



## **BEML LIMITED**

(A Government of India Mini Ratna Company under Ministry of Defence)

"BEML SOUDHA" 23/1, 4<sup>TH</sup> Main, S.R. Nagar, Bangalore 560027

Phone: 080 22963245 / 22963315. FAX: 080 22963283.

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TENDER No: 6300033407

Date: 13.07.2020

### **TENDER DOCUMENTS**

**REQUEST FOR PROPOSAL FOR ENGAGEMENT OF CONSULTANT FOR CLOSURE OF VIL, TARIKERE**

Last date for submission of the bid is 03.08.2020 before 2.00 PM

BEML Limited,  
Corporate Office,  
BEML Soudha, 23/1, 4<sup>th</sup> Main, SR Nagar,  
Bangalore – 560027



## BEML LIMITED

(A Government of India Mini Ratna Company under Ministry of Defence)

"BEML SOUDHA" 23/1, 4<sup>TH</sup> Main, S.R. Nagar, Bangalore 560027

Phone: 080 22963245 / 22963315. FAX: 080 22963283.

### 1. Introduction

#### General Information

BEML LTD is a leading public sector undertaking under the Ministry of Defense for manufacturing a wide range of mining, earthmoving, railways and defense truck & equipment.

BEML LTD has its manufacturing divisions in Bangalore, Mysore, KGF and Palakkad with Head Office at Bangalore and VIL, Tarikere (Subsidiary of M/s. BEML Ltd)

Vignyan Industries Limited ("VIL" or "Company") was incorporated on 25.09.1963 by two individual promoters. BEML Ltd., formerly known as Bharat Earth Movers Limited ("BEML"), took over the management in October 1984 upon its acquiring 69% of the paid-up share capital of the Company. During 1997, BEML extended a loan of Rs. 2.43 crores to VIL and the same has been converted into 2,43,500 equity shares of Rs. 100/- each. Presently, 2,69,376 equity shares of Rs. 100/- each representing 96.56% of the paid-up capital of the Company is held by BEML. VIL's registered office is situated at Haliyur, B.H. Road, Tarikere Post - 577 228, Chikkamagaluru District, Karnataka.

The Company manufactures steel castings suitable for engineering, mining, railways and infrastructure industries. The Company has single manufacturing facility located in Tarikere to produce steel castings of various specifications and supplies mainly to BEML, the holding company. The Company has installed production capacity of around 4000 MT per annum and producing various types of carbon steel, alloy steel and manganese steel casting of different sizes with maximum weight up to 2 MT per casting. VIL is accredited with ISO 9001:2008 certification. It is also a class – A foundry and certified by Research Design and Standards Organisation (RDSO) (Certification is under renewal).

Ministry of Defence the Government of India (GoI), has directed to initiate the process for closure of VIL. It is therefore, proposed to close VIL by following the guidelines issued by the Ministry of Heavy Industries & Public Enterprises, Department of Public Enterprises, Govt of India, vide O.M. No.DPE/5(1)/2014-Fin. (Part-I) dated 14.06.2018.

### 2. Eligibility Criteria

1. The bidder should be a reputed professional consulting firm having a minimum of Five (5) years of experience in dealing with voluntary liquidation process of a company.
2. The bidder should have effectively dealt with closure of atleast Two (2) companies of the turnover of atleast Rs.50 crs average per annum or more before closure process.

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3. Scope of work
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### Phase I : Advisory

The Terms of Reference would include :

- Review of financial statements of the Company.
- Liability assessment, Secured and Unsecured Loans, Creditors, Contingent Liabilities, etc. of the Company.
- Review of Assets Register of the Company.
- Litigation / Compliance status of Direct and Indirect Taxes of the Company.
- Review of Department of Public Enterprises (DPE) guidelines No.DPE/5(1)/2014-Fin. (Part-I) dated 14.06.2018 on "Revised guidelines of the Department of Public Enterprises-(DPE) on time bound closure of sick / loss making Central Public Sector Enterprises (CPSEs) and disposal of movable and immovable assets-regarding".
- Review of any other Circulars / Guidelines issued by authorities concerned towards closure of CPSEs.
- To attend Meetings with MoD / other Govt Departments as and when required.
- The Consultant will advise and co-ordinate for Closure of the establishment by adhering all the provisions under relevant Acts / Rules (i.e., from the stage of filing application till the closure including settlement of the affected parties) particularly Industrial Dispute Act, 1947, Factories Act 1948, EPF&MP Act 1952, ESI Act 1948, Contract Labour (Regulation & Abolition) Act 1970, Environmental Laws, etc.
- Advise on any other matter(s) incidental hereto.

Based on the above review, a road map showing all the steps required for closure of VIL in a time bound manner including liquidation process will be submitted – ***within 30 days from the date of appointment.***

(Any Legal or Professional expertise required for above shall be part of the Scope of Work to the Consultant).

### Phase II : Settlement of Statutory Requirements

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- Assistance apropos appropriate legal strategies and completion of necessary processes and compliances in relation to the voluntary liquidation of the Company;
- Legal assistance on the issues pertaining to the voluntary liquidation of the Company including the ones arising out of the interpretation of the Insolvency and Bankruptcy Code, 2016, and general corporate issues;
- Settlement of litigation cases relating to Direct and Indirect Tax matters;
- Closure of all tax assessments, Corporate compliance, filing of Annual Returns, Secretarial Filings, Obtaining No dues from concerned authorities, etc;
- Completion of compliances relating to Fire & Environmental Laws and any other Act / Law applicable for the closure process of the Company for the time being;
- The Consultant will facilitate for all actions towards obtaining permission from Authorities including concerned Ministries towards closure of the establishment.
- The Consultant will advice and co-ordinate for complying with statutory requirements of Employees, Officers and Contract Labourers working in VIL and settle their terminal benefits amicably.
- The Consultant will enable safe exit of the personnel working in VIL by adhering all the statutory rules and regulations.
- The Consultant will be Liaisoning with police, local administration and other external parties for completing the smooth closure of the establishment.
- The Consultant will be suggesting VRS/VSS package along with calculations for implementation by adhering Government guidelines.
- The Consultant will advice and co-ordinate for preparing Compensation package as per the extant rules upon receipt of grant of permission from concerned Authorities.
- Settlement of any other matter(s) incidental hereto.

The ToR mentioned above are indicative and non-restrictive in nature. There may be some services relevant but not expressly captured in the aforesaid Scope and Work, which upon being brought to the notice of the Consultant by BEML will also form an integral and mandatory part of the ToR.

**Note:** The above Phase-II activities to be completed ***within 90 days from the date of appointment.***

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### **Submission of Proposal :**

- Eligibility criteria with the supporting documents and acceptance of scope of work – (Envelope-1)
- Financial bid to be opened only of those parties who qualify in eligibility criteria. } (Envelope-2)
- Financial bid without any conditions and taxes extra. }

#### 4. Bid Submission Process

You are required to submit bid in two bid viz. Technical bid and Commercial bid. BEML may at its sole discretion amend the bidding documents at any time prior to the deadline for submission of bids. However in case of such amendment, the bid submission date may be extended at the discretion of BEML. Amendments made prior to submission of bid will be provided in the form of corrigendum to the bidding documents and will be posted on the BEML website ([http://www.bemlindia.com/tender\\_hq.php](http://www.bemlindia.com/tender_hq.php)).

For any enquiry/clarification for registration, submission of Bids and any other information, the Bidder may contact the following person:

Sl. No.	Designation	Address	Contact No.
(i)	Corporate Finance	BEML Soudha, 23/1, 4th Main SR Nagar, Bengaluru- 560027, Karnataka, India	9972256796

All correspondence with regard to the above shall be made at the following address:

Corporate Finance  
BEML Limited  
BEML Soudha, 23/1, 4th Main SR Nagar, Bengaluru- 560027, Karnataka, India  
Telephone No.: +91-9972256796,  
Email: [cfa@beml.co.in](mailto:cfa@beml.co.in)

Note: To participate in this e- tender you should have Valid Class 3 digital signature.

Vendors willing to participate in the tender may contact through e-mail: [admin.srm@beml.co.in](mailto:admin.srm@beml.co.in) to obtain the user name & password for submitting the bids.

In case of any queries relating to bid submission, you may send the same by e-mail to [admin.srm@beml.co.in](mailto:admin.srm@beml.co.in) or you may contact BEML SRM Team on phone no. 080-22963269/141.

The last date for submission of the bid is on or before 03.08.2020 @ 14.00hrs.



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This Tender consisting of two parts:

Part - A	Technical Bid i.e. Submission of Technical Bid through e-mode on BEML SRM system
Part - B	Commercial Bid i.e. Submission of Price Bid through e-mode on BEML SRM system

### **PART A – Submission of Technical Bid (Through e-mode on BEML SRM System)**

Please upload the following documents in the Collaboration Folder in the system as part of Technical Bid.

The following documents signed with company seal are to be scanned and uploaded in the collaboration folder:

1. General Data in respect of your company as per Annexure 'A'
2. Undertaking as per Annexure 'B'
3. Undertaking as per Annexure 'C'
4. Proforma for agreement as per Annexure 'D'
5. Special Conditions out of GST as per Annexure 'E'
6. Technical Compliance sheet as per Annexure 'F'

Note:

1. The vendors must ensure that the documentary proofs to substantiate clauses above are given, without which the bid is liable to be rejected.
2. Relevant documents are to be meticulously uploaded by the bidder and the bid will not be considered if any of the documents is not uploaded.
3. Please ensure that no price details are mentioned in the technical bid (attachments to the Collaboration Folder). Offers with price details in technical bid (under part A) will not be considered and their offer will be rejected.

### **PART B – Submission of Price Bid (Through e-mode on BEML SRM system)**

Commercial Bid: Price bid to be submitted as per the format by clicking on Item Data tab in SRM.

Please enter the prices in item data in the system against each item. Applicable GST details or any other commercial details may be entered under bidder's remarks.

Bidder has to quote basic price and applicable GST. in the item data column. Applicable GST can be selected from the dropdown box. In case any applicable GST is not available in the dropdown box, the same may be clearly mentioned along with the % in the #Bidders remarks#.

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The Commercial bids of only technically qualified bidders approved by BEML Limited shall be opened subsequently.

### 4. Pre Bid Meeting

If the prospective Bidder finds discrepancies or omissions, in specifications and document or is in doubt as to the true meaning of any part, he shall at once make a request, in writing, for an interpretation/clarification, to Employer at his mailing address indicated in Bidding Documents.

Verbal clarification and information given by Employer or his employee(s) or his representative(s) shall not in any way be binding on Employer.

#### LOCAL CONDITIONS:

Prospective Bidders shall inform themselves of local conditions and factors, which may effect execution of the Contract and they shall be sole responsible for the same. Employer shall have no responsibility what so ever towards this and shall not entertain any request for clarifications from the Bidders, in this regard. The Employer shall assume that Bidders have properly investigated such factors before bid submission. No claim of whatever nature either towards cost or extension of contract completion period due to these matters shall be entertained by the Employer at any time during the pendency of the Contract.

Bidders are invited to attend a pre-bid meeting. The purpose of the above meeting is to provide clarification to Bidders on Bid Documents, Bidding Conditions and Technical Specification. Bidders are requested, to submit questions/ clarification in writing, so as to reach the Employer not later a day prior to such meeting. Employer's responses, on questions raised will be transmitted without any delay to all the purchasers of the Bidding Documents. These will also be published on the website referred to in this document.

Bidders are encouraged to attend the pre-bid conference. Nonetheless, the non- attendance at the pre-bid meeting will not be a cause for disqualification of a bidder.

Pre-bid meeting will be held on 23/07/2020

### 5. Amendment to Bidding Document

At any time prior to the deadline for bid submission, the Employer may, for any reason, whether on its own or in response to a clarification requested by a prospective Bidder, modify the Bidding Document by issuing amendment (s).

The amendment will be notified on the website by issuing corrigendum and the same will be uploaded on BEML Website and it will be assumed that the information contained therein will

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have been taken into account by the Bidder in its bid. The Employer will bear no responsibility or liability arising out of non-receipt of the same in time or otherwise.

In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the Employer may, at its discretion, extend the deadline for Bid Submission in such cases, the Employer shall notify on the website by issuing corrigendum of the extended deadline.

All notifications and clarifications also are uploaded by Employer on the website.

All amendments, clarifications, etc. shall be binding on the Bidders and will be given due consideration by the Bidders while they submit their bids and invariably enclose such documents as a part of the bid.

### 6. Terms and Conditions

1. The quotation should be complete in all respects and free from ambiguity.
2. Price should be quoted in Indian Rupees only
3. FAX / EMAIL quotations not accepted
4. Indicate all applicable GST separately
5. Payment terms: The bidder is required to quote lump-sum amount inclusive of all.
6. Taxes and Duties applicable at the time of payment will be paid extra.
7. All statutory fee / payments under various laws applicable for closure of the Company, made by the Consultant for and on behalf of the Company will be reimbursed by the Company on submission of documentary evidence.
8. The expenses on account of fee to any legal / any other consultant should be part of the quote.
9. The fee quoted shall be unconditional.
10. Travel and other related expenses including those related to due diligence will have to be borne by the bidder.
11. Travel related expenses of Government officials and BEML Limited / VIL employees will be borne by the respective agency.
12. The fee will be payable on completion and acceptance by BEML of the job phase-wise as mentioned below :
  - Phase-I 20%
  - Phase-II 80%

#### **Mode of Billing and Payment :**





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- a) As soon as practicable, after Consultant is entitled to receive the amount as mentioned above, the Consultant shall send to BEML invoice for the amount due. The said fee/ payment shall be payable by BEML to the Consultant within 30 days of the date of entitlement and /or date of submission of claim of Consultant, whichever is later.
13. Validity of quotation: 90 days from the date of opening of the tender.
14. Successful Bidder is required to submit Performance Bank Guarantee for 10% of tender value drawn on Nationalized Banks/ scheduled Banks . Validity of Bank Guarantee for Performance Security will be 30 days beyond scheduled completion period of the project and will be extended till actual successful completion of the entire work and taking over of the project and submission of performance guarantee.
15. Offers not confirming to the above terms are liable to be ignored.
16. Right of Buyer: BEML reserves the right to accept or reject any bid in part or full without assigning any reason which shall be binding on the bidder
17. Termination: BEML shall exercise the option to terminate the contract within one month notice in the event of Non-Performance/Poor Performance. BEML also reserves the right to review and modify the contract at any point of time during the contract period.
18. Liquidated Damages: If the Supplier exceeds any agreed delivery date (s) or period(s), purchaser shall levy LD for such delay @0.5% per week (7days) and part thereof, subject to a maximum of 5% of the value of the delayed portion of the Contract.
19. Risk Purchase Clause: In the event of Non Performance of the order, BEML reserves the right to avail the services from alternate source at the bidder risk and cost apart from recovery/encash of EMD/PBG.
20. Canvassing by tenderers in any form including unsolicited letters on tenders submitted or Post tender corrections shall render their tender liable for rejection.
21. Incomplete offers are liable for rejection.
22. Offers not confirming to the above terms are liable to be ignored.

### Kindly Note:

- a) If taxes are not mentioned separately in the item data/ bidders remarks, it will be considered as the price quoted is inclusive of GST.
- b) If validity of the offer is not mentioned in the bidder's remarks, it will be considered as per terms and conditions of the tender enquiry.
- c) If payment terms are not mentioned in the bidders remarks, it will be considered as per terms and conditions of the tender enquiry
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### Force Majeure

#### Definition

- a) For the purpose of this Agreement, 'Force Majeure' means an event or circumstance which is beyond the reasonable control of the affected Party and which makes affected Party's performance of its obligation under this Agreement impossible or so impractical as reasonably to be considered impossible in the circumstance and includes but is not limited to war, riots, civil disorder, earthquake, fire, explosion, storm, cyclone flood, drought or other adverse weather or other conditions and situations including breakage of equipment of facilities, structural collapse, air crash, shipwreck etc.

#### Force Majeure shall not include:

- a) Strikes, lockouts or other industrial action, confiscation or any other action in and/ or by the parties or their employees;
- b) Any event which is caused by the negligence or willful action of a party;
- c) Any event which is in control of a party;
- d) Any event which a diligent party could reasonably have been expected both (a) to have taken into account on the Effective Date of this Agreement and/or thereafter during the terms of the Agreement and (b) to have avoided or overcome in the course of carrying out obligations under this agreement; and
- e) Insufficiency of funds or failure to make any payments.

#### Confidentiality :

1. Consultant and Personnel of Consultant shall not, during the term of this Agreement, and for a period of one year commencing from the date of terminating or expiry of this Agreement, disclose to any party other than BEML, other concerned consultants, valuers, lawyers or any information (other than publicly available information) relating to the services, this agreement, BEML's business or operations without the prior written consent of BEML, unless such disclosure is requested by any statutory or regulatory or judicial/ quasi – judicial authority constituted under the laws of India and having jurisdiction over a Party, or unless such disclosure is required in connection with any litigation affecting a party, or unless such disclosure is necessary to perform Consultant's services or obligations under this Agreement or unless such information has entered the public domain other than by a breach of the Agreement.
2. Provided that no confidentiality is required to be maintained in respect of disclosure required and made on account of marketing strategy/ies agreed upon among the parties. External professionals appointed, if any will also be bound by such requirement/s of confidentiality as may be stipulated by BEML.
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### **Indemnification of BEML / VIL by Consultant :**

- a) Consultant agrees to indemnify and hold harmless BEML officers, employees and representatives of BEML (each, an "Indemnified Person") from and against any claim, loss or liability (including without limitation reasonable fees and expenses of solicitor and legal counsel) arising out of the negligence or willful misconduct of Consultant or its personnel in providing the services.

### **Indemnification of Consultant by BEML / VIL :**

- a) BEML / VIL agrees to indemnify and hold harmless Consultant and directors, officers, employees and representatives of Consultant (each an "Indemnified Person") from and against any claim, loss or liability (including without limitation reasonable fees and expenses of solicitor and legal counsel) arising out of Consultant's engagement hereunder and / or directly or indirectly arising as a consequence of any statement, data, representation or other information, whether included in any information memorandum or advertisement or otherwise given in the performance of the services, which had been provided and/ or approved by BEML. Provided that the above mentioned indemnity to Indemnified Person(s) shall only be available in case of the liability or loss arising out of the negligence or willful misconduct of the BEML / VIL or its employees under this Agreement.

### **Dispute**

- b) In case of dispute, the decision of BEML Limited will be final. Unresolved dispute shall be referred for Arbitration Tribunal consisting of a sole Arbitrator to be appointed by BEML Limited and the proceedings shall be in accordance with Arbitration and Conciliation Act, 1996 as may be amended from time to time, to be conducted at Bangalore and in English Language.

### **Jurisdiction**

The jurisdiction of Court will be at Bangalore only.



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Annexure – 'A'

General Data in respect of your Company (i.e. company profile).

Sl. No.	Description	To be Filled and/ or documents to be uploaded	
1	Name of Bidder		
2	Company Address  Telephone no: Contact Person Mobile No. e-mail ID.		
3	Bank account numbers with Banker's Name, Address & Contact Number:	Bank Name :-  Address :-  Bank account number :-  IFSC code:	
4	Cancellation of Cheque	Scan copy through SRM Platform	
5	PAN Number		
6	GST Number		
7	ISO Certificate		
8	Description of Business & Business background		
9	Details of Annual Turnover for the previous 3 years i.e., for the period FY 2017-18, 2018-19, 2019-20 (in Rs. Lakhs)	Financial Year	Annual Turnover
		2017-18	
		2018-19	
		2019-20	
Please upload the required documents in SRM Portal.			

I / we hereby certify that all the information given above is factual.

Signature with date of Authorized signatory

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Firm's Seal: \_\_\_\_\_



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Annexure-'B'

### UNDERTAKING

This is to certify that \_\_\_\_\_ (Name of the Firm) has not been banned / black listed / debarred from Trade by any Central /State Govt. Dept. / Autonomous Institution / PSUs in India.

I / we hereby certify that all the information given above is factual.

Signature with date of Authorized signatory

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Firm's Seal: \_\_\_\_\_



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Date: 13.07.2020

Annexure-'C'

### UNDERTAKING

To:

The General Manager (Corporate Materials),

M/s. BEML LTD

Bangalore-27

Dear Sir,

Having examined the Bid # 63000xxxxx dated Date: 13.07.2020 the receipt of which is hereby duly acknowledged, we, the undersigned, hereby confirming that we read, understood and accepting all the terms & conditions available in the tender. Further, we indicate that upon selection, we will execute the assignment as per the tender terms and conditions.

Signature with date of Authorized signatory

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Firm's Seal: \_\_\_\_\_



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### Annexure 'D'

To be executed on Non Judicial  
Stamp Paper of requisite value as  
per the State Stamp Laws where  
the document is executed

### CONTRACT AGREEMENT

THIS AGREEMENT is made and executed on this \_\_\_ day of \_\_\_\_\_ 2020(--/--/2020) at \_\_\_\_\_.

BETWEEN

M/s BEML Limited, a Government of India Undertaking and a Company coming within the meaning of Sec 2(45) of Companies Act, 2013 incorporated under the provisions of Companies Act 1956 having its Corporate Office at "BEML SOUDHA", 4th Main Road, S.R. Nagar, Bengaluru -560 027 represented by its \_\_\_\_\_ (\*Designation of the authorised Official) Mr. \_\_\_\_\_ (Name of the Authorised Official) at \_\_\_\_\_ (here incorporate the place of execution) (Hereinafter referred to as '**BEML/Employer**') which expression shall, unless repugnant to context means and includes its successors and permitted assigns) of the First Part.

AND

M/s. \_\_\_\_\_ (Name of the Contractor) a \_\_\_\_\_ (Constitution of the Contractor i.e., Firm/Company/LLP, etc) incorporated/registered under the provisions of \_\_\_\_\_ Act, having its Registered Office/Principal place of business at \_\_\_\_\_ (incorporate the address) represented by its \_\_\_\_\_ (\*Designation of the authorised Official) Mr. \_\_\_\_\_ (Name of the Authorised Official) at \_\_\_\_\_ (incorporate the place of execution) (Hereinafter referred to as '**the Consultant/Contractor**') which expression shall, unless repugnant to context means and includes its successors and permitted assigns) of the Second Part.

Hereinafter, "BEML" and the "Contractor" shall individually be referred to as 'Party' and collectively as 'Parties'.

WHEREAS BEML is a multi technology heavy engineering company having four manufacturing divisions at Bengaluru, KGF, Mysore and Palakkad and marketing/ regional/district offices across the Country.

WHEREAS BEML has a subsidiary company in the name and style of M/s. VIGNYAN INDUSTRIES LIMITED (hereinafter VIL), a company duly incorporated under the Companies Act of 1956, and a foundry industry, having its registered office at Haliyur, B. H. Road, Tarikere Post Chikamagalur District, Karnataka – 577 228. Whereas BEML is the beneficial and legal owner of 96.56% (Ninety Six point Five Six percent) of the issued, subscribed and paid up equity Share Capital of VIL.

WHEREAS Contractor is a \_\_\_\_\_ (incorporate brief profile of the Contractor)

WHEREAS BEML has decided to close the business of VIL and to wind up the Company and VIL Board has passed Resolution on \_\_\_\_\_ and BEML has obtained in principle approval for the same from the Ministry concerned.

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WHEREAS BEML proposes to engage the services of an Agency/consultant for undertaking the process of closure till VIL is wound up and floated tender/Expression of Interest (delete whichever is not applicable) Ref: \_\_\_\_\_ dated \_\_\_\_\_ (Hereinafter referred to as the Tender/EOI) for undertaking the Scope hereinafter mentioned (hereinafter called the "WORK")

WHEREAS the Contractor submitted his offer in response to the Tender /EOI floated by BEML as above and became the successful tenderer and have agreed to execute the Work as per the terms and conditions of the Tender/EOI. Consequently, based on the promises, BEML issued Work Order No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter the Work Order) to the Contractor.

WHEREAS the Contractor has duly accepted the Work Order and agreed to execute the Work strictly in accordance with the work order and on the terms and conditions herein for a total sum of Rs \_\_\_\_\_/- (Rupees \_\_\_\_\_ only ) as consideration for the Work being carried out.

In consideration of the above, 'BEML' and the 'Contractor' agreed to reduce the terms and conditions in to writing as hereinafter mentioned.

### I. SCOPE OF WORK OF THE PARTIES:

The Scope of Work of the Contractor shall include the following and also all acts and deeds incidental thereto:

#### 1. Phase I : Advisory

The Terms of Reference would include :

- Review of financial statements of the Company.
  - Liability assessment, Secured and Unsecured Loans, Creditors, Contingent Liabilities, etc. of the Company.
  - Review of Assets Register of the Company.
  - Litigation / Compliance status of Direct and Indirect Taxes of the Company.
  - Review of Department of Public Enterprises (DPE) guidelines No.DPE/5(1)/2014-Fin. (Part-I) dated 14.06.2018 on "Revised guidelines of the Department of Public Enterprises-(DPE) on time bound closure of sick / loss making Central Public Sector Enterprises (CPSEs) and disposal of movable and immovable assets-regarding".
  - Review of any other Circulars / Guidelines issued by authorities concerned towards closure of CPSEs.
  - To attend Meetings with MoD / other Govt. Departments as and when required.
  - The Consultant will advise and co-ordinate for Closure of the establishment by adhering all the provisions under relevant Acts / Rules (i.e., from the stage of filing application till the closure
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including settlement of the affected parties) particularly Industrial Dispute Act, 1947, Factories Act 1948, EPF&MP Act 1952, ESI Act 1948, Contract Labour (Regulation & Abolition) Act 1970, Environmental Laws, etc.

- Advise on any other matter(s) incidental hereto.

Any Legal or Professional expertise required for above shall be appointed by the Consultant without any extra payment.

Based on the above review, a road map showing all the steps required for closure of VIL in a time bound manner including liquidation process will be submitted – ***Within 30 days from the date of appointment.***

### 2. Phase II : Settlement of Statutory Requirements

- Assistance apropos appropriate legal strategies and completion of necessary processes and compliances in relation to the voluntary liquidation of the Company;
  - Legal assistance on the issues pertaining to the voluntary liquidation of the Company including the ones arising out of the interpretation of the Insolvency and Bankruptcy Code, 2016, and general corporate issues;
  - Settlement of litigation cases relating to Direct and Indirect Tax matters;
  - Closure of all tax assessments, Corporate compliance, filing of Annual Returns, Secretarial Filings, Obtaining No dues from concerned authorities, etc;
  - Completion of compliances relating to Fire & Environmental Laws and any other Act / Law applicable for the closure process of the Company for the time being;
  - The Consultant will facilitate for all actions towards obtaining permission from Authorities including concerned Ministries towards closure of the establishment.
  - The Consultant will advice and co-ordinate for complying with statutory requirements of Employees, Officers and Contract Labourers working in VIL and settle their terminal benefits amicably.
  - The Consultant will enable safe exit of the personnel working in VIL by adhering all the statutory rules and regulations.
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- The Consultant will be Liaisoning with police, local administration and other external parties for completing the smooth closure of the establishment.
- The Consultant will be suggesting VRS/VSS package along with calculations for implementation by adhering Government guidelines.
- The Consultant will advice and co-ordinate for preparing Compensation package as per the extant rules upon receipt of grant of permission from concerned Authorities.
- Settlement of any other matter(s) incidental hereto.
- The ToR mentioned above are indicative and non-restrictive in nature. There may be some services relevant but not expressly captured in the aforesaid Scope and Work, which upon being brought to the notice of the Consultant by BEML will also form an integral and mandatory part of the ToR.
- The above Phase-II activities to be completed ***within 90 days from the date of appointment.***

### II. CONSULTANCY FEE AND PAYMENT:

BEML shall pay a lump-sum amount of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) to the Contractor towards Consultancy Fee, as consideration for the satisfactory execution of the Services under this Contract. The amount shall be firm during the currency of this Agreement. GST shall \_\_\_\_\_ (Extra/inclusive/borne by the Contractor)

The fee will be payable in Indian Rupee on successful completion of each stage/phase - wise Work as under:

- |                |     |
|----------------|-----|
| i. Phase - I   | 20% |
| ii. Phase - II | 80% |

The contractor shall submit bills in respect of the Services successfully rendered on each stage/phase. BEML shall process the same for payment after scrutiny/certification by \_\_\_\_\_ of BEML. Contractor shall provide the Permanent Account Number allotted to it by the Income Tax Department and also GST Code to enable BEML to process the payment.

The bill shall be accompanied by:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_



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Applicable taxes shall be deducted from the Bills towards TDS etc. in accordance with relevant statutes then prevailing.

### **III. PERFORMANCE BANK GUARANTEE:**

- Performance Guarantee of 10% of Contract value valid for a period of 13 months from the date of the appointment letter is to be given from Indian Public Sector Bank.
- The Contractor agrees to extend the validity of the Performance Bank Guarantee, wherever required like extension of period of contract or as may be required by BEML. The Company shall have the full power to enforce the Performance Bank Guarantee in case of non-performance or violation or breach of any of the terms of this Agreement by the Contractor. The Performance Bank Guarantee shall be released to the Contractor within 3 (Three) months of successful completion of last stage/phase of the Work by the Contractor, upon certification by the said \_\_\_\_\_ of BEML

### **IV. EFFECTIVE DATE AND CONTRACT PERIOD:**

This contract shall come into effect on the date of signature of both the parties on the contract (Effective Date). The period of Work shall be 90 days from the date of acceptance of the Work Order. Time is the essence of the contract. The Contractor shall strictly adhere to the Time Schedule for commencement and completion as stipulated in the Work Order and shall complete the Work in all respect to the complete satisfaction of BEML on or before the Completion date.

### **V. PENALTY**

In case the work is not completed in the manner mentioned above to the complete satisfaction of BEML in every respect within the time limit stipulated in the Work Order, then the Contractor shall become liable for payment of compensation/penalty for delay in completion of work, at 0.1% per week, maximum of 10% of the Contract value irrespective of whether extension of time granted or not unless otherwise specifically stated.

The said Penalty payable by the Contractor shall be without prejudice to any other right or remedy available to BEML on account of such delay in completion of work. The amount of compensation might be adjusted or set-off against any sum payable to the Contractor under this or any other contract with BEML. The \_\_\_\_\_ of BEML Limited \_\_\_\_\_ shall be the authorized person to certify whether the Work has been completed within stipulated time and his certification shall be final and binding on the parties.

### **VI. COMPLIANCE OF STATUTORY PROVISIONS:**

The Contractor shall comply with all requirements under various administrative orders and statutes including but not limited to Companies Act, 2013, Insolvency and Bankruptcy Code 2016, Income Tax

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Act 1961, Industrial Disputes Act, 1947, Factories Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970, Code on Wages 2019 / (Minimum Wages Act, 1948, Payment of Wages Act, 1936, Payment of Bonus Act, 1965), Payment of Gratuity Act, 1972, Employees' State Insurance Act, 1948, Employees Provident Fund and Misc. Provisions Act, 1952, Employees Compensation Act, 1923, Child Labour (Prohibition & Regulation) Act, 1986, Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013 or any other relevant Acts or enactments relating thereto and its amendments (State/Central) and rules framed there under from time to time as may be relevant while executing the Work and performing the obligations under this Agreement. The Contractor agrees to indemnify BEML for any loss or damage caused to it due to violation/non-compliance of any administrative orders or statutory provisions in respect of/in connection with the performance of the Work.

All claims arising at the instance or on account of the persons employed by the contractor shall be met by the contractor on his own account and BEML shall have no liability whatsoever in that behalf. BEML shall be kept fully indemnified by the Contractor against any and all such claims.

### **VII. NON COMPLIANCE OF TERMS:**

Non-compliance of any of the terms of this Agreement shall amount to breach and in case of breach, BEML will have rights to terminate the contract, besides other legal remedies, including but not limited to recovery of losses to BEML on account of such breach and termination.

### **VIII. FALLS CLAUSE:**

If the contractor fails to perform the Work as per Tender/EOI or as per the Terms and Conditions herein contained, at any time during the currency of the contract or if the BEML has reasons to believe that the Contractor's work is not satisfactory and that the interest of BEML is thereby affected in any way, BEML shall have the right to Execute the Work by itself or through any other agency, in which case the contractor shall make good the loss to BEML including cost and expenses which arises there from. The extra cost being incurred by BEML in this regard shall be to the account of the Contractor, which may be adjusted against security deposit and/or deducted from any pending bills or any payment to be made to the contractor or otherwise.

### **IX. INDEMNIFICATION**

In the event of the non-fulfilment of any of the covenants, terms, agreements, obligations and conditions mentioned in the Tender Document or Work Order or in this Agreement, the Contractor shall pay to BEML all losses, damages, costs, charges and expenses incurred by BEML Limited as result of the Non fulfilment of the obligations under the contract. The decision of BEML shall be final in this regard and the Contractor shall pay the same without any demur and protest.

The Contractor shall be responsible for all or any kind of losses/damages caused to or suffered by BEML or its employees/officers due to any act or negligence of the labour deployed by the Contractor and the Contractor shall make good the said loss same. BEML shall have the absolute right to recover such losses/damages from any and all amounts payable to the Contractor, including pending Bills. The

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Contractor will ensure that there are no thefts or loss of property/properties by the labourers deployed by the contractor.

### **X. LICENSES AND PERMISSIONS:**

Contractor shall procure all the Licenses, Permissions, Sanctions, etc. as may be required for/in the course of performance of the contract /execution of the Work or as required under statutes. Any lapse in this regard shall be solely attributable to the Contractor and BEML shall in no way responsible for the same. The Contractor undertakes to indemnify BEML in this regard.

### **XI. SUBCONTRACT:**

The contractor shall not sub-contract, assign or make over the contract to any third party either in full or partially without prior written consent of BEML.

### **XII. CONFIDENTIALITY:**

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. The Contractor undertakes to indemnify BEML for any loss caused to it by reason of breach of the above obligation by the Contractor or his employees or agent or anybody engaged by the Contractor.

### **XIII. ENTIRE CONTRACT**

Tender Document and Work Order dated \_\_\_\_\_ shall form part and parcel of this Agreement and in case of inconsistency, the order of precedence will be as follows:

- (a) This Agreement;
- (b) Work Order; and
- (c) Tender document/EOI.

### **XIV. TERMINATION:**

Unless the period is extended by mutual consent, the contract shall expire on the date of expiring mentioned at para IV.

BEML may terminate the contract in its sole discretion, with or without any reason, by serving written notice of thirty days in case of the following reasons and if the Contractor fails to rectify the same within the notice period;

- a) Failure of the contractor to commence the work within a stipulated period.
  - b) If the performance of the contractor is found to be unsatisfactory or if he fails to give the desired progress of the work or there is breach of terms of the agreement. In this regard, non-performance in whole or in part by the contractor of any obligation due to the reasons with his control shall be treated as breach of the contract. However, BEML shall have right to terminate the Agreement at
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any time by giving One month notice in writing, with or without mentioning the reasons. The termination shall not prejudice the rights and obligations accrued on the parties till the effective date of termination.

- c) If Contractor is declared insolvent/bankrupt by a competent court of jurisdiction or the contractor is prohibited from performing the contract by any competent court of jurisdiction.

The Contract may be also terminated by either of the parties on mutual consent or if any of the Parties became unable to perform its part due to occurrence of force majeure event which is continued for more than 1 month.

Notwithstanding the above, termination shall not prejudice the rights and obligations of parties that has arisen prior to the date of effective termination between the Parties and / or obligation of either Party to any other third party.

### **XV. JURISDICTION & DISPUTE RESOLUTION:**

Disputes, if any, between the Parties arising out of or in connection with this Agreement or any matters connected therewith, shall be discussed and amicably settled by the parties through Conciliation by subject experts appointed by BEML.

The unresolved disputes shall be referred to a sole Arbitrator to be appointed by BEML. The arbitration proceedings shall be in accordance with Arbitration and Conciliation Act, 1996 and Rules framed there under, as may be amended from time to time. The Arbitration shall be conducted at Bengaluru. The language of arbitration shall be English.

The courts at Bengaluru alone shall have jurisdiction to try and adjudicate any matter in connection with this Agreement.

### **XVI. SEVERABILITY AND WAIVER:**

If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions shall continue in full force without being impaired or invalidated in any way. The Parties shall replace any invalid provision with a valid provision, which must closely approximate the intent and economic effect of the invalid provision.

### **XVII. NOTICES**

All Notices and communications shall be sent to the following addresses of the Parties or any other address duly notified in writing from time-to-time by the parties by Registered Post acknowledgement due, Speed Post, Registered Email or any other mode mutually accepted by the parties:

BEML: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

The Notices issued other than as above shall not be considered as effective notice.

### **XVIII. ASSIGNMENT:**

The obligations under this Agreement shall not be assigned by either Party to any third party without prior written consent of the other Party.

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### **XIX. AMENDMENT:**

No Amendment or variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties.

### **XX. NON- SOLICITATION:**

No Party shall, either directly or indirectly, on its own behalf or on the behalf of others, solicit or hire for work any person(s) employed by the other Party, whether or not such employment is pursuant to a written contract or is at will, without the express written permission of such other Party, or until such employee has ceased his/her employment with such other Party for at least two (2) years. This clause shall survive for a period of two years even from the effective date of expiry or termination of this Agreement.

### **XXI. MISCELLANEOUS:**

The Contractor shall be responsible for any accident or other compensation payable to its workers and that BEML shall not any liability to that extent. Any cost or expenses incurred by BEML, in this regard shall be to the account of the Contractor, which will be reimbursed to BEML by the Contractor or BEML may recover from the Bills payable to the Contractor.

The employees/agents of the Contractor in no case will be treated as the employees of BEML and there shall not be any master and servant relationship whatsoever between BEML and labour/employees being deployed by the Contractor for the Work. Further, discharging obligations under the Agreement by labour shall not be construed to believe that they are the employees of BEML and shall at all times be the employees of the contractor only. The contractor will be individually and entirely responsible for all and any liabilities in that regard.

All the prior agreements, letters, documents exchanged between parties, if any, have been merged with this agreement and shall have no effect from the effective date of this Agreement.

Parties undertake and confirm that they have power and right to enter into this Contract.

IN WITNESS WHEREOF, the parties hereto, have set their hands and seal, on the day, month and year written above in the presence of the following witnesses.

For BEML

For CONTRACTOR

Witnesses:

- 1.
- 2.



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TENDER No: 6300033407

Date: 13.07.2020

**Annexure - E**

**Special Conditions arising out of implementation of GST  
(Which is to be signed and submitted along with the offer)**

**GST Terms & Conditions**

1. The Supplier is required to comply with all the applicable provisions of the GST Laws/Rules/Notifications/Circulars and to furnish required documents/details within the prescribed time limit to enable BEML to claim the benefits of GST Input Tax Credit or any other benefit.
  2. The Supplier is required to furnish proper Invoice/Supplementary Invoice/Debit Note/Credit Note in the form and manner prescribed under GST Laws/Rules/Notifications/Circulars containing all the particulars mentioned therein and within the prescribed time limit as per prevailing GST Laws/Rules/Notifications/Circulars. In case of non-compliance by the Supplier, BEML shall not make any payment towards GST against such invoice until it is complied with within the timeline prescribed under GST Laws/Rules/Notifications/Circulars, and also subject to BEML being in a position to avail GST Input Tax Credit as per applicable GST Laws/Rules/Notifications/Circulars.
  3. In case of discrepancy in the data uploaded by the Supplier in the GSTN portal or in case of any shortages or rejection in the supply, BEML will notify the Supplier of the same. Supplier has to rectify the data discrepancy in the GSTN portal or issue Credit note (details to be uploaded in GSTN portal) for the shortages or rejections in the supplies, within the prescribed time limit to enable BEML to avail GST Input Tax Credit.
  4. In case, the availment of GST Input Tax Credit by BEML is delayed for any reason other than those attributable to BEML, interest at applicable rate as prescribed under GST Laws/Rules/Notifications/Circulars for such delays shall be recovered from the Supplier.
  5. In case Supplier delays declaring such invoice in his GST Return and GST Input Tax Credit availed by BEML is denied or reversed subsequently as per GST Laws/Rules/Notifications/Circulars, GST amount paid by BEML towards such reversal as per GST Laws/Rules/Notifications/Circulars shall be recoverable from Supplier along with applicable interest.
  6. If BEML has not paid/short paid to the Supplier for any invoices within the time limit prescribed under GST Laws/Rules/Notifications/Circulars due to non-compliance of GST Laws/Rules/Notifications/Circulars by Supplier or any other reason attributable to Supplier and leads to any GST Input Tax Credit reversal by BEML, any losses/expenses/cost/penalty, etc incurred by BEML shall be recoverable from the Supplier.
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7. Wherever applicable, BEML will have the right to deduct "Tax Deducted at Source" at the rate prescribed under the GST Laws/Rules/Notifications/Circulars and to remit the same to the Government.
  8. In case of supplies made under Reverse Charge Mechanism, the Supplier needs to comply with the provisions under the GST Laws/Rules/Notifications/Circulars in terms of supply of Goods/Services and raising of invoice, so as to enable BEML to remit applicable GST to Govt., within the prescribed time limit and avail GST Input Tax Credit on the same. If the Supplier fails to comply with the above and as a result if BEML incurs any losses/expenses/cost/penalty, BEML shall be entitled to recover the same from the Supplier. Further the Supplier has to mention that "the liability of payment of GST amounting to Rs ..... is on the Recipient of Service" in the invoice raised on BEML.
  9. The Supplier is required to comply with the E-Way Bill Provisions under GST Laws/Rules/Notifications/Circulars. If the Supplier fails to comply with the said provisions and as a result if BEML incurs any losses/expenses/cost/penalty, BEML shall be entitled to recover the same from the Supplier.
  10. In case of materials/goods issued to Supplier for Job Work, the Job Work Supplier is required to return the goods within the time limit prescribed in the Purchase Order. If the Job Work Supplier fails to return the goods as above, BEML will be entitled to raise a GST Supply Invoice on the Job Worker Supplier with applicable interest as per the provisions of GST Laws/Rules/Notifications/Circulars. In such cases, BEML will be entitled to recover all such GST/interest on GST /losses/expenses/cost/penalty, etc. incurred by BEML along with interest from the Job Work Supplier. Further in such cases where the GST invoice has been raised by BEML, on return of such goods after the prescribed time limit, the Job Work Supplier needs to return the same under GST invoice.
  11. GST portion of the invoice shall be released only upon the Supplier declaring such invoice in his GST Return and payment of GST thereof to appropriate government and satisfying all the conditions mentioned above. However, in case the Supplier wishes to obtain the payment of GST portion also along with the payment of the base value of the invoice, Supplier has the option to submit Bank Guarantee of an amount equivalent to the GST portion of the invoice plus 3 months' interest at prevailing rate of interest under GST Laws/Rules/Notifications/Circulars as applicable in case of reversal of GST Input Tax Credit. Such Bank Guarantee shall be valid till 30<sup>th</sup> September of the next financial year or filing of GST Annual Return by Supplier/Vendor (for which such invoice pertains to), whichever is earlier. BEML will release Bank Guarantee only when the Supplier declaring such invoice in his GST Return and remittance of GST thereon to the Govt. In case the Supplier fails to fulfill the required conditions resulting in BEML not been able to avail GST Input Tax Credit Bank Guarantee shall be encashed and such GST amount along with interest and any other cost/loss incurred by BEML shall be recoverable from Supplier.
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12. The Supplier have the option to give one Bank Guarantee of appropriate value after considering his estimated value of GST involved in invoices raised on BEML instead of Bank Guarantee for each Contract/Invoice. In case of payment through LC, suitable provisions/clause will be inserted while opening LC to ensure compliances of above conditions. However, if at any point of time value of such Bank Guarantee falls short of GST plus interest thereof, Supplier will have to either furnish Bank Guarantee for Differential value or such shortfall value of Bank Guarantee vis-à-vis GST plus interest thereof shall be withheld till Suppliers fulfils its obligations specified under above clauses.
13. BEML will be entitled to recover all losses/expenses/cost/penalty, etc. incurred by BEML along with applicable interest from the Supplier due to reasons other than those attributable to BEML.
14. If the Supplier is a Composition/Unregistered Dealer, the Supplier needs to comply with the provisions under the GST Laws/Rules/Notifications/Circulars in terms of supply of Goods/Service and raising of invoice. In case, the Supplier fails to comply with the above and as a result if BEML incurs any losses/expenses/cost/penalty, BEML shall be entitled to recover the same from the Supplier along with applicable interest.

Place:

Date:

for M/s.....  
Signature



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TENDER No: 6300033407

Date: 13.07.2020

**BIDDER HAS TO UPLOAD THE FOLLOWING TECHNICAL COMPLIANCE SHEET AS PART OF THE TECHNICAL BID**

Annexure	Particulars	Details to be uploaded by service Provider	Complied YES or NO
A	Brief Details about the firm (Company profile)	Please upload filled-in format as per Annexure-A in collaboration folder	
B	An undertaking as to be submitted stating that the bidder is not banned / black listed / debarred from Trade by any Central / State government department / Autonomous institutions or PSUs in India.	As per Annexure-B certified by the authorized signatory of the bid to be uploaded in the collaboration	
C	An undertaking has to be submitted by the bidders stating that they have read, understood and agree to all Tender terms & conditions.	As per Annexure-C certified by the authorized signatory of the bid to be uploaded in the collaboration	
D	Contract Agreement	As per Annexure-D to be signed and uploaded in the collaboration folder.	
E	Special Conditions arising out of implementation of GST Tax Indemnity clause	As per Annexure-E to be signed and uploaded in the collaboration folder.	
F	Technical Compliance Sheet as per Annexure 'F'	As per Annexure-F to be signed and uploaded in the collaboration folder.	

Signature with date of Authorized signatory

Name: \_\_\_\_\_

Designation: \_\_\_\_\_

Firm's Seal: \_\_\_\_\_