

**BEML LIMITED**

(Formerly BHARAT EARTH MOVERS LIMITED)
(A Govt. of India Mini Ratna Company under Ministry of Defence)
BANGALORE COMPLEX, POST BOX: 7501, NEW THIPPASANDRA POST,
BANGALORE-560075

NOTICE INVITING TENDER

BID INVITATION NO: 6300032794 dt: 30.05.2020

Subject: Manufacture & Supply of **AC Mounting Pin** required for DMRC-MRS1 project - 138 cars

Tender closing date & time: 11.05.2020@17.00 Hrs.

Quotations should be submitted online (E-mode) in BEML SRM platform in Two-Bid system as below:

- 1) Technical Bid**
- 2) Commercial Bid**

Note: Commercial bids of only technically acceptable firms will be opened and considered for further evaluation by BEML.

Please note that bidder should be having a **valid Class-III Digital Signature Certificate** issued by authorized Certifying Authority to submit bid in our SRM e-Procurement system. Interested bidders can contact BEML through e-mail: admin.srm@beml.co.in to obtain the username & password for submitting the quotations. In case of any queries, you may contact BEML SRM Team on phone no. **080-22963269**.

All Corrigenda, Addenda, Amendments, Clarifications etc if any to the tender will be hosted on BEML website www.bemlindia.in only.

Bidders should regularly visit BEML's website to keep themselves updated. No separate advertisement shall be published in the News paper in this regard.

Enclosure : As above.

Asst. General Manager
Materials Management

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Enclosure to Bid Invitation No: 6300032794**General Instructions to Bidders:**

1. This "Notice Inviting Tender" hereinafter referred to as the 'NIT' is designated as the tender for Manufacture & Supply of Subject items for **DMRC-MRS1 metro project**.

The Bidders are advised to carefully go through the General Terms and Conditions that has been enclosed along with this NIT.
 - a. This NIT is not transferable under any circumstances.
 - b. All entries in the NIT shall be in English either typed or written legibly. Erasing, over-writings and use of correction fluids are not permitted. All cancellations and insertions should be duly signed / attested by bidder concerned.
 - c. All the documents shall be uploaded in PDF Format in SRM platform.
 - d. The bidder shall **sign each and every page of tender document** before submitting the tender. No corrections/revisions will be entertained after opening the bids.
 - e. Late and/or incomplete tender shall not be considered.
 - f. Canvassing in any manner including unsolicited letters and request for post tender corrections shall render offers of such parties liable for rejection.
 - g. Bidder shall ensure that all the information & documents submitted by them are true & correct.
 - h. In case, it comes to the knowledge of BEML that the bidder has submitted false information before awarding of contract then the offer would be rejected.
 - i. In the event, it comes to the knowledge of BEML that the successful bidder has submitted false information, subsequent to the award of contract, the contract shall be cancelled/short closed by the company and shall invoke Risk purchase clause with liabilities on such bidder for the entire contract quantity. The PBG shall also be encashed as a result of consequence of breach of contract at the discretion of BEML.
2. In case any person/persons, Company, firm, Associations having any litigation, arbitration cases between themselves and BEML Ltd, pending before any court of law / Arbitrator shall not be eligible to participate in this tender.
3. Non-compliance with any of the tender conditions, incomplete offers, conditional and ambiguous offers are not acceptable and liable for rejection.
4. The bidder shall fill in all the required particulars in the blank space provided for the purpose in the tender document.
5. Please note that as per the directives from Ministry of Defense, **Class 3 Digital Signature (Signing & encryption)** is mandatory for submission of bid on our e-Procurement system. **System will not accept Class 1 or Class 2 Digital Signatures.**
6. Please note that activation of the Digital signature Token in our system happens after 12.00 midnight from the start date of the validity i.e, the next date after the Start date of the validity.
7. Hence, In case you are getting a new Class 3 Digital Signature Token or arranging renewal of the existing Class 3 Digital Signature Token, it is advisable to get the same at least three days before the due-date of the tender. Bidders are requested not to wait until the last date to upload their bid.

8. In case of any queries on Digital Signature or submission of bid in the system, please contact BEML SRM Team on 080-22963269 or e-mail to admin.srm@beml.co.in (Contact person: Mr.Krishna Mohan/Ms.Anitha)
9. All Corrigenda, Addenda, Amendments, Clarifications etc if any to the NIT will be hosted on BEML website 'www.bemlindia.com' only. Bidders should regularly visit BEML website to keep themselves updated. No separate advertisement shall be published in the News paper in this regard.
10. Fax/email quotations are not acceptable.
11. BEML reserves the right to accept or reject all tenders or any tender in part or full without assigning any reasons thereto, which is final & binding on the Bidder.
12. **The tender consists of two parts as indicated below:**

Sl. No	Nature of Bid	Mode of Submission	Details
1.	Technical Bid	E-mode (BEML SRM Platform)	<ol style="list-style-type: none"> a. Compliance to Drawings/ PTS or TDC, ERTS and ERGS as per "Annexure – II" b. Bidder particulars as per "Annexure-III" c. General terms & conditions as per "Annexure-IV"
2	Commercial Bid	E-mode (BEML SRM Platform)	Price details as per "Annexure-V" .

TECHNICAL BID SUBMISSION CONDITIONS

Technical Bid submission Conditions	<p>TECHNICAL BID (Without Price/Price Details) shall be uploaded at RFX Information →Notes and Attachments →c-Folder Attachments in the BEML SRM platform, wherein only technical Bid /technical information in BEML SRM platform shall be uploaded as indicated below:</p> <ol style="list-style-type: none"> 1. Bidders are requested to refer “DRAWINGS, PTS/TDC, ERTGS AND ERTS” as per Annexure-II of this tender document & upload the documents duly signed & stamped in BEML SRM platform along with supporting documents as specified therein. 2. Bidders are requested to refer “BIDDER DETAILS” as per Annexure-III of this tender document & upload the document/s duly filled, signed & stamped in BEML SRM along with the supporting documents as specified therein. 3. Bidders are requested to refer “GENERAL TERMS AND CONDITIONS” placed at Annexure-IV of this tender document & upload the document/s duly filled, signed & stamped in BEML SRM along with the supporting documents as specified therein. <p><u>NOTE:</u></p> <ul style="list-style-type: none"> - BEML at its sole discretion reserves the right to seek the hard copies of the documents which are already been uploaded in SRM dispatch through Courier / post pertaining to technical bid of this tender enquiry at a later date if required. - In such cases, only the documents uploaded in SRM platform has to be couriered at the request of BEML. Any irrelevant documents furnished through courier will not be considered for evaluation. - The NIT is also governed by the Public Procurement Policy – preference to ‘Make in India’ order 2017 issued by Ministry of Commerce and Industry, Government of India. It may be noted that this procurement is divisible in nature.
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TECHNICAL BID

DRAWINGS/ PTS/TDC / ERGS / ERTS - ANNEXURE – II: (To be submitted through E-mode in BEML SRM portal)

1. Documents to be uploaded in technical bid:

- (A) Clause by Clause compliance of DRAWINGS / TDC duly signed & stamped to be uploaded by bidder for the BEML Technical Delivery conditions
- (B) Bidder To Upload Enclosures Related To Technical & Other Information Deemed Appropriate In Respect Of This Tender On The Letter Head Of The Company, If Any.
- (C) Clause by Clause compliance of GTC duly signed & stamped to be uploaded by bidder in technical bid as per **Appendix-A2**
- (D) Photographs if any to be uploaded in SRM.

Note: BEML at its sole discretion may ask for the hard copies of the documents to be sent through Courier / post pertaining to technical bid of this general terms & conditions at a later stage.

2. IMPORTANT NOTES:

- (a) In case, if any Bidder /Company/Firm in connection with any contract/tender has been **blacklisted/debarred** from participating in such similar tenders by BEML Ltd or any government or public sector agencies / other reputed companies, **the same shall be disclosed in the technical bid** duly uploading with brief details authenticated in the Tenderers letter head & **technical Bids of such Bidder /Company/Firm will be REJECTED STRAIGHT AWAY by BEML LTD.**
- (b) If bidder fails to upload the above details (i.e, blacklisted/debarred) in their technical bid & if BEML Ltd finds the same at a later date during evaluation process/after finalization of the contract, BEML at its sole discretion will take following course of action:
 - If BEML arrives to know/finds regarding non-submission of above information during technical evaluation, technical bid of the respective bidder will be straight away rejected and not considered for evaluation.
 - or
 - If BEML arrives to know/finds regarding non-submission of above information after finalization of contract, the contract will be terminated duly recovering the performance bank guarantee against the contract.
- (c) In case, If, any previous contracts / purchase orders of the bidder had been short-closed /cancelled by BEML Ltd or any government or public sector agencies/ other reputed companies due to reasons of non-performance/poor performance/non-adherence to terms of the contract, the same shall be disclosed in the technical bid duly uploading with brief details authenticated in the Tenderers letter head along with respective contract copies / purchase order copies & Technical Bids of such bidders/ firms/company will be REJECTED STRAIGHT AWAY by BEML LTD.
- (d) If bidder fails to upload the above details (i.e, short-closure/cancellation of previous contracts) in their technical bid & if BEML Ltd finds the same at a later date during evaluation process/after finalization of the contract, BEML at its sole discretion will take following course of action:

- If BEML arrives to know/finds regarding non-submission of above information during technical evaluation, technical bid of the respective bidder will be straight away rejected.
or
- If BEML arrives to know/finds regarding non-submission of above information after finalization of contract, the contract of the finalized bidder will be terminated duly recovering the performance bank guarantee against the contract.

(e) Enclosures: Supporting documents to be uploaded in SRM as stated above.

(f) Vendor approval form of the technical bids provisionally accepted by BEML will be forwarded to end customer.(if required)

(g) Technical offers not complying / fulfilling the above requirements are liable to be rejected. There shall be no information from BEML in case of non-submission of any documents / information that are required to be submitted by the bidder under this Annexure. In this regard no correspondence shall be entertained.

(h) The technical bids will be evaluated by BEML. On evaluation of technically acceptable offers, BEML will submit the vendor approval documents to DMRC for approval. The decision of DMRC with regard to vendor approval is final and binding. (If required)

I / We certify that to the best of my/our knowledge, the information & particulars furnished above are true. It is understood that the information furnished will be treated as confidential and will not be divulged to unauthorized persons.

PLACE & DATE:

**SIGNATURE OF BIDDER WITH OFFICIAL
SEAL**

TECHNICAL BID**BIDDER'S PARTICULARS - ANNEXURE - III**

All the bidders to fill the below table & upload the same in BEML SRM platform along with the supporting documents specified against each point:

SL.NO	PARTICULARS	RESPONSE
1	Name of Supplier	
2	Nature of Company i.e.(Proprietor / Partnership / Pvt. Ltd. / Limited / Other) to be furnished.	
3	Attach Certificate of Incorporation / Registered Partnership Deed / Article of association applicable based on type, nature of company in BEML SRM platform	Bidders to upload supporting documents in SRM platform.
4	Year of commencement of Business	
5	Audited copies of Profit & Loss account balance sheet for preceding three financial years as certified by practicing CA firm to be furnished.	Upload enclosure (s) in SRM platform.
6	GST registration number & details to be furnished for Domestic bidders.	Details to be provided
7	Main Bank Account Number with Banker's Name, Address, Contact Number & IFS Code.	Details to be provided
8	Clause by Clause Compliance report of General Terms and Condition as per AppendixA	Upload enclosure (s) in SRM platform

I / We certify that to the best of my/our knowledge, information & belief the particulars furnished above are true. It is understood that the information furnished will be treated as confidential and will not be divulged to unauthorized persons.

PLACE :

DATE: SIGNATURE OF THE BIDDER

TECHNICAL BID

GENERAL TERMS AND CONDITIONS - ANNEXURE - IV

1. GLOSSARY, DEFINITIONS & INTERPRETATIONS

Unless otherwise stipulated herein, the following terms shall have the meanings hereby assigned to them:

- a) "Tender" means and includes Offer / Quotation
- b) "Acceptance of Tender" means the letter of memorandum communicating to the supplier, the acceptance of the Tender / offer / quote and includes an advance acceptance of tender.
- c) Equipment/Materials means goods as described in Procurement Technical Specification (P.T.S.) , which is part of tender
- d) P.T.S. means Procurement technical specification provided by the BEML.
- e) Specification means technical specifications of the Equipment / Material as set forth in Procurement technical specification (PTS or TDC) / technical drawings, which is part of tender.
- f) BEML / Company means "BEML", a company registered under the Companies Act, 2013 ("The BEML" / "The employer ").
- g) "Supplier" means a Contractor and also means a person, firm or company with whom the order for supply is placed and shall be deemed to include the Supplier's Successors, representatives, heirs, executors and administrators as the case may be unless excluded by the terms of purchase order.
- h) Representative (s) means the person (s) authorized by Supplier to perform the relevant supervision, inspection at the site if required.
- i) "Stores" means the goods and services specified in the Purchase Order.
- j) Words in singular include the plural and vice versa.
- k) Words importing the masculine gender shall be taken to include the feminine gender and words importing persons shall include any firm, company or association or body of individuals whether incorporated or not.
- l) The wording of these conditions shall not affect the interpretation or construction thereof.
- m) F.O.B. / F.D.D. is to be interpreted in accordance with the provisions of INCOTERMS 2010, unless otherwise specified in this Tender Document / Purchase order.
- n) Delivery means the date of arrival of the equipment / materials dispatched by Supplier in accordance with the terms & condition and Procurement technical specification (PTS or TDC) attached herewith.
- o) Bank means any Scheduled Commercial Bank authorized by RBI in India/Commercial Bank of supplier's country wherever applicable.
- p) **Purchase Order:**
 "Purchase Order" means and includes the invitation to tender, instructions to Tenders, tender, Record Note /Minutes of discussions / negotiations acceptance of tender/ mutually accepted points through correspondences, contract between BEML& supplier to be executed in the most approved, substantial and drawings in the quantities set forth in the purchase order on the date

or dates specified therein, general terms and conditions of Purchase Order, Special conditions of purchase order, particulars, descriptions, specifications and other conditions specified in the acceptance of tender and includes a repeat order which has been accepted or acted upon by the / for the supplier for supply of stores and includes an order for performance of service and a formal agreement, if executed. Unless otherwise specified, the equipment / material shall be entirely brand new and of the best quality with workmanship to the satisfaction of the BEML.

- q) **End-Customer / End-user means** M/s. DMRC Limited / DMRC 'MRS1 or their representative(s).
- r) **Offer:** An offer is the response from a source to a tender Enquiry. An offer is considered to be valid if it is not a late / regret / unsolicited offer. It refers to the submission of quotation by a firm in the form of price for supplying the item to the required specification and quantity or for a service to be rendered in response to an enquiry along with commercial terms.
- s) **Late Offer:** Any offer / quotation received after closing hours of due date for opening of tender will not to be considered for evaluation purposes.

2. SCOPE OF SUPPLY

The offer / supply should strictly confirm to all the technical /physical parameters indicated in the Procurement Technical Specification (PTS or TDC) /Drawings, ERGS & ERTS enclosed. The supplier shall supply and deliver the equipment/materials as under:

- a) **In case of foreign Supplier** : **F.O.B.** (Free on Board) suppliers' nearest port basis. The intimation for shipment should be provided 21 days prior to the delivery schedule .to our nominated freight forwarder and the consignment handed over to our freight forwarder before the cut-off date for sailing.
- b) **In case of Domestic Supplier** : **F.D.D.** (Free Door Delivery), BEML, Bangalore Complex, Bangalore
Strict compliance with the purchase order and the details of which are as per scope indicated in the purchase order.

3. REQUIREMENTS OF THE TENDERERS

The Bidders shall provide satisfactory evidence acceptable to the BEML to show that:-

- a) The Bidder is a licensed manufacturer, who regularly manufactures the items offered and has adequate technical knowledge with relevant practical experience.
- b) The Bidder has adequate financial stability and status to meet the obligations under the purchase order for which he is required to submit a report from a recognized bank or financial institution.
- c) The Bidder has adequate manufacturing capacity and capability to manufacture and supply the items offered within the agreed delivery schedule.
- d) The Bidder has established quality control systems and organization to ensure adequate control at all stages of the manufacturing process.
- e) In addition to the above, further information regarding his capacity, capability, if required by the BEML, shall be promptly furnished by the Bidder and would offer all facilities to representatives of the BEML for assessing capacity, capabilities by actual visit to his work place/office if required.

4. TENDER SUBMISSION CONDITIONS

- a) Bidders to ensure that offers are submitted against individual items in the tender invitation published through manual mode/BEML SRM e-procurement platform within the Closing date & time indicated therein.
- b) Offers received after the closing time and through any other mode will not be entertained.
- c) **The quotation should be kept valid for minimum period of 180 days from the tender closing date.**
- d) The price quoted should be both in figures and words. ***In case of any variation, the price indicated in words shall be considered for the purpose of tender evaluation.***
- e) Prices should be on F.O.B. (Free on Board) supplier's nearest port basis (**In case of foreign Supplier**) and F.D.D. (Free Door Delivery), BEML, Bangalore (**In case of Domestic Supplier**) and prices are to be firm till completion of supplies against the purchase order. Under any circumstances, no increase in price during the execution of the contract is admissible unless other-wise agreed specifically in the contract by the BEML.
- f) Bidders to indicate the GST and other levies applicable. GST shall be paid only after confirmation of payment of GST by vendors on GST Website.
- g) BEML reserve the right to avail the price offered for full quantity of the tender or part thereof or ignore the offer completely without assigning any reason whatsoever.
- h) Canvassing in any manner, including unsolicited letters after submission of tenders, or post tenders corrections shall render offers liable for rejection.
- i) Each page of the quotation/ offer must be numbered consecutively, should bear the tender number and should be signed by the Bidder at the bottom of the page. A reference to the total number of pages comprising the offer must be made at the top right hand corner of the first page.
- j) **Delivery indicated in the tender enquiry is to be adhered to. Delay in delivery will result in levy of Liquidated Damage charges at the rate of 0.2% of total value of the amounts apportioned to the affected delivery schedule for each calendar day of delay for first 30 days and 0.5% of the total value of the amounts apportioned to the affected delivery schedule for each calendar day of delay beyond 30 days to the maximum of 10 % of the affected delivery schedule of the purchase order.**

5. SUBMISSION OF OFFER IN TWO BID SYSTEM :

The Bidder in addition to the compliance for conditions stipulated in Tender Submission Condition (Clause 4) above has to submit the quotes/offers in two Bid Systems as given below.

(1) Technical Bid to be submitted through SRM e-procurement (without price):

Bidder should have all requisite technical details, in compliance to the PTS or TDC, ERGS, ERTS and General Terms & conditions including deliveries. Enclosures related to technical bid as called in the NIT and other information deemed appropriate in respect of this NIT must be enclosed. **Please note that technical bid should not have any prices / price details.** Offers will be rejected in case price details are indicated in the Technical Bid.

(2) Commercial bid through SRM e-procurement platform.

Commercial Bid: Should contain only Price and applicable tax details and the same should be uploaded in BEML SRM e-procurement platform. Commercial ranking will be arrived based on Landed cost of the tendered items including other charges, if any, pricing on statement of deviation.

The NIT is also governed by the Public Procurement Policy – preference to ‘Make in India’ order 2017 issued by Ministry of Commerce and Industry, Government of India. It may be noted that this procurement is divisible in nature.

- a. The bidder should indicate whether they are claiming purchase preference under Public Procurement Policy – preference to ‘Make in India’ order 2017 as per format given in **Appendix J**
- b. The local supplier means a supplier or service provider whose product or service offered for procurement meets the minimum local content of 50%.
- c. Local Content means the amount of value added in India which shall be the total value of the item procured (excluding net domestic Indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value in percent.
- d. If L-1 is not a local supplier, the lowest bidder among the local suppliers will be invited to match the L-1 price subject to local supplier's quoted price falling within the margin of Purchase preference.

6. PAYMENT

All Invoices shall be submitted in triplicate to the Stores Department along with the material as per terms of the P.O. Payment shall be recommended / arranged only when supplies are made strictly in line with the supply schedule of the P.O. Requests for piece meal payments or making staggered supplies, deviation from the supply schedule, shall not be entertained.

a) APPLICABLE TO FOREIGN BIDDERS

- i. Payment against any order will be through an irrevocable Letter of credit in favor of supplier payable on 60th day from the date of shipment. Payment will be made for 90% of the invoice value on the 60th day from the date of shipment (Bill of lading date). Balance payment of 10% will be made after receipt of Goods at BEML and on proof of receipt of complete kit without any shortages. However the balance payment of 10% shall be made not later than 120 days.
- ii. BEML agrees to establish an irrevocable letter of credit in favor of supplier thirty (30) days prior to shipment for each delivery after the finalization of the Purchase order, covering the partial amount of purchase order Delivery Quantity. The L/C confirmation charge shall be borne by the supplier if a confirmation is needed / insisted by the supplier.
- iii. Supplier shall submit design documents as specified in PTS or TDC to the satisfaction of R & D dept of BEML. A declaration to the effect that design documents as specified have been submitted to BEML, shall accompany the invoices while claiming payment against first supply. In the case of non compliance, 5% of invoice value of all subsequent supplies shall be withheld.
- iv. Supplier may note that, DLP spares as agreed between Buyer & Supplier must be supplied along with second schedule of the purchase order. In case, if supplier fails to fulfill this, Buyer will not open the LC for subsequent supplies. Any delay on account of this will be subjected to LD as per clause no: 4(k) above.
- v. All bank charges incurred in India shall be borne by BEML and all bank charges outside India shall be borne by the supplier.

- vi. Any amendment to the established LC by BEML on insistence or fault on part of the supplier, then the LC amendment charges are to be borne by the supplier.

b) APPLICABLE TO THE DOMESTIC BIDDERS

a. Please note that our terms of payment are 100% on 30th day for MSE & for others 60 days from the date of receipt of material at BEML Stores. Offers not agreeing with these terms are liable for rejection. Please indicate the category of your firm under MICRO/SMALL/MEDIUM/MAJOR INDUSTRIES for our data updating with necessary documentary proof of evidence. All direct payment shall be made by E-payment mode only.

b. Supplier may note that, DLP spares as agreed between Buyer & Supplier must be supplied along with second schedule of the purchase order. In case, if supplier fails to fulfill this, Buyer will hold payment in full for supplies made / executed already. Any delay on account of this will be subjected to LD as per clause no: 4(k) above.

The payment is further subject to the following:

- a. The Invoice shall be compliant with GST laws.
- b. GST liability is to be discharged and ensure filing of outward supply details on GSTN portal within timeline prescribed.
- c. Any debit note/supplementary invoice if any, is to be raised within September month following the respective financial year of filing of annual return by BEML, whichever is earlier.
- d. Any loss of tax credit due to the reason attributable to supplier shall be recovered from supplier along with applicable interest and penalty.
- e. Bidders to indicate the GST and other levies applicable. GST shall be paid only after confirmation of payment of GST by vendors on GST Website.

7. FIRM PRICE

The prices remain firm for the entire supplies of the purchase order and no escalation shall be entertained under any circumstances. The prices are to be firm & no increase in finalized price will be entertained after awarding contract during the period of Contract for any reasons whatsoever.

8. AUTHORITY OF PERSONS SIGNING DOCUMENT

A person signing the tender or any other document in respect of the Purchase Order shall be deemed to have power to do so on behalf of the Supplier.

9. SECRECY

- a) All the information, know-how, technical data, specification and drawing models or specimens furnished by BEML for the purpose of or in connection with the manufacture and supply of the stores hereby tendered constitute the property of BEML and the supplier shall keep them in strict confidence and he shall not divulge the same to anyone else except under the authority and for the purpose of BEML. All such documents, data, drawing, models and specimens are the property of BEML and shall be returned when done with or when demanded by BEML.
- b) The supplier shall not supply the material ordered by BEML to anyone else other than BEML and shall not disclose any initiations, development or adaptations thereof to anyone else except with the written consent of BEML.

- c) BEML shall be entitled to prevent a breach of the above and to damages in case of breach. In case of non-performance in the PO, BEML will take procurement action at your risks and cost apart from levying liquidated damages.

10. INSURANCE

APPLICABLE TO FOREIGN SUPPLIER

- i. In case of F.O.B. offers, insurance shall be arranged by the BEML from supplier port till BEML.
- ii. In case of imports of the materials, although the insurance shall be paid by the BEML, any loss or damage shall be made good by the supplier at free of cost, without waiting for the settlement of insurance claim. BEML shall reimburse the payment after settlement of insurance claim to the supplier.

APPLICABLE TO DOMESTIC SUPPLIER

- iii. In the case of indigenous offer, the suppliers will be responsible for the material to reach destination intact & the transit insurance shall be arranged by supplier on FDD, BEML, Bangalore basis.

11. COUNTER TERMS AND CONDITION

- a) Conditional offers will not be acceptable.
- b) When the bidder offers counter terms and conditions of the business, BEML shall not be governed by such terms and condition unless written acceptance has been given by BEML. Any terms & conditions uploaded in subsequent correspondence / after placement of order will not be considered by the BEML.

12. OTHER CONDITIONS

- a) BEML do not bind itself to accept the submitted tender & reserve the right to itself of accepting or rejecting the whole or any part of the tender or the quantity offered in full in part without assigning any reason thereof. Supplier will have the obligation to supply the accepted quantity at the offered rate.
- b) The supplier shall be responsible to bear all taxes, levies, duties on imports arising in his country & payable directly or indirectly in respect of goods ordered on him & shall bear all cost of stamping, painting, marking, port fees, etc., as payable on the port of loading.
- c) No representation would be entertained on any error(s) if found in the RFQ. However, vendor(s) shall bring such errors / omissions to notice of BEML for necessary corrective action(s). The vendor's time and expenses has to be borne by vendor(s).
- d) This is a highly confidential document to be circulated only to the participant(s) of the tenders issued by BEML.
- e) **Anti profiteering law:**
It is mandatory to pass on the benefit arising due to reduction in rate of tax or from input tax credit to the BEML as an anti-profiteering measure.
- f) Special conditions arising out of GST to be complied.

13. ACCEPTANCE & ACKNOWLEDGEMENT

Within 15 days of receipt of the Order, the Supplier shall forward an acknowledgement in acceptance of purchase order in whole including terms and conditions (As applicable) or otherwise of the same failing which it shall be deemed that the Purchase Order has been accepted in total.

14. QUALITY & WORKMANSHIP

The Supplier guarantees that the delivery is of good quality and free from all defects and in the case of services rendered that they are performed by skilled personnel and that new materials are used.

The Supplier guarantees that the delivery corresponds exactly with the provisions of the agreement, the reasonable expectations of BEML regarding the characteristics, quality and reliability of delivery.

The Supplier guarantees that the delivery is suitable for the purpose for which it is intended by its very nature or which is evident from the specifications listed and from the order.

The Supplier guarantees that the delivery complies with legal requirements applicable in India and other (international) Government regulations, as applicable.

The supplier guarantees that the delivery complies with the customary norms and standards in the relevant branch of trade or industry. The supplier shall be responsible for compliance with applicable technical, safety, quality, environmental requirements and other regulations in relation to his product, packaging, and raw and ancillary materials.

15. IDENTIFICATION OF ITEMS / PIECES

The supplier shall indicate BEML stock number, supplier code number and BEML PO No. and date in all delivery documents, invoices and correspondence. Also he shall emboss / engrave the supplier code no. on each item / piece at a convenient non-machinable place as per drawing, failing which the supplies are liable for rejection.

16. SUPPLY OF SAMPLE, IF APPLICABLE

Before effecting the bulk supplies, an acceptable sample shall be submitted without any obligation on the part of BEML if required / insisted as regards acceptance, payment and safe custody thereof and supplier shall obtain necessary clearance for effecting bulk supplies as per schedule of delivery. Samples so supplied shall be clearly labeled with Supplier's name, address and Purchase Order number. In respect of any certified sample sent by BEML, the supplier shall be responsible for the safe custody and return of the certified sample intact without damage, after the purpose for which it was given is served, without delay or when demanded back. Any clarification regarding submission of sample shall be obtained from concerned Inspection and Quality Control, BEML. If the supplier submits a sample whether with, before or after the tender, the same shall not govern the standard of supply except when it has been so specifically stated in the acceptance of tender.

17. DOCUMENT SUBMISSION CLAUSE**A. APPLICABLE TO FOREIGN SUPPLIER**

- a) The supplier shall make the equipment/material ready for immediate shipment according to the delivery Schedule indicated in the purchase order and hand over the equipment/material to the freight forwarding agent nominated by BEML on F.O.B. (Free on Board) supplier's port basis as applicable & specified in the purchase order.
- b) As soon as each shipment is made in line with the delivery schedule specified in the purchase order, the supplier shall send the following shipping documents to Our Banker by courier service.
 - i. Three original inks signed and six copies of signed supplier's invoice.
 - ii. Three original inks signed and six copies of signed inspection/works test certificates.
 - iii. Three original inks signed and six copies of signed packing list indicated with quantity, purchase order number, consignee name.

- iv. Three original inks signed and six copies of certificate of the country of origin issued by the concerned authorities (Chamber Of Commerce of supplier Nation)
 - v. Three original inks signed and six copies of certificate of weight & measurements.
 - vi. Three original inks signed and six copies of signed original negotiable clean on board Bill of Lading (B/L) /Air-way bill issued by the shipper.
 - vii. Three original ink signed and six Copies of certificate issued by supplier as to the compliance of order terms & completeness of supply as per order specification.
 - viii. If wood is used as packing material then six copies of Phytosanitary certificate from the concerned authorities indicating that the wood has been properly treated to be seaworthy.
 - ix. six copies of certificate indicating as under:
 - x. "This Invoice is correct in all respects and no other Invoice except the Pro-forma Invoice has been rendered previously in respect of the articles now charged herein."
- c) The ordered equipment/materials will be required to be supplied as per the delivery schedule in the purchase order. Deviation in shipment/partial supplies will not be entertained, unless otherwise mutually agreed to.
- d) SHIPPING / Letter of Credit Document Submission: **(Applicable for Foreign Bidders)**

i. **In-case of Air Shipment:**

One set of photo copy documents indicated in the clause 17.A.b. above should be sent directly by courier through fastest mode / air mail to the following address:

THE DY GENERAL MANAGER,
MATERIALS MANAGEMENT DEPARTMENT (METRO PROJECTS),
BEML, BANGALORE COMPLEX,
PB NO.7501, NEW THIPPASANDRA POST,
BANGALORE, KARNATAKA,
INDIA, POSTAL CODE - 560 075

ii. **In-case of Ocean Shipment:**

One set of Photo copy documents indicated in the clause 18.A.b. above should be sent directly by courier through fastest mode / air to the following address:

THE AGM,
BEML,
SUPRIYA ESTATE ,FLAT NO.11
GROUND FLOOR NO.3 , STERLING ROAD
NUNGAMBAKKAM
CHENNAI 600034

- e) One set of soft copy may also be emailed to metro.rm2@beml.co.in

f) **NOTE:**

The advance documents should reach the port consignee at least 15 days prior to the arrival of the vessel in case of sea shipment. if there is any accrual of demurrage/wharfage charges, either

for belated receipt of documents or for wrong physical markings on the packages / bundles, these charges will be to supplier's account.

g) CONSIGNEE DETAILS

(i) PORT CONSIGNEE

THE MANAGER,
BEML LIMITED,
SUPRIYA ESTATE ,FLAT NO.11
GROUND FLOOR NO.3 , STERLING ROAD
NUNGAMBAKKAM
CHENNAI - 600034

(ii) ULTIMATE CONSIGNEE

The Deputy General Manager,
BEML, Bangalore Complex,
PB No.7501, New Thippasandra post,
Bangalore, Karnataka, India, Postal Code - 560 075

B. APPLICABLE TO DOMESTIC SUPPLIERS:

- a) In accordance of standard practice of M/s. BEML, the supplier shall make the equipment/material ready for immediate shipment according to the purchase order and dispatch the items on F.D.D. (Free Door Delivery), BEML, Bangalore Works.
- b) As soon as each shipment is made in line with the delivery schedule specified in the purchase order, the supplier shall send **one set of Original documents and three (3) sets of photocopies** each of the following documents to the address indicated below by courier service.
 - i. Commercial Invoice
 - ii. Delivery Challan
 - iii. Packing List
 - iv. BEML's Source Inspection Team's Inspection clearance document(s), material test certificates and other applicable quality documents pertaining to the supplies.
 - v. Copy of GST Invoice.

Postal Address

The Asst General Manager,
BEML, Bangalore Complex,
PB No.7501, New Thippasandra post,
Bangalore, Karnataka, India,
Postal Code - 560 075

18. FALSE CLAUSE

- a) The prices charged for the stores supplied under this P.O by the supplier shall in no event exceed the lowest price at which the supplier sells the stores of identical description to any other BEML Office / Division during the pendency of this Purchase Order.
- b) If at any time, during the said period, the supplier reduces the sale price of such materials or sells such stores to any other buyer at a price lower than the price chargeable under this PO for the stores supplied after the date of coming into force of such reduction, shall stand correspondingly reduced.
- c) The vendor shall furnish to the consignee / paying authority concerned of this PO the following certificate along with the invoice for the supplies effected under this PO.
"I / we certify that the stores of description identical to the stores supplied to the consignee concerned under the PO have not been sold by me / us to any other BEML office / division, from the commencement of the contract up to the period of completion of delivery at a price lower than the price charged to the consignee concerned of this PO".
- d) Failure in submission of this aforesaid certificate by the supplier will result in withholding of the payment of their bills against supply, if any.

19. LIQUIDATED DAMAGES FOR LATE DELIVERY

The time and the date of delivery of the stores stipulated in the PO shall be deemed to be the essence of the Purchase order and delivery must be completed not later than the dates specified therein. The supplier shall strictly adhere to the delivery schedule indicated in the PO. Any supplies made ahead of this schedule are liable for rejection at the discretion of BEML. Should the supplier fail to deliver the stores or any consignment thereon within the period prescribed for such delivery, BEML shall be entitled:

"To accept the delayed supply and to recover from the supplier Liquidated Damage charges at the rate of 0.2% of total value of the amounts apportioned to the affected delivery schedule for each calendar day of delay for first 30 days and 0.5% of the total value of the amounts apportioned to the affected delivery schedule for each calendar day of delay beyond 30 days to the maximum of 10 % of the affected delivery schedule of the purchase order."

The penalty / LD will be charged on the value of the affected delivery schedule excluding statutory levies, freight and insurance wherever not included in the price.

20. RISK PURCHASE CLAUSE

The time and the date of delivery of the stores stipulated in the PO shall be deemed to be the essence of PO and delivery must be completed not later than the date specified therein. Shall the supplier fail to deliver the stores or any consignment thereof within the period prescribed for such delivery, BEML shall be entitled at their option either;

- a. To purchase elsewhere, without notice to the supplier on the account and at the risk and cost of the supplier the stores not delivered or other of a similar description where stores exactly comply with the description are in the opinion of BEML (which shall be final, readily procurable) without cancelling the PO in respect of consignment not yet due for delivery.
- or**
- b. To cancel the purchase order.

In the event of action being taken under clause.(a) or (b) above, the supplier shall be liable for any loss, which BEML may sustain on that account but the supplier shall not be entitled to any gain or purchases made against default. As soon as it is apparent that the scheduled dates cannot be adhered to, an application shall be sent by the supplier to BEML, well before the expiry of the delivery period specified in the purchase order. Without prejudice to the foregoing rights, if such failure to deliver in proper time as aforesaid shall have arisen from any cause which BEML may admit as a reasonable ground for an extension of the time (and their decision shall be final) they may allow such additional time as they may consider justified by circumstances of the case.

Delivery required to be made in lots shall be made in lots only and any extra deliveries involved either on account of repeated rejections or variance in supply of lots shall be liable for service charges of 5% of the purchase order value for each extra delivery.

21. INSPECTION & CONSEQUENCE OF REJECTION

- a) Maximum care shall be exercised by the supplier to avoid any rejections. Heavy or frequent rejections shall be a ground for termination of the purchase order and BEML shall be entitled for any remedy as provided in **clause-20** of these terms and conditions.
- b) In case the stores get rejected either during the initial inspection stage or during further processing stage, the rejected materials shall be arranged to be collected by the supplier at his own cost within thirty days from the date of intimating such rejection failing which the rejected material shall be disposed off at the discretion of BEML at the risk and cost of supplier. The amount paid to the supplier towards the rejected material including freight, sales tax, excise duty, insurance and any other expenses incurred by BEML in this regard shall be paid by the supplier before collecting the rejected material or the same shall be recovered / recoverable from any of the outstanding / future bills of the supplier. Any amount accrued by disposal or rejected material shall be appropriated towards the cost and expenses incurred in this regard.

22. LAWS APPLICABLE

Domestic laws both substantive and procedure, for the time being in force including modification thereto shall govern contract. The competent Domestic courts shall have sole jurisdiction over the disputes between the BEML and the supplier. The making of all stores supplied must comply with the requirements of Domestic Acts relating to trade and merchandise marks and all the rules made under such acts.

23. INDEMNITY

The supplier shall at all times indemnify BEML against all claims which may be made in respect of the stores for infringement of any right protected by patent, registration of design or trade mark and shall take all risk of accidents or damage which causes a failure of the supply. The supplier shall comply with the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules 1971 as modified from time to time wherever applicable and shall also indemnify the Company from and against any claims under the aforesaid Act and the Rules.

24. BRIBES AND GIFTS

Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the supplier or his partner, agent or servant or anyone on his or their behalf to any officer, servant, representative or agent of BEML or any person on his or their behalf in relation to the obtaining or to the execution of or any other contract with BEML shall in addition to any criminal liability which the supplier may incur, subject the supplier to the cancellation of the PO and all other contracts with BEML and also to payment of any loss or damage resulting from any such cancellation to like extent as is provided in case of cancellation under **Clause-20** hereof. Any question or dispute as to the commission of any offence under the present clause shall be settled by BEML in such manner and on such evidence of information as they may think fit and sufficient and their decision shall be final and conclusive.

25. JURISDICTION

Courts of Bangalore alone shall have jurisdiction to decide any issue / dispute arising out of the Arbitration or this Purchase Order in exclusion of all other Courts.

26. ARBITRATION

Disputes if any, arising between BEML and the supplier in connection with this Purchase Order or any other matters connected herewith, the same will be mutually discussed and settled, failing which, the disputes shall be referred to a sole arbitrator to be appointed by BEML. The arbitration / proceedings shall be in accordance with the provisions of Arbitration and Conciliation Act 1996 and Rules framed there under.

The place of arbitration shall be at Bangalore and all arbitration proceedings shall be conducted in English language. The award of the sole arbitrator shall be final and binding on all the parties.

Supply under the purchase order, if reasonably possible, may continue by mutual agreement during the dispute / arbitration proceedings.

27. FORCE MAJEURE CLAUSE

- a) Notwithstanding anything contained in the Contract, neither the Supplier nor BEML shall be held responsible for total or partial non-execution of any of the contractual obligations, shall the obligation become unreasonably onerous or impossible due to occurrence of a 'Force Majeure' conditions which directly affect the obligations to be performed by the BEML or the Supplier. Such events include war, military operations of any nature, blockages, revolutions, insurrections, riots, civil commotions, insurgency, sabotage, acts of public enemy, fires, explosion, epidemics, quarantine restrictions, floods, earthquake, or acts of God, restrictions by Govt. authorities over which the Supplier or the acts on which the BEML has no control.
- b) The party claiming to be affected by Force Majeure shall notify the other party in writing without delay, within two weeks on the intervention and on the cessation of such circumstance. Extension of time sought by the Supplier along with supporting evidence and so granted by the BEML for the supply / work affected, if any, shall not be construed as waiver in respect of remaining deliveries.
- c) Notwithstanding above provisions, BEML shall reserve the right to cancel the order / Contract, wholly or partly, in order to meet the overall delivery schedule and make alternative arrangements including arrangements with third party for completion of deliveries and other schedules. Purchase may takeover partly processed material at a mutually agreed price.

28. RIGHT TO VARY QUANTITIES

In general, BEML reserves the right to increase or decrease the quantity specified in the schedule of requirements without any change in the unit price or other terms and conditions within the agreed delivery schedule.

BEML reserves the right to decrease the quantity at any time during the pendency of contract. BEML would provide advance notice on the decrease in quantity. The period of advance notice for decrease in quantity would be mutually discussed between BEML and the supplier.

29. RAW MATERIALS ARRANGEMENT

The supplier shall make his own arrangement to procure all raw materials required and BEML shall not be responsible for any assistance in such procurement or whatsoever.

30. LANGUAGE

All documents in connection with this purchase order shall be made in English only and shall be expressed by metric system (IS System).

31. TAX CLAUSE

- a) Any tax and/or duty, which may hereafter be imposed outside India, shall be on Supplier's account. On the other hand, any tax and/or duty, which may hereafter be imposed in India, shall be on BEML's account. Notwithstanding the foregoing, tax on supervising fee and/or other training fees shall be on Supplier's account, however, it shall be withheld and paid by BEML in India on behalf of Supplier according to provisions of the corporation tax law, the local inhabitant tax law and convention between Republic of India and the respective Suppliers country, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.
- b) Where the government of the supplier's country exempts goods in export from any or all of such taxes, levies, duties on imports, the supplier shall charge the purchase price, which are exclusive of and free from such taxes, levies, and duties on imports.
- c) Any downward revision in taxes or duties imposed in supplier's country should be informed and that benefit should be passed on to the BEML.
- d) Any increase in statutory levies during the period wherein supplier has defaulted to effect supplies as per delivery schedule indicated in contract has to be borne by the supplier.
- e) HSN CODE/CHAPTER ID details are to be indicated along the applicable GST rates for the respective items.
- f) TDS (Tax deducted at source) will be applicable for domestic supplies including service purchase orders and will be deducted as per law of land. SAC (Service Account code) shall be indicated for the services /NRC that will be carried out by the supplier. Presently the applicable TDS is 2%.
- g) Tax indemnity clause to be signed and uploaded as per format attached

32. PACKING AND MARKING

- a) The Equipment/Materials shall be packed in seaworthy wooden packing conditions according to international commercial and industrial practice. The wood packaging materials should be Heat treated (HT) or Methyl Bromide (MB) fumigation, and present the mark which certifies the approved treatment on two opposite sides of the WPM. The Supplier shall apply proper anti-erosion and/or anti-rust compounds of coating, protective waterproof wrapping and/or packing, as the case may be. Supplier shall take reasonable precautions to assure that quantities, weights and identification, as stated on packing lists, are correct
- b) Marking shall include the following information in sequence on the frame commensurate with the size of package.

To: M/s. BEML, Bangalore, Karnataka State, India - 560075.

Purchase order number

Shipper's mark

Port of discharge

Package number

Identification number

Origin of equipment

Caution marks, if applicable

Net weight, gross weight and cubic measurement

33. SPARES SUPPORT

- a) Supplier will be required to support the equipments/Materials for a period of ten years from the date of receipt of last supply in respect of supply of spares & accessories.
- b) The supplier has to maintain sufficient number of good quality spares of equipment / component indicated in purchase order (At least 6 cars materials) to immediately replenish the faulty / rejected / short supplies effected to the BEML as per purchase order.

34. POST-WARRANTY SERVICE

Arrangements for after sales service and maintenance in India onsite during warranty & post warranty period should be clearly indicated providing with name, address, phone, fax, contact person, infrastructure along with spare parts inventory held by your Authorized Technical Service Centre.

35. CHANGES IN THE NAME OF FIRM

- a) Where the supplier is a partnership firm, a new partner shall not be introduced in the firm except with the previous consent in writing of the BEML, which may be granted only up of the execution of a written undertaking by the new partner to perform the purchase order and accept all liabilities incurred by the firm under the purchase order prior to the date of such undertaking. In the event of the supplier's failure to be compiling with this requirement, it shall be lawful for the BEML to cancel the purchase order and purchase or authorize the purchase of the materials at the risk and cost of the supplier.

- b) On the death or retirement of any partner of the supplier before complete performance of the purchase order, the BEML may cancel the purchase order and in such case the supplier shall have no claim whatsoever to compensate against the BEML.
- c) If the purchase order is not determined as provided in sub point (b) above notwithstanding the retirement of a partner from the firm he shall continue to be liable under the purchase order for acts of the firm until a copy of the public notice given by him under the section 32 of the Domestic Partnership Act, has been sent by him to the BEML by registered post acknowledgement due.
- d) The decision of the BEML as to any matter or thing concerning or arising out of this sub-clause or on any question whether the supplier or any partner of the Supplier firm has committed a breach of any of the conditions in this sub clause shall be final and binding on the supplier.

36. MODIFICATION, ADDITION AND AMENDMENTS:

No modification, addition and/or amendment in the terms hereof shall bind on the BEML& supplier herewith unless these are expressed in writing and duly agreed upon by the BEML& supplier herewith.

37. ASSIGNMENT OF THIRD PARTY:

The supplier shall not be entitled without M/s. BEML consent to assign or transfer to a third party all or part of the benefits or obligations of this tender/purchase order. The BEML have right to accept / decline any such proposals from the supplier without expressing in writing.

38. INVOLVEMENT OF ANY AGENT AND MIDDLEMEN

- a) No involvement of agents or middlemen in India or abroad, except those accredited by ministry of defense, Government of India, in any capacity whatsoever is permitted at any stage in relation with this tender and the resultant purchase order.
- b) Supplier shall confirm that he has not appointed any agent in India to promote the purchase order and that no commission etc is payable to any such agent in connection with this purchase order. Supplier shall also confirm that he has neither paid nor will pay any commission, fee or any such charges to any agent in connection with the award and execution of this purchase order. It should be subsequently proved that such a commission, fees or charges has been paid, contrary to the foregoing, buyer shall be entitled to terminate this purchase order forthwith. The buyer shall also be entitled to recover from the seller an amount equal to the commission, fee or any such charge proved, for have been paid.

39. INFRINGEMENT OF PATENTS

The Supplier shall defend and indemnify the BEML against any claims, costs or expenses incurred by reason of any infringement of alleged infringement of any letters, patent, registered design, trademarks or trade name by the use of sale of the equipment/material and against all costs or damages which the BEML may undergo in legal action for such infringement or for which the BEML may become liable in any such action.

40. SUPERVISION, TECHNICAL ASSISTANCE AND SERVICE SUPPORT

- a) When the Supplier is requested by the BEML through phone, fax, E-mail or in written letter, the Supplier shall, free of charge immediately as soon as possible send relevant supervisor to supervise, advise and cooperate with staff of BEML regarding installation, fitting, normal operation and other necessary technical matters of equipment / Materials (including Saturday and Sunday, if necessary). The firms representative shall bring with him the necessary working implements such as tool, test equipment etc. It is the responsibility of the supplier for training BEML personnel in Installation, commissioning & testing at free of cost for 2 train sets at BEML, Bangalore as well as at DMRC 'MRS1' / MMRDA Depot
- b) During the execution of the contract by the contractor, if the BEML(**"BEML"**) raises the call for deputation of the representative of the contractor (**"The supplier"**) reasoning the investigations pertaining to technical fault of the item supplied / installation problem(s) / rework / repair / short supplies / wrong supplies / materials supplied found to be defective or fails to fulfill the requirements of the PO, BEML shall give the supplier notice setting forth details of such defects or failure, and the supplier shall forth with make the defective as good, or after the same to make it comply with the requirements of the PO. Should he fail to do so within a reasonable time not later than 48 hours from the date & time of official intimation from BEML.
- c) BEML reserves right to take alternative action(s) and may reject and replace at the cost of the supplier whole or any portion of the plant at the risk & cost of supplier, as the case may be which is defective or fails to fulfill the requirements. In this regard, BEML reserves rights to en-cash performance bank guarantee executed by supplier in full or in part(s) to serve the purpose of the equipment / component.
- d) The supplier is responsible for deputation & safety of contractor's representative to BEML's works / designated location(s) with necessary tool / instruments to investigate and rectify the issues informed by BEML. BEML is not responsible and accountable for any charges / cost incurred by the supplier regarding deputation of representative to BEML works. The personnel so deputed for carrying out the work should comply all safety regulations and have valid EST registration.

41. SAFETY ASSURANCE

- a) Safety is defined as freedom from those conditions that can cause death, injury, occupational illness or damage to or loss of equipment or property, or withdraw the train from service. So all equipment & systems including software, affecting train safety & the safety of train crew and passengers & or identified as being **"VITAL"** shall be designed according to following principles.
- b) Only such components having a high reliability& predictable failure mode shall be used.
- c) Components must be utilized in such a manner that ensures a restrictive condition rather than a permissive condition which will result from component failure.
- d) Circuits shall be designed such that when a normally energized electric circuit is interrupted or de energized, it will cause the controlled function to assume its most restrictive condition.
- e) System safety equipment design must be such that any single independent component or sub-system failure results in a restrictive condition. Failures that are not independent and those

failures which in turn, always, cause others must be considered in combination as a single failure and must not cause a permissive condition.

- f) The supplier should carry out Hazard analysis in accordance with EN 50126-1 primarily or any other international standard in area adequately not addressed by former standard. The supplier shall submit Hazard resolving method to BEML for disposal purpose according to Domestic Environmental standard.

42. LIMITATION OF LIABILITY AND PRODUCT LIABILITY

- a) Supplier shall assume responsibility for, indemnify and hold BEML and BEML's sub-contractors harmless from and against any liabilities, product liabilities, action, demand arising out of death of or injury to any person or damage to any property to have resulted from the defects of the ordered parts which are installed in BEML and BEML sub-contractors' rolling stocks either as original equipment or as spare parts and replacement parts under the control of this agreement. The total liability of the bidder to BEML under the Purchase order shall not exceed the total purchase order value including Service Purchase orders, if any. However, this clause shall not limit the liability of the contractor under any other provisions of the contract which expressly impose a greater liability.
- b) Supplier further agrees to obtain an insurance coverage from reputable insurers in furtherance of this obligations stipulated herein. Supplier shall provide to purchase certificate of such insurance at BEML's request. In defending any claims or actions, the parties shall consult and cooperate with each other to protect the integrity of the ordered parts. Supplier shall promptly give notice of any claims or actions and investigate accidents involving any defect in the ordered parts to BEML.

43. CONFIDENTIAL AGREEMENT:

- a) The Contractor or his employees or agent or anybody engaged by the Contractor to execute the work shall maintain utmost faith and confidentiality of all information and documents come into their possession or knowledge and shall not divulge such information to any third parties, in any case, without prior written consent of BEML.

In case of placement of purchase order by BEML, the supplier has to execute the CONFIDENTIALITY AGREEMENT in plain paper as per prescribed format by BEML (**Refer Appendix E**) and shall be issued within 45 days from the date of issuance of purchase order by BEML but not later than 30 days before the first delivery schedule indicated in the purchase order.

- b) BEML must be entitled to prevent breach of the confidentiality agreement & to claim damages in case of any breach. It is hereby mutually agreed that for breach of this agreement, the supplier shall pay without actual proof of damages, a liquidated amount of INR 1,00,00,000.

44. NON-COMPETITION AGREEMENT:

In case of placement of purchase order by BEML, the supplier has to execute the NON-COMPETITION AGREEMENT in plain paper as per prescribed format by BEML (**Refer Appendix D**) and shall be issued within 45 days from the date of issuance of purchase order by BEML but not later than 30 days before the first delivery schedule indicated in the purchase order.

45. DEFECT LIABILITY PERIOD & SPARES SUPPORT:

- a) The Defect Liability period shall start from commissioning of first train upto 24 months from the date of taking over of the last train after its introduction into revenue operation. Thus, the duration of various trains under DLP shall vary. **The taking over of last train set includes the last train set of increased quantity, if quantity variation option is exercised by DMRC 'MRS1' on BEML.**
- b) **The supplier shall be responsible for any defect or failure attributable to defective design, material or workmanship during the warranty period. The supplier shall also ensure that the technical support is made available through permanent positioning of supplier's staff at Depots for meeting DLP obligations.**
- c) The warranty period of unit exchange, mandatory and overhauling spares, special tools, testing and diagnostic equipment, special jigs, fixtures and gauges, simulators or any other item shall be delivered
 - i. either 24 months from the date of acceptance
 - or
 - ii. upto expiry of the defect liability period of trains whichever is **later**.
- d) The repair and replacement of failed components and equipment and installation of repaired / replaced components / equipments shall be undertaken by the supplier free of charge at site. The supplier shall bear custom duty, freight charges and all other expenses involved in collection of defective components and equipment from the site and transportation to the manufacturers work in India or abroad for repairs/update/modification etc. as the case may be and its return to site after making it good for use. Further, should any design modification be required to any component or equipment as a consequence of failure analysis, the minimum period of warranty i.e., 24 months shall recommence from the date when modified part is commissioned in to service and modification shall be carried out free of charge. In all such cases, warranty will be applicable on complete sub-assembly, even when only component has been modified/replaced/repared due to design change.
- e) All replacement and repairs under the warranty shall be carried out by the Contractor promptly and to the complete satisfaction of the Engineer on notification of the defect by the Engineer or his/her authorised representatives so that no car is unfit for revenue service for more than 48 hours, which shall exclude time taken for withdrawal/induction of trains from/to revenue services. In case any train remains out of revenue operation beyond specified duration above due to reasons attributable to contractor, Engineer with the approval of the Employer may at his sole discretion impose a penalty on the contractor, commensurate with the revenue and opportunity loss to the Employer. Decision of Employer shall be final and binding.
- f) The supplier shall enclose the list of commissioning & D.L.P. Spares with item description and quantity along with the technical bid and the same will be uploaded for end customer for approval. The List of items approved by end customer are to be stocked at end customer's designated depot during the warranty period at free of cost including all duties (DDP Basis for Foreign bidders / F.D.D. for Domestic suppliers) so as to use the same by end customer during break down of equipment without binding to BEML. The item which is used by end customer should be replenished by the supplier at free of cost including all duties (DDP Basis for Foreign bidders / F.D.D. for Domestic suppliers) at the earliest as end customer will carry out auditing once in 3 months.
- g) **The supplier has to submit separate list of D.L.P spares to be positioned at designated depot along with the technical bid. The list will be forwarded for customer approval and if the**

customer insists for placement of additional DLP spares apart from the DLP spares proposed by the supplier the same has to be positioned at designated depot without extra cost.

The firm to indicate prices against each DLP item in commercial bid. This is applicable only for the purpose of customs clearance from customs authorities in India & for documentation purpose and not for making any payment. The prices indicated should be valid till defective liability period of original equipment supplied

In case, if supplier requires taking back the unused DLP spares after completion of DLP period, the same will be handed over only after receipt of expenses incurred by BEML plus any other incidental charges.

46. REJECTION REPLACEMENT:

In case, if material supplied by the vendor have been rejected through NCR (Non Confirmatory Report) /PDO (Parts Disposition Order) on account of Manufacturing defects at any stage from the date of receipt of material at BEML Ltd till completion of the warranty period, the same will be communicated to the vendor, wherein vendor is liable for rectification of defective part (or) providing replacement within 48 hours from the date & time of communication on DDP (in case of foreign suppliers) / FDD (in case of Domestic suppliers) without claiming any cost from BEML.

In case, vendor fails to rectify defective part (or) supply the replacement within 48 hours, BEML is entitled to procure the same on its own and recover the cost from vendor bills including cost towards any downtime in production.

The rejected material will be handed over to the vendor (either at BEML works/respective depots) only on receipt of replacement against rejections. Necessary arrangement for collecting the rejected materials & transportation should be arranged by the vendor. Further, vendor is liable for submitting the Investigation report/failure analysis and the remedies for overcoming such failures for all other material supplied by the firm.

47. CUSTOMS DUTY ON INPUT CONTENT IMPORTED BY DOMESTIC BIDDERS TO MANUFACTURE TENDERED ITEMS:

Customs Duty Exemption certificate/Deemed Export/Project Import Registration (PIR) as per Government of India Notification 84/97-Customs shall be provided for availing Customs Duty exemption for all the imported goods, which are required for manufacturing of MRS1 metro cars.

48. KEY DELIVERY DATES

Delivery is the essence of contract. The key delivery dates including completion of Design documentation, supply of prototype, bulk supply, Depot testing and commissioning is provided at **APPENDIX I**. The delivery key dates are to be considered for calculation of Warranty / DLP.

49. STATEMENT OF DEVIATIONS FROM THE ABOVE GENERAL TERMS AND CONDITIONS:

The supplier shall provide statement of deviations, if any, for any of the 50 points enumerated above as per the table given at **APPENDIX H**.

The following points may please be noted while filing the "Statement of Deviations"

- i. All deviations / comments / remarks indicated in the COMPLIANCE REPORT or ELSEWHERE either implicit or explicit shall be treated as "NULL & VOID" if the deviations are not

mentioned in the Table of Statement of Deviations. Therefore the deviations the bidder intends to seek in the General Terms and Conditions shall be mentioned in the Table of Statement of Deviations.

- ii. The bidder shall confirm the pricing for unconditional withdrawal of the deviations as stated in point (i) above in the Commercial bid. **Each and every deviation shall be priced.**
- iii. No price details should be indicated in the technical bid.
- iv. **The pricing of each and every deviation shall be considered in the evaluation of price bids to arrive at L1 status.**

50. INTEGRITY PACT:

All bidders intending to participate in this NIT should upload **"INTEGRITY PACT AGREEMENT"** as per **"APPENDIX- F"** as part of technical bid in BEML SRM platform duly signed and stamped on or before the closing date of this tender. (Value > Rs. 1 Cr)

The Integrity Pact envisages an agreement between the prospective tenderer and the buyer committing the persons/officials of both the parties not to exercise any corrupt influence on any aspect of the contract.

Technical offers of only those tenderer that have entered into an **"Integrity Pact"** agreement with BEML would be eligible for further evaluation of technical bid. **The agreement shall be in full as per format enclosed on a plain A4 size paper duly signed & stamped on all pages.**

The specimen of the Integrity Pact agreement which is part of NIT documents is enclosed at **Appendix F.**

THE "INTEGRITY PACT" SHALL BE EXECUTED IN FULL AND NO DEVIATION WHAT SO EVER SHALL BE ENTERTAINED.

This pact begins when both parties have legally signed it. It expired for the contractor 12 months after the last payment under the contract and for all other bidders 6 months after the contract is awarded.

51. ACCEPTABLE CURRENCIES:

Price should be quoted in any of the following currencies only.

- i) INDIAN RUPEE (INR)
- ii) EURO (EUR)
- iii) JAPANESE YEN (JPY)

Offers of bidders quoting in **any other currencies will not be considered** and will be summarily rejected.

52. WARRANTY PERIOD:

All the stores supplied shall be warranted against any defect in material, workmanship, design or dimension etc., for a period of **24 months** from the date of taking over of the last train (504th car) after its introduction into revenue operation and the supplier shall remedy such defects at his / their own cost or replace free of charge such stores when called upon to do so by BEML and BEML shall state in writing the nature of defects of the stores. Taking over of the 504th car will be tentatively during August 2023 (**warranty period till August 2025 tentatively**).

53. PERFORMANCE BANK GUARANTEE:

- a) The supplier shall establish **single performance bank guarantee** in the prescribed format issued by BEML (**ANNEXURE C**) herewith through any scheduled commercial Bank authorized by RBI to the amount equal to ten percent (10%) of the purchase order price to guarantee performance of the equipment/ material against purchase order in favor of the BEML, to be executed and submitted, which should be **valid for the entire warranty period with additional 3 months claim period**.
- b) The performance bank guarantee has to be furnished by the supplier as per prescribed format covering the entire supplies to be made against this order within 60 days from the date of receipt of purchase order from BEML but not later than 30 days before commencement of supplies pertaining to first delivery schedule indicated in the purchase order.
- c) In the absence of performance bank guarantee to be submitted by the supplier as per contract terms, BEML will not open Letter of Credit in favor of supplier pertaining to the shipment / stores to be supplied as per first delivery schedule indicated in the purchase order. Any delay in submission of performance bank guarantee by the supplier, the subsequent delay in opening in Letter of Credit by BEML and supplies to be effected by the supplier are to the account of the supplier, which attracts liquidated damage charges as per contract terms.
- d) The performance bank guarantee will be released automatically after the expiration of warranty period, if there are no defects claims. If successful final acceptance cannot be completed within the validity of the performance bank guarantee bond, the supplier shall be responsible for extending the validity of the bond as advised by BEML.
- e) Bank Guarantee executed by foreign supplier to be counter guaranteed by any scheduled commercial bank authorized by RBI without which the bank guarantee will be treated as invalid. Bank Guarantee can also be executed by supplier through any commercial bank authorized by RBI.
- f) In case of any performance bank guarantee executed by Domestic supplier, the same must be executed only through scheduled commercial bank authorized by RBI excluding Regional Rural Banks / Co-operative Banks.
- g) In respect of Performance Bank Guarantee, the amount of Guarantee shall be enhanced to include the amount of interest, if any, recoverable from supplier payable to Bank.
- h) No claim shall lie against BEML in respect of interest on Cash Deposits or Govt. Securities or depreciation thereof
- i) BEML shall be entitled to and it shall be lawful on its part to encash the Bank Guarantee in whole or in part in the event of any default, failure or neglect on the part of the supplier in the fulfillment or performance either in full or in part of the Purchase Order. The decision of BEML in this regard shall be final and binding on all concerned.
- j) In case BEML is constrained to extend the Performance Bank Guarantee beyond the DLP period submitted to its customer due to the failure of aggregates attributable to the supplies made by the bidder then the costs involved to BEML for such PBG extensions shall be borne by the supplier. In case the reasons for extension of PBG submitted by BEML beyond DLP period is attributable to more than two aggregates then the cost would be proportionately recovered from the respective suppliers based on the value of supplies per car.
- k) The Bank Guarantee must be issued on the **Structured Financial Messaging System (SFMS)** platform.
- l) A separate copy of the BG has to be sent by the issuing bank to the Employer's bank through SFMS. The details of Employer's bank are as under:

STATE BANK OF INDIA

**Overseas Branch, No.65,
St. Marks Road,
Bangalore – 560001
IFSC Code: SBIN0006861**

- m)** Following codes are to be used by issuing bank for the purpose of Confirmation and amendment in Bank Guarantees:

Code	Purpose
MT760	Confirmation of Bank Guarantee
MT767	Amendment in Bank Guarantee

- n)** Bank Guarantee issued on the SFMS platform with any other code other than mentioned above for the purpose shall not be acceptable to the Employer.
- o)** In respect of Performance Bank Guarantee, the amount of Guarantee shall be enhanced to include the amount of interest, if any, recoverable from supplier payable to Bank.
- p)** No claim shall lie against BEML in respect of interest on Cash Deposits or Govt. Securities or depreciation thereof.
- q)** BEML shall be entitled to and it shall be lawful on its part to encash the Bank Guarantee in whole or in part in the event of any default, failure or neglect on the part of the supplier in the fulfillment or performance either in full or in part of the Purchase Order. The decision of BEML in this regard shall be final and binding on all concerned.

ANNEXURE-V**COMMERCIAL BID**

Bidders to strictly comply the instructions given below during submission of Price bid in BEML SRM Portal:

1. Bidders to submit only Price and applicable tax details in BEML SRM e-procurement platform.
2. The NIT is also governed by the Public Procurement Policy – preference to ‘Make in India’ order 2017 issued by Ministry of Commerce and Industry, Government of India. For full details, bidders can download from website: <http://dipp.nic.in/whats-new/public-procurement-preference-make-india-order-2017>.
3. Commercial ranking will be arrived based on Total Landed cost of the all tendered items, including other charges, if any, pricing on statement of deviation. Landed cost would be arrived by considering the following components.

For Indian /Local Vendors: (Landed cost calculation)

- 1) The firm to quote for unit price including packing and forwarding charges.
- 2) Local freight 1.5% of Basic price (including packing charges + taxes) would be added to unit price, if firms does not agree for BEML standard delivery terms of FOR BEML BANGALORE COMPLEX.
- 3) GST as applicable at the time of submitting the quotation.
- 4) Loading interest for payment terms: if firms does not agree for BEML standard payment terms of 60 days credit from the date of receipt and acceptance of material at BEML. The interest would be added @ 12% per annum.

For Foreign Vendors : (Landed cost calculation)

- 1) Prices should be on F.O.B. (Free on Board) supplier's nearest port basis only. If firm does not agree for FOB terms then those quotation would be summarily rejected. This conditions to be complied in GTC and uploaded along with Technical Bid.
- 2) Further on the FOB price, cost insurance freight (CIF) would be added to arrive at CIF prices @3% on FOB charges and Local freight would be added @1.5% on CIF.
- 3) Loading interest for payment terms if not agreed as per BEML standard payment terms of 100% by an irrevocable Letter of credit in favor of supplier payable within 60 days from the date of shipment @ 12% per annum would be added.
- 4) Customs duty if any for clearing the consignment at customs at the prevailing rate at the time of submission of quotation.
4. Statement of Deviations: Bidders may indicate lump sum price of Statement of Deviations as defined/specified in BEML GTC under specified line item in SRM portal. The detailed break-up of Statement of Deviation to be provided in the text.
5. The price bid to be submitted through e-mode on BEML SRM system. The following details are to be entered in the item data in SRM.

Table (1)

SL. NO.	Part Number	Description	Total Qty in Nos/ 138 cars
1	52546179	A/c Mounting Pin	552
	**	Total Deviation Charges for complying to BEML GTC (138 cars =1 SET) (Statement of Deviations)	1 SET

PROJECT- MRS1 -60 CARS

- L-1 will be arrived on Total Landed value.
- ** Any additional cost incurred for complying with the BEML GTC terms to be indicated in the deviation cost in SRM. This Cost will be added to the total extended value for arriving at the L1 Status. This implies that the firms participating in the tender has agreed to all the terms of GTC.

APPENDIX – A2**COMPLIANCE REPORT**

(To be submitted along with Technical Bid)

Bid Invitation No :**Firm** :**Item details** :

Sl. No.	Terms / Clause	Complied	Not Complied	Remarks
1.	GLOSSARY, DEFINITIONS & INTERPRETATIONS			
2.	SCOPE OF SUPPLY			
3.	REQUIREMENTS OF THE TENDERERS			
4.	TENDER SUBMISSION CONDITION			
5.	SUBMISSION OF OFFER IN TWO-BID SYSTEM			
6.	PAYMENT			
7.	FIRM PRICE			
8.	AUTHORITY OF PERSONS SIGNING DOCUMENT			
9.	SECRECY			
10.	INSURANCE			
11.	COUNTER TERMS AND CONDITION			
12.	OTHER CONDITIONS			
13.	ACCEPTANCE & ACKNOWLEDGEMENT			
14.	QUALITY & WORKMANSHIP			
15.	IDENTIFICATION OF ITEMS / PIECES			
16.	SUPPLY OF SAMPLE, IF APPLICABLE			
17.	DOCUMENT SUBMISSION CLAUSE			
18.	FALSE CLAUSE			
19.	LIQUIDATED DAMAGES FOR LATE DELIVERY			
20.	RISK PURCHASE CLAUSE			

Authorized signatory with company seal / stamp

COMPLIANCE REPORT

(To be submitted along with Technical Bid)

R.F.Q. Reference :

Firm :

Item details :

Sl. No.	Terms / Clause	Complied	Not Complied	Remarks
21.	INSPECTION & CONSEQUENCE OF REJECTION			
22.	LAWS APPLICABLE			
23.	INDEMNITY			
24.	BRIBES AND GIFTS			
25.	JURISDICTION			
26.	ARBITRATION			
27.	FORCE MAJEURE CLAUSE			
28.	RIGHT TO VARY QUANTITIES			
29.	RAW MATERIALS ARRANGEMENT			
30.	LANGUAGE			
31.	TAX CLAUSE			
32.	PACKING AND MARKING			
33.	SPARES SUPPORT			
34.	POST-WARRANTY SERVICE			
35.	CHANGES IN THE NAME OF FIRM			
36.	MODIFICATION, ADDITION AND AMENDMENTS			
37.	ASSIGNMENT OF THIRD PARTY			
38.	INVOLVEMNET OF ANY AGENT AND MIDDLEMEN			
39.	INFRINGEMENT OF PATENTS			
40.	SUPERVISION, TECHNICAL ASSISTANCE AND SERVICE SUPPORT			

Authorized signatory with company seal / stamp

APPENDIX A2**COMPLIANCE REPORT**

(To be submitted along with Technical Bid)

R.F.Q. Reference :**Firm :****Item details :**

Sl. No.	Terms / Clause	Complied	Not Complied	Remarks
41	SAFETY ASSURANCE			
42	LIMITATION OF LIABILITY AND PRODUCT LIABILITY			
43	CONFIDENTIAL AGREEMENTS			
44	NON COMPETITION AGREEMENT			
45	DEFECT LIABILITY PERIOD & SPARES SUPPORT			
46	REJECTION REPLACEMENT			
47	CUSTOMS DUTY ON INPUT CONTENT IMPORTED BY DOMESTIC BIDDERS			
48	KEY DELIVERY DATES			
49	STATEMENT OF DEVIATION			
50	DIVISION OF PATRONAGE			
51	INTEGRITY PACT			
52	ACCEPTABLE CURRENCIES:			
53	WARRANTY PERIOD			
54	PERFORMANCE BANK GUARANTEE			

Authorized signatory with company seal / stamp

APPENDIX B**CONTACT DETAILS OF THE SUPPLIER****(To be filled and submitted by supplier along with the technical bid)****1) Contact Person details in Marketing Office**

- (a) Name :
- (b) Designation :
- (c) Telephone :
- (d) Fax :
- (e) Mobile :
- (f) Email :

2) Head Office :**3) Complete address including the website :****4) Details of the proposed plant from where item is to be supplied :****5) Complete address of the Plant including Website :****6) Contact person details in plant**

- (a) Name :
- (b) Designation :
- (c) Telephone :
- (d) Fax :
- (e) Mobile :
- (f) Email :

7) Bank Details: (Will used during L/C Execution)

- a) Name of the Bank :
- b) Full Address of the Bank :
- c) Suppliers Account Number and Type :
- b) IBAN No :
- e) Swift Code :

PERFORMANCE BANK GUARANTEE

Bank Guarantee No.....
Dated
Amount
Valid upto
Claim upto

The General Manager (Materials- Management)
BEML
Bangalore Complex
PB No 7501
New Thippasandra
Bangalore 560075

1. This deed of Guarantee made this day of.....(Month & year) between Bank of.....(Hereinafter called the "Bank") of the one part, and BEML LIMITED (Hereinafter called "the Employer") of the other part.
2. Whereas BEML LIMITED has awarded the contract for.....(Name of work as per PO) (Hereinafter called the "Contract") to.....(Name of the Contractor) (Hereinafter called "the Contractor").
3. AND WHEREAS the Contractor is bound by the said Contract to submit to the Employer a Performance Security for a total amount of.....(Amount in figures and words).
4. Now, We the Undersigned.....(Name of the Bank) being fully authorized to sign and to incur obligations for and on behalf of and in the name of.....(Full name of Bank), hereby declare that the said Bank will guarantee the Employer the full amount of Rs.....(Amount in figures and words) as stated above.
5. NOW THEREFORE, We hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor and we hereby unconditionally, irrevocably and without demur undertake to immediately pay to the Employer upon first written demand and without cavil or argument, any sum or sums within limit of.....(Amount of Guarantee) as aforesaid without reference to the Contractor and without your needing to prove or show grounds or reasons for your demand for the sum specified therein. The Bank shall pay to the Employer any money so demanded notwithstanding any dispute/disputes raised by the Contractor in any suit or proceedings pending before any Court, Tribunal or Arbitrator/s relating thereto and the liability under this Guarantee shall be absolute and unequivocal.

6. This Guarantee is valid till.....(The initial period for which this Guarantee will be valid must be for at least 6-months (six months) longer than the anticipated expiry date of defect liability period as stated in Clause 46 & Warranty period as stated in Clause 47 of Annexure V - Notice Inviting Tenders..
7. At any time during the period in which this Guarantee is still valid, if the Employer agrees to grant a time extension to the Contractor or if the Contractor fails to complete the Works within the time of completion as stated in the Contract, or fails to discharge himself of the liability or damages or debts as stated under Para 5, above, it is understood that the Bank will extend this Guarantee under the same conditions for the required time on demand by the Employer and at the cost of the Contractor.
8. The Bank agrees that no change, addition, modification to the terms of the Contract Agreement or to any documents, which have been or may be made between the Employer and the Contractor, will in noway release us from the liability under this Guarantee; and the Bank, hereby, waives any requirement for notice of any such change, addition or modification to the Bank.
9. The Guarantee hereinbefore contained shall not be affected by any change in the Constitution of the Bank or of the Contractor.
10. Theneglector forbearance of the Employer in enforcement of payment of any moneys, the payment whereof is intended to be hereby secured or the giving of time by the Employer for the payment thereof shall in noway relieve the bank of their liability under this deed.
11. The expressions "the Employer", "the Bank" and "the Contractor" hereinbefore used shall include their respective successors and assigns.
12. Notwithstanding anything contained herein:
 - (a) Our liability under this Bank Guarantee shall not exceed Rs. (Rs.)
 - (b) This Bank Guarantee shall be valid upto
 - (c) We are liable to pay the Guarantee amount or part thereof under this Bank Guarantee only & only if you serve upon us a written claim or demand on or before

In witness whereof I/We of the bank have signed and sealed this Guarantee on the.....dayof.....(Month&year)beingherewithdulyauthorized.

Forandonbehalfofthe.....Bank.

SignatureofAuthorizedBankofficials.

Name :.....

Designation

Stamp/Sealofthe Bank.....

Signed,sealedanddeliveredforandonbehalfoftheBankbytheabovenamed.....in thepresenceof:

Witness1.Witness2.Signature.....

Signature..... Name.....

Name..... Address.....Address.....

NON-COMPETITION AGREEMENT

(To be executed on plain paper and to be submitted along with the technical bid)

THIS NON COMPETITION AGREEMENT is made and executed on this the.....day ofat Bangalore **BETWEEN** M/s BEML Ltd, a Government of India undertaking, having its Registered office at No.23/1, “BEML SOUDHA”, 4th Main Road, Sampangiram Nagar, Bangalore – 560 027 (hereinafter called “**BEML**”) and manufacturing units at Kolar Gold Fields, Mysore and Bangalore, which expression shall unless repugnant to the subject or context thereof mean and include its representatives, administrators, successors and assigns etc of the **FIRST PART**.

AND

M/s.....Company, with its Registered Office at..... and manufacturing unit at.....represented by their Shri..... a lawful Attorney, residing at.....(hereinafter called “**VENDOR**”) which expression shall unless repugnant to the subject or context thereof mean and include its representatives, administrators, successors and assigns etc of the **SECOND PART**.

NOW THIS AGREEMENT WITNESSETH AND IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS UNDER:

Whereas, BEML will place Purchase Order No.....Dated.....on the **VENDOR** for supply of which products are exclusively manufactured to the designs and specifications of BEML.

In pursuance of the placement of the above Purchase Order on M/s.....or M/s.....or any other Authorized Dealer / Distributor of or any person authorized bythe **VENDOR** hereby agree and undertake not to quote or supply.....to any other parties in India and as such the **VENDOR** is prohibited to quote or supply the products specified in the instant Agreement. In contravention of this term, The **VENDOR** or any other Authorized Dealer / Distributor / Agent of or any person authorized by the **VENDOR** were to quote and supplyto any other parties in India and / or abroad, BEML would, **after giving a reasonable opportunity to explain such quote and supply** be entitled to levy a penalty to the extent of loss occasioned to BEML.

This Non-Competition Agreement will be valid for a period of five years from the date of placement of Purchase Order by BEML on the **VENDOR** and for all Government / Quasi-Government companies in India and all non-Government Companies in India and abroad.

Disputes if any, arising between the parties in connection with this Non-Competition Agreement or any other matters connected therewith, the same will be mutually discussed and settled, failing which, the disputes shall be referred to a Sole Arbitrator to be appointed by BEML. The Arbitration proceedings shall be in accordance with the provisions of Arbitration and Conciliation Act, 1996 and Rules framed thereunder. The place of Arbitration shall be at Bangalore and all Arbitration proceedings shall be conducted in English language and governed by the above said Act and Rules framed thereunder. Courts at Bangalore shall alone have sole jurisdiction to decide any issue arising out of the Arbitration or this Non-Competition Agreement.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET THEIR RESPECTIVE HANDS AND SEALS ON THE DAY, MONTH, AND YEAR FIRST ABOVE WRITTEN.

For BEML

For M/s.

WITNESS:

1.

1.

2.

2.

CONFIDENTIALITY AGREEMENT

(To be typed on plain paper and submitted along with the technical bid)

This Confidentiality Agreement is made and entered into between M/s BEML, (hereinafter referred to as BEML), a Govt. of India Undertaking under Ministry of Defence, having its Registered Office at BEML Soudha, No.23/1, 4th Main, Sampangirama Nagar, Bangalore – 560 027 and M/s ----- (hereinafter referred as XXXX) having its Registered Office at..... M/s. BEML, has been patronizing XXXX for components / spares listed in Annexure hereto. A need has been felt to revitalize the business relationship for mutual advantage.

- 1) It is mutually, therefore, agreed that the following shall form part of the terms and conditions for continued business:
 - a) The supplier shall not divulge to anyone else except under the authority and for the purposed of BEML, all information such as technical data, specifications, drawings, models of specimens furnished / supplied by BEML for the purpose of manufacture or in connection with developmental activities, constitute the property of BEML and the supplier shall keep them in strict confidence. This has been explicitly stated in all the details to the supplier through Purchase Order / Drawings etc., released.
 - b) The supplier shall not supply the components / spares exclusively manufactured for BEML with the Technical Data / Specifications / assistance furnished by BEML and shall not disclose my initiations, development of adaptations thereof to anyone else except with the written consent of BEML.
 - c) BEML shall be entitled to prevent breach of the above and to claim damages in case of any breach. It is hereby mutually agreed that for breach of this agreement the Vendor shall pay, without actual proof of damages, a liquidated amount of Rs. 1.00 Crore (Rupees One Crore only).
 - d) **ARBITRATION:** In the event of any question or disputes arising under these conditions or any other terms and conditions of contract or in connection with this contract (except as to any matters the decision of which is specially provided for by these conditions) the same shall be referred to an award of a Sole to be appointed by BEML with the consent of the Contractor / Vendor Supplier and the Arbitration proceedings of Arbitration and Conciliation Act 1996. The Courts in Bangalore alone shall have jurisdiction to deal and decide any legal matter or dispute whatsoever arising out of this Contract.
- 2) BEML shall be entitled to prevent breach of the above and to claim damages in case of any breach.
- 3) The Signatories hereto declare that they have the sanction and power to execute and deliver this binding agreement.

IN WITNESS WHEREOF, the parties hereto have set their respective hands to this Confidentiality Agreement on written in the presence of Witness.

For BEML

For M/s. XXXX

WITNESS:

1.
2.

1.
2.

(To be executed on plain paper and applicable for all tenders of value ≥ Rs 1 Crores)

INTEGRITY PACT

Between

BEML (BEML) hereinafter referred to as “The Principal” and

.....hereinafter referred to as “The

Bidder/Contractor”

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s forThe Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness / transparency in its relations with its Bidder(s) and / or Contractor(s).

In order to achieve these goals, the Principal will appoint an independent External Monitor (IEM), 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) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:
 - a. 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.
 - b. 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.
 - c. The Principal will exclude from the process all known prejudiced persons.
- (2) If the principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

Section 2 – Commitment of the Bidder(s)/ contractor(s)

- (1) The Bidder(s)/ Contractor(s) commit themselves 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.
 - a. The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give 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 or 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.

- b. The Bidder(s)/ Contractor(s) will not enter with other Bidders into any 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.
- c. The Bidder(s)/ Contractor(s) will not commit any offence under the relevant IPC/PC Act; further, the Bidder(s) / Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or documents provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- d. The Bidder(s)/ Contractor(s) of foreign origin shall disclose the name and address of the Agents/ Representatives in India, if any. Similarly, the Bidder(s)/ Contractor(s) of Domestic Nationality shall furnish the name and address of the foreign Principals, if any. Further, as mentioned in the “Guidelines on Domestic Agents of Foreign Suppliers” shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Domestic agent/representative have to be in Domestic Rupees only. Copy of the “Guidelines on Domestic Agents of Foreign Suppliers” is placed at Appendix-F1.
- e. The Bidder(s) / Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

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

Section 3 – Disqualification from tender process and exclusion from future contracts

If the Bidder(s)/Contractor(s), before award or during execution has committed a transgression through a violation of Section 2, above or any other form such as to put his reliability or creditability in question, the Principal is entitled to disqualify the Bidder(s)/Contractor(s) from the tender process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”.

Section 4 – Compensation for Damages

- (1) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.
- (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 of the contract value or the amount equivalent to Performance Bank Guarantee.

Section 5 – Previous Transgression

- (1) The Bidders declares that no previous transgressions occurred in the last three years with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprises in India that could justify his exclusion from the tender process.
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

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

- (1) The Bidder(s)/ Contractor(s) undertaker(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal will enter into agreement with identical conditions as this one with all Bidders, Contractors and subcontractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7 – Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)

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 of the Principal has substantive suspicion in this regard, the Principal will inform the same to the Chief Vigilance Officer

Section 8 – Independent External Monitor / Monitors

- (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.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. It will be obligatory for him to treat the information and documents of the Bidders/Contractors as confidential. He reports to the CMD, BEML.
- (3) The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Subcontractor(s) with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project 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.

- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (6) The Monitor will submit a written report to the CMD, BEML, within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise submit proposals for correcting problematic situations.
- (7) If the Monitor has reported to the CMD, BEML, a substantiated suspicion of an offence under relevant IPC/PC Act, and the CMD, BEML has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (8) The word 'Monitor' would include both singular and plural.

Section 9 – Pact Duration

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

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

Section 10 – Other provisions

- (1) This agreement is subject to Domestic Law. Place of performance and jurisdiction is the Corporate Office of the Principal, i.e. Bangalore.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the reminder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the integrity pact will prevail.

(For & On behalf of the Principal)

(For & On behalf of Bidder/Contractor)

(Office Seal)

(Office Seal)

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

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

Witness 1:
(Name & Address) -----

Witness 1:
(Name & Address) -----

Witness 2:
(Name & Address) -----

Witness2:
(Name & Address) -----

GUIDELINES FOR DOMESTIC AGENTS OF FOREIGN SUPPLIERS

- 1.1 There shall be compulsory registration of agents for all Global (Open) Tender and Limited Tender. An agent who is not registered with BEML LTD shall apply for registration in the prescribed **Application-Form** available on www.bemlindia.com.
 - 1.2 Registered agents will file an authenticated Photostat copy duly attested by a Notary Public/Original certificate of the principal confirming the agency agreement and giving the status being enjoyed by the agent and the commission/remuneration/salary/ retainer ship being paid by the principal to the agent before the placement of order by BEML LTD.
 - 1.3 Wherever the Domestic representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Domestic agents, and the Domestic representative is working on the basis of salary or as retainer, a written declaration to this effect should be submitted by the party (i.e. Principal) before finalizing the order.
- 1.0 DISCLOSURE OF PARTICULARS OF AGENTS/ REPRESENTATIVES IN INDIA, IF ANY:**
- 1.1 Tenderers of Foreign nationality shall furnish the following details in their offer:
 - 1.1.1 The name and address of the agents/representatives in India, if any and the extent of authorization and authority given to commit the Principals. In case the agent/representative be a foreign Company, it shall be confirmed whether it is real substantial Company and details of the same shall be furnished.
 - 1.1.2 The amount of commission/remuneration included in the quoted price(s) for such agents/representatives in India.
 - 1.1.3 Confirmation of the Tenderer that the commission/ remuneration if any, payable to his agents/ representatives in India, may be paid by BEML LTD in Domestic Rupees only.
 - 1.2 Tenderers of Domestic Nationality shall furnish the following details in their offers:
 - 1.2.1 The name and address of the foreign principals indicating their nationality as well as their status, i.e, whether manufacturer or agents of manufacturer holding the Letter of Authority of the Principal specifically authorizing the agent to make an offer in India in response to tender either directly or through the agents/representatives.
 - 1.2.2 The amount of commission/remuneration included in the price (s) quoted by the Tenderer for himself.
 - 1.2.3 Confirmation of the foreign principals of the Tenderer that the commission/remuneration, if any, reserved for the Tenderer in the quoted price (s), may be paid by BEML LTD in India in equivalent Domestic Rupees on satisfactory completion of the Project or supplies of Stores and Spares in case of operation items.
 - 1.3 In either case, in the event of contract materializing, the terms of payment will provide for payment of the commission /remuneration, if any payable to the agents/representatives in India in Domestic Rupees on expiry of 90 days after the discharge of the obligations under the contract.
 - 1.4 Failure to furnish correct and detailed information as called for in paragraph-2.0 above will render the concerned tender liable to rejection or in the event of a contract materializing, the same liable to termination by BEML LTD. Besides this there would be a penalty of banning business dealings with BEML LTD or damage or payment of a named sum.

BEMLSRM - General Terms & Conditions

The General terms and conditions provided below govern the conduct of e-Negotiation event conducted on BEML-SRM platform.

Written Acceptance of the RFI/RFQ Terms & Conditions and General Terms & conditions given below is a pre-requisite for securing participation in the e-Negotiation event:

Participant Confirmation:

- Participants to e-tender event hereby confirm that they shall commit to supply the product / service (being bid for) at the price entered by them in the online bid AND at the terms and conditions specified herein by BEML. All Prices entered shall be legally binding on the Bidders. Bidders are strongly advised to exercise due diligence while placing bids. Failure to honor the bids placed during the online Bid shall render the bidders liable for any penal action as deemed fit by BEML.
- In the event of winning an allotment in the bidding event, the bidder shall commit to fulfill outlined obligations under the contract.
- The bidder shall bid in line with the pre-accepted RFQ/RFI terms. The Bidder shall not stipulate any conditions on his/her own unless the terms of the BEML expressly permit such conditions being stipulated by the Bidder. Bids entered with conditions attached shall be considered Conditional bids and BEML retains the right of rejecting these bids.

Liability of BEML

While, reasonable care and diligence is taken by BEML in discharge of its responsibilities such as design of the e-Negotiation event, communication of RFI/RFQ rules, guidance to bidders in event participation, etc. all bidders shall specifically indemnify BEML from all liabilities for any shortcomings on these aspects. It is clearly understood that these activities are performed in BEML SRM platform by BEML to assist the participants, but the ultimate responsibility on all these counts lies totally with the participants.

Jurisdiction:

Any disputes relating to the e-Negotiation module shall be subject to the sole jurisdiction of the courts of Bangalore, Karnataka, India.

Accepted the above terms & conditions

(Signature)

Name & Designation of Signatory

For and on behalf of the company

(Company Seal)

STATEMENT OF DEVIATIONS FROM GENERAL TERMS AND CONDITIONS

Para No.	Details of Deviation	Remarks explaining reasons for deviations and why it may be considered by the Employer

Note:

1. We hereby confirm that the pricing for unconditional withdrawal of the above deviations has been given in the commercial bid.
2. We hereby confirm that all implicit and explicit deviations, comments and remarks mentioned elsewhere in our proposal shall be treated as NULL and VOID and stand withdrawn.
3. We hereby confirm that but for the deviations noted in this Appendix -H, our proposal is fully and truly compliant.

SIGNATURE OF THE BIDDER

MMRDA 'MRS1' PROJECT: KEY DELIVERY DATES		
SL NO	QTY	DELIVERY DATES
1	138 cars	July -20

APPENDIX -J

**DECLARATION TO CLAIM PURCHASE PREFERENCE UNDER PUBLIC PROCUREMENT
POLICY – PREFERENCE TO ‘MAKE IN INDIA’ ORDER 2017**

(To be executed on plain paper and to be submitted along with the technical bid)

1. We, M/s..... (Company), with its Registered Office at..... claim
/ do not claim [Strike out which is not applicable] **Purchase Preference Under Public Procurement
Policy – Preference To ‘Make In India’ Order 2017.**
2. If the vendor claims Purchase preference as per Para 1 above, then the bidder is required to provide the
following details. [Tick appropriate box below]

CONDITION	COMPLIED	NOT COMPLIED
The item offered meets the minimum local content of 50%. Local Content means the amount of value added in India which shall be the total value of the item procured (excluding net domestic Indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value in percent.	<input type="checkbox"/>	<input type="checkbox"/>
Address of Location(s) at which the local value addition is made		

.. (Signature)

Name & Designation of Signatory

For and on behalf of the company

(Company Seal)

APPENDIX-K

Special Conditions arising out of Implementation of GST
(To be signed and submitted along with the offer)

Tax Indemnity clause

1. The supplier of Goods / Services shall comply with all the procedural requirements and relevant provisions under GST Law so as to enable BEML Limited (BEML) to avail Input Tax Credit (ITC) in a timely manner. BEML has the right to recover tax loss along with consequential interest and penalty suffered by BEML due to any non-compliance of tax laws by the supplier. Any GST liability arising on the supplier on account of loss of GST credits for reasons such as failure of the supplier to provide the details for raising invoice with necessary particulars, delay in payment of consideration beyond stipulated time period and the interest thereon would be on the suppliers themselves and BEML shall not be liable to compensate the same.
2. The supplier shall ensure that the Taxes which have been collected / with-held on behalf of BEML have been duly paid / will be paid to the Government account within the due dates specified under various Tax Laws in India and Rules made there under. It may please be noted that if BEML is not able to avail any tax credit due to any short coming on the part of the supplier (which otherwise should have been available to BEML in the normal course), then the supplier at his own cost and effort will get the short coming rectified. If for any reason the same is not possible, then the supplier will make 'good' the loss suffered by BEML due to the tax credit it lost in that transaction.
3. Under the GST law, any economic or tax benefit arising out of the implementation of GST is mandatory and required to be passed on to BEML by the supplier. Similarly, the benefits enjoyed by the supplier and the other players in the supply chain or also required to be passed on to the supplier by them, which in turn shall be passed onto BEML by way of price reductions. The suppliers shall Indemnify BEML against any direct or indirect loss arising out of not passing on the aforesaid benefits. As responsible suppliers of BEML, the responsibility to pass on the above benefits vests with the supplier and BEML reserve the right to seek the manner in which such benefits is passed on to BEML.
4. Any amount paid to the suppliers including job-workers / sub-contractors shall be first attributable to the GST Tax charged in the invoice and the balance shall be considered towards the 'value' of supply of goods / services.
5. Timely provision of Invoices / Debit Note / Credit Note: The supplier has to timely provide Invoice /Debit Note / Credit Note to enable BEML to claim tax benefit on or before stipulated time period as per GST law. All necessary adjustment entries (Credit Note, Purchase Returns, and Debit Notes) shall be made before September of succeeding Financial Year.
6. HSN for goods shall be specifically included to avoid disagreement on classification at a later stage.
7. BEML shall identify the Place of supply to enable to avail the GST credit at right location.

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8. Advance payment if any made before supply of goods / services or rising of invoices, would attract GST. In case of receipt of advance, the supplier undertakes to raise the necessary statutory document. Further the supplier declares to raise the prescribed documentation governing the movement of goods.
9. Any known discount shall from part of terms of the agreement to enable Supplier / BEML to claim tax adjustment.
10. THREE copies of the Invoices are mandatory and need to be provided by the suppliers and wherever the law requires, an Electronic Reference Number for each Invoice should be provided. Further, the Invoices for supplies shall clearly bear GSTIN No / UID No along with purchase order number and date accompanied by dispatch advice and date of packing list.
11. Wherever applicable, BEML has the right to deduct "Tax deducted at source" at the rate prescribed under the GST law and remit the same to the Government of India.
12. Any local levies and or other charges levied by any Central /State / Local authorities wherever applicable shall be extra and supplier shall be liable to discharge the same.
13. The supplier shall be responsible to issue documents required for movement of goods and the logistic partner shall not be liable for any loss arising due to confiscation of goods by government agencies on account of lack of proper documents, deficiencies in documentation or any wrong declaration.
14. Any Liability arising out of dispute on the Tax structure, computation, payment to the Government and filing of returns will be to the suppliers account.
15. Where the supply of goods / services are liable to GST under reverse charge mechanism, then the supplier should clearly mention the category under which it has been registered and also that "the liability of payment of GST is on the Recipient of service".
16. The invoice should be clearly specified with abatement, if any claimed or otherwise from the Taxable value, while calculating the GST.
17. The Bid evaluation will include but not limited to 'GST Compliance rating' when introduced and operational by GSTN. The Purchase Order shall be void, if at any point of time the supplier is found to be a blacklisted dealer as per GSTN rating system and further no payment shall be entertained.

Place:
Date:

for M/s.....
Signature