್.ಸಿ. & ಪಿ.ವಿ. - ಎಂ.ಎಂ. (ಖರೀದಿ)  
 रामचन्द्र, वरि. उ.म.प्र. / एस.सी. एवं पी.वी. - एम.एम, -क्रय  
 RAMACHANDRA, SR. DGM / SC&PV. MM(PUR)  
 BHEL-EDN, MYSORE ROAD, BANGALORE-560026.

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