

NON – DISCLOSURE AGREEMENT

This NON - DISCLOSURE AGREEMENT (hereinafter referred to as '**NDA**') is made and entered into on this _____ by and between:

M/s. BEML LIMITED a Central Public Sector Undertaking and a Government company incorporated under the Companies Act 1956 having its Corporate Office at 'BEML SOUDHA', No. 23/1, 4th Main Road, S.R. Nagar, Bengaluru - 560027 (hereinafter referred to as '**BEML**' / Disclosing Party, which expression unless repugnant to the context shall mean and include its successors and permitted assigns), of the First Part.

AND

_____ (Bidder Name and address)

(herein after referred to as '**_____**' / Receiving Party, which expression unless repugnant to the context shall mean and include its successors and permitted assigns) of the Second Part

Hereinafter, **BEML** and _____ are collectively referred to as '**Parties**' and individually as '**Party**'.

WHEREAS, BEML is a multi-technology heavy engineering industry engaged in the business of design, development, manufacturing and marketing of a varieties of equipment and spare parts and aggregates required for Mining & Construction, Rail and Metro, Defence and Aerospace, etc.

WHEREAS, _____ is a _____.

WHEREAS the Parties intend to co-operate in the area of "Development & supply of Equipped Cabins" project and the Disclosing Party raised tender RFQ **No.6300034295** on the Receiving Party for "Development and Supply of Equipped Cabin– indigenous for BEML HMV 8X8" and the Receiving Party agreed to execute the same in accordance with the Terms and Conditions of the tender.

Whereas for the clear understanding of the requirement as per the tender the Receiving Party may require and Disclosing Party may disclose certain confidential information' hereinafter defined , and Parties recognize that careful protection and non-disclosure of such Confidential information is of vital importance.

NOW, THEREFORE, in consideration of the premises, covenants, representations, warranties, terms and conditions hereinafter contained, the Parties here to agree as follows:

1. For the purpose of this NDA the term, 'Confidential Information', shall mean_ - any and all information which is disclosed by the Disclosing Party to the Receiving Party or come to the possession or knowledge of the Receiving Party, including but not limited to inventions, know-how, practical experiences, procedures, methodologies, concepts, discoveries, technical and scientific data, specifications or formulae, written or printed documents, designs, drawings, 3D models, computerized information, films, tapes, specifications, methods, technical and or business information, processes, equipment, software or data of any kind, whether or not patentable, whether or not in the ownership of the Parties, except the information, which (a) at the time of such disclosure, is in the public domain; (b) after such disclosure, becomes part of the public domain through no fault of the Receiving Party; (c) at the time of such disclosure, is already known to the Receiving Party as shown by its written records; (d) has been or may be lawfully acquired by the Receiving Party from a third party having the right to disclose in no violation of any confidentiality obligations; or (e) is developed independently by the Receiving Party.
2. Any Confidential- Information exchanged by the Parties shall be deemed to be disclosed in confidence and will be used only for the purposes for which the Confidential information has been disclosed to the Receiving Party.
3. Any Confidential Information disclosed hereunder shall not be disclosed by the Receiving Party to others, except employees of the Receiving Party having direct involvement in execution of the purpose and even then on a need-to-know basis. The Receiving Party shall secure the obligation of such employees to maintain the

confidentiality of such information to the same degree of care with which the Receiving Party is obligated hereunder. However, this shall not restrict the Receiving Party from disclosing the information or any part thereof in pursuant to a judicial or government order but only to the extent required by such order. In case of judicial/court order, the Receiving Party shall make all attempts to inform the same as early as possible to the Disclosing Party to enable the Disclosing Party to seek protective order or other appropriate remedy as may be required.

4. The Receiving Party shall protect Confidential Information with the same degree of care that it regularly employs to safeguard its own Confidential Information from unauthorized use by or disclosure to third parties, but in no event shall the Receiving Party derogate from the customary standard of reasonable care.
5. This NDA shall not be construed as granting, expressly or by implication, any rights under patents, designs, trademarks, know-how, copyrights or any other form of intellectual property rights belonging to the Disclosing Party in respect of Confidential Information the ownership of which shall remain vested in the Disclosing Party at all times.
6. The Parties agree to report directly to each other, if it has been observed or when it is feared that Confidential Information has come in the possession or to the knowledge of an unauthorized person or when security violations have been observed or are feared. Furthermore, the Parties agree to keep each other informed of any possibility that classified information may be divulged in any legal proceeding(s).
7. The Receiving Party agrees to return, upon successful completion of the purpose or expiry or termination or at any time at the written request of the Disclosing Party, all Confidential Proprietary Information received pursuant to this NDA, without retaining copies thereof. In such an event, the Receiving Party shall not keep any copy or copies in any electronic form or in their server and ensure that they shall be deleted permanently, so that, it cannot be used further.
8. Confidential Information shall not be used in part or in whole by the Receiving Party after successful completion of the purpose, expiry or earlier termination.
9. The Receiving Party acknowledges that the Confidential Information made available

hereunder by the Disclosing Party represents valuable property which the Disclosing Party intends to maintain as trade secrecy property. Correspondingly, the non-use and non-disclosure obligations hereunder will remain in effect for a period of 10 years of the expiration or effective date of termination of this NDA.

10. This NDA shall expire three (3) years after the date of signing by the Parties, but may be terminated earlier by either Party by giving thirty (30) days written notice to the other. Notwithstanding the foregoing, the Receiving Party's obligations of non-use and non-disclosure with respect to any Confidential Information exchanged prior to the date of termination shall survive any such termination or expiration, for the period specified in paragraph 9 above. Provided however, the obligation under this Agreement shall remain in force for a period of three years from the date of expiry or earlier termination

11. The Receiving Party recognize and acknowledge that Confidential Information is of a special, unique and extraordinary character to the Disclosing Party and that disclosure, misappropriation or unauthorized use of such Confidential Information by the Receiving Party cannot be fully compensated and further that any such disclosure, misappropriation or unauthorized use of the Confidential Information shall cause irreparable injury to the Disclosing Party. The Receiving Party expressly agrees, therefore, that the Disclosing Party, in addition to any rights and remedies it may have under this NDA or at law or in equity, shall be entitled to seek injunctive and other equitable relief to prevent the breach, or the further breach, or any of the terms and provisions hereof. The Receiving Party agrees to reimburse the Disclosing Party for any and all losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and court costs) incurred and sustained by the Disclosing Party as a result of any breach of this NDA.

12. Any dispute arising out of or in connection with this NDA, if not settled amicably, shall be referred to the sole Arbitrator appointed by BEML and the Arbitration proceedings will be in accordance with the Arbitration and Conciliation Act, 1996 and rules made there under as may be amended from time to time. The venue of the Arbitration shall be at Bengaluru and the Proceedings shall be in English. The Courts at Bengaluru shall have exclusive jurisdiction to deal any matter relating to or in connection with this Agreement.

13. Any amendment or modification to this Agreement shall be made in writing and signed by the parties.
14. Neither party shall assign its rights and obligations under this Agreement to any third party without the prior consent of the other party.
15. No Party shall, either directly or indirectly, on its own behalf or on 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 date of termination.
16. If any provision of this NDA 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.

IN WITNESS whereof, this Non - Disclosure Agreement is executed by the duly authorised representatives of the Parties as of the date above mentioned.

For BEML Ltd

For _____

Name:

Name:

Title:

Title:

WITNESSES:

WITNESSES:

Signature:

Signature:

Name :

Name :

Address:

Address: