



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
(NIT)

Bid Invitation No. : 6300034927

PROJECT : MRS-1 PROJECT

No. of Cars : 498 Cars (83 Train Sets)

**SCOPE: Design, Manufacture & Supply of 2 types of
Floor Seat Screws**

Tender Closing Date: 23.11.2020 @ 1700Hours.

BEML LIMITED invites tenders in Two Bid System as mentioned below:

- Technical Bid through E-mode
- Commercial Bids through Reverse auction
- The technical bids received within the closing date & time will be scrutinized as per terms & conditions of the tender enquiry.
- Those bidders who qualify technically will be informed to participate in reverse auction through BEML SRM platform which will be scheduled at a later date & the date of reverse auction will be informed to technically qualified firms only.

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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 purchaser.
- e) Specification means technical specifications of the Equipment / Material as set forth in Procurement technical specification (PTS) / technical drawings, which is part of tender.
- f) BEML Limited / Company means "BEML LIMITED", a company registered under the Companies Act, 2013 ("The Purchaser" / "The employer ").
- g) "Supplier" means and include 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. / DAP 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) attached herewith.
- o) Bank means any nationalized bank in Republic of 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, minutes of discussions / negotiations acceptance of tender, contract between purchaser & 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 purchaser.

- q) **End-Customer / End-user** means M/s. MRC Limited 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 for supply of “ **Two types of Seat Screws**” should strictly confirm to all the technical /physical parameters indicated in the **Drawings & Technical Delivery Conditions (TDC) enclosed**. The supplier shall supply and deliver the equipment/materials as under:

- a) **In case of foreign Supplier: FOB** (Free on Board) suppliers’ nearest port basis
- b) **In case of Indian Supplier: DAP** (Delivered At Place), BEML Limited, Bangalore Complex, Bangalore

Strict compliance with the purchase order and the details of which are as per scope indicated in the purchase order.

3. QUALIFYING REQUIREMENTS OF THE TENDERERS:

The Bidders shall comply to the following:

- 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 purchaser, shall be promptly furnished by the Bidder and would offer all facilities to representatives of the purchaser for assessing capacity, capabilities by actual visit to his work place/office if required.

4. TENDER SUBMISSION CONDITIONS:

- a) Please ensure that offers are submitted against individual items in the tender invitation published in BEML SRM portal 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 should be quoted in figures in the boxes provided under 'ITEM DATA' in SRM portal.
- e) Prices should be on FOB. (Free on Board) supplier's nearest port basis (**In case of foreign Supplier**) and DAP (Delivered at Place), BEML Limited, Bangalore (**In case of Indian 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 purchaser.
- f) Please indicate the applicable GST and other levies applicable extra / included in the price.
- g) BEML Limited 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. BEML also reserves the right to increase the order quantity at the same rates and terms and conditions during the pendency of the contract.
- 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. 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 0.1% of total value of the amounts apportioned to the affected delivery schedule for each calendar day of delay for first 30 days and 0.25% 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 purchase order value.***

5. SUBMISSION OF OFFER IN TWO BID SYSTEM (TECHNICAL BID & REVERSE AUCTION):

TECHNICAL BID (Without Price/Price Details) shall be uploaded at [RFX Information → Notes and Attachments → cFolder Attachments](#) in the BEML SRM platform, wherein only technical Bid / technical information in BEML SRM platform shall be uploaded as indicated below:

- i. Duly filled, signed & stamped "**Technical Delivery Condition (TDC) Compliance Report**" as per **Annexure-I** enclosed with this tender along with supporting documents as specified therein.

- ii. Duly filled, signed & stamped “**BIDDER DETAILS**” as per **Annexure-II**.
- iii. Duly filled, signed & stamped “**Compliance to GENERAL TERMS AND CONDITIONS**” as per **Annexure-III** with the supporting documents as specified therein.
- iv. Special conditions arising out of GST to be complied. Bidder to sign and upload "Tax Indemnity Clause" as per **Annexure - IV**.
- v. **Commercial Bid:** Those bidders who qualify technically will be informed to participate in reverse auction through BEML SRM platform which will be scheduled at a later date & the date of reverse auction will be informed to technically qualified firms only. The reverse auction will be conducted on line item basis & L1 status will be considered on line item basis.

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 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 noncompliance, 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(j) 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(j) 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 quoted 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 have to take procurement action at your risks and cost apart from levy of 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 DAP, 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, purchaser shall not be deemed to govern by such terms and condition unless written acceptance thereof has been given by purchaser. Terms & conditions noticed of which has not been given in the tender by the bidder and forwarded in subsequent correspondence / after placement of order will not be considered by the purchaser.
- c) ***Only offer accepting BEML Limited's standard payment term will be preferred and evaluated. In general, no deviation in payment terms is acceptable. However, BEML Limited reserves complete rights to decide / accept or reject the offer submitted by the supplier for any deviant terms.***

12. OTHER CONDITIONS:

- a) M/s BEML Limited does 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 embarkation.
- 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 Limited 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 M/s BEML Limited.
- 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. Bidder to sign and upload "Tax Indemnity Clause" as per ANNEXURE 'V'.

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 stores supplied shall be of the best quality and workmanship and shall be in strict conformity with all the drawings and specifications furnished to the supplier either earlier or along with the purchase orders and shall answer to the description in all respects. All supplies should be accompanied by suppliers works inspection / test certificate duly certifying that the stores are in strict conformity with the drawings / specifications / descriptions. However, final acceptance of the stores supplied will be subject to inspection and approval by BEML at their works. Once the materials are rejected and communicated to the supplier, no request shall be entertained for re-inspection or acceptance of the stores. However, BEML reserves the right to re-inspect the stores and consider acceptance at its discretion.

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. DOCUMENT SUBMISSION CLAUSE:

A. APPLICABLE TO FOREIGN SUPPLIER:

- a) In accordance with the standard practice of M/s. BEML Limited, 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 Purchaser on FOB (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 ink signed and six copies of signed supplier's invoice.
 - ii. Three original ink signed and six copies of signed inspection/works test certificates.
 - iii. Three original ink signed and six copies of signed packing list indicated with quantity, purchase order number, consignee name.
 - iv. Three original ink 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 ink signed and six copies of certificate of weight & measurements.
 - vi. Three original ink 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:
"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 supply as per the delivery schedule in the purchase order. Deviation in shipment/piece meal will not be entertained, unless otherwise specifically communicated by the purchaser to the supplier.
- 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 16.A.b. above should be sent directly by courier through fastest mode / air mail to the following address:

**THE DEPUTY GENERAL MANAGER,
MATERIALS MANAGEMENT DEPARTMENT (METRO PROJECTS),
BEML LIMITED, BANGALORE COMPLEX,
PB NO.7501, NEW THIPPASANDRA POST,
BANGALORE – 560 075, KARNATAKA, INDIA**

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

One set of Photo copy documents indicated in the clause 16.A.b. above should be sent directly by courier through fastest mode / air to the following address:

**THE ASSISTANT GENERAL MANAGER,
BEML LIMITED,
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 lokesh.rmw@beml.co.in/ rmw@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 ASSISTANT GENERAL 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 Limited, Bangalore Complex,
PB No.7501, New Thippasandra post,
Bangalore, Karnataka, India, Postal Code - 560 075

B. APPLICABLE TO INDIAN SUPPLIERS:

- a) In accordance of standard practice of M/s BEML Limited, the supplier shall make the equipment/material ready for immediate shipment according to the purchase order and dispatch the items on DAP (Delivered at Place), BEML Limited, 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 / Retail Invoice
 - ii. Delivery Challan
 - iii. Packing List
 - iv. BEML Limited'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 documents (As applicable).

Postal Address:

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

17. FALL 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 with holding of the payment of their bills against supply, if any.

18. DELIVERY, LIQUIDATED DAMAGES FOR LATE DELIVERY AND RISK PURCHASE CLAUSE:

- a) The time for 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 at their option either:
- i. to accept the delayed supply and to recover from the supplier the liquidated damage charges (i.e.) 0.1% of the total value of any equipment/material not delivered for each calendar day of delay for the first 30 calendar days & 0.25% of the total value of the amount for each calendar day for delays beyond 30 Calendar days subject to maximum of 10 % of the value of the purchase order, which the supplier has failed to deliver as aforesaid for each week or part thereof during which the delivery of such stores may be in arrears
(or)
 - ii. 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 others of a similar description (where stores exactly complying with the description and readily procurable) without canceling the PO in respect of consignments not due for delivery
(or)
 - iii. To cancel the purchase order by issuance of written notice to supplier for delay in delivery beyond 3 months w.r. t. schedule indicated in PO.
- b) In the event of action being taken under (i) or (ii) 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.
- c) 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.
- d) 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.

19. 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-18** 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, GST, 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.

20. 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 rules made under such acts.

21. JURISDICTION: The court of Karnataka State only shall have jurisdiction to deal with and decide any legal matter of dispute whatsoever arising out of this Purchase Order.

22. ARBITRATION:

All other disputes / differences except as to any matters the decision of which is specially provided for by these conditions or any other special conditions of the P.O. whatsoever arising between the parties out of or relating to the contract meaning and operation or effect of the contract or the breach thereof shall be settled by Arbitration in accordance with the rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties. The place of arbitration shall be 'Bangalore' and in accordance with " Indian Arbitration & Conciliation Act 1996"

The supplies under this purchase order shall, if reasonably possible, continue by mutual agreement during the arbitration proceedings and no payment due to or payable by BEML be withheld only on account of the pendency of such proceedings.

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-18 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. FORCE MAJEURE CLAUSE:

- a) Notwithstanding anything contained in the Contract, neither the Supplier nor the 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.

26. RIGHT TO VARY QUANTITIES:

- a) In general, BEML Limited reserves the right to increase or decrease up to 50% of 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.

27. RAW MATERIALS ARRANGEMENT:

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

28. LANGUAGE:

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

29. 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 Purchaser'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 Purchaser 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 purchaser.
- 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 with the applicable GST rates for the respective items.
- f) TDS (Tax deducted at source) will be applicable for 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.

30. 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 Limited, 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**

31. SPARES SUPPORT:

- a) Supplier will be required to support the equipment/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 4 cars materials) to immediately replenish the faulty / rejected / short supplies effected to the purchaser as per purchase order.

32. 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.

33. 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 purchaser, which may be granted only up to 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 complying with this requirement, it shall be lawful for the purchaser 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 purchaser may cancel the purchase order and in such case the supplier shall have no claim whatsoever to compensate against the purchaser.
- 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 Indian Partnership Act, has been sent by him to the purchaser by registered post acknowledgement due.
- d) The decision of the purchaser 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.

34. MODIFICATION, ADDITION AND AMENDMENTS:

- a) No modification, addition and/or amendment in the terms hereof shall bind on the purchaser & supplier herewith unless these are expressed in writing and duly agreed upon by the purchaser & supplier herewith.
- b) "Apart from the other changes BEML Limited has the sole right to increase/decrease/Change/delete the quantity of the equipment/material at any point of the execution of the purchase order".

35. ASSIGNMENT TO THIRD PARTY:

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

36. INVOLVEMNET 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.

37. INFRINGEMENT OF PATENTS:

- a) The Supplier shall defend and indemnify the Purchaser 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 Purchaser may undergo in legal action for such infringement or for which the Purchaser may become liable in any such action.
- b) The Supplier is not liable for damages if the infringement is due to Purchaser's instructions, the Purchaser's modification of the delivered equipment/material without Supplier's permission, use in manner not covered by the purchase order or the infringement arises out of combination of the equipment with other components.

38. SUPERVISION, TECHNICAL ASSISTANCE AND SERVICE SUPPORT:

- a) When the Supplier is requested by the Purchaser through phone, fax, E-mail & 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 Purchaser 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 Limited personnel's in Installation, commissioning & testing at free of cost for 2 train sets at BEML, Bangalore as well as at DMRC Depot.
- b) During the execution of the contract by the contractor, if the purchaser ("**BEML Limited**") 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 Limited 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 Limited.
- c) BEML Limited 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 Limited's works / designated location(s) with necessary tool / instruments to investigate and rectify the issues informed by BEML Limited. BEML Limited is not responsible and accountable for any charges / cost incurred by the supplier regarding deputation of representative to BEML Limited works.

39. SEVERABILITY:

In the event that any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been included. The purchaser/ supplier shall, in good faith, amend this Agreement to provide, to the extent possible, each purchaser/ supplier with the benefits provided by such invalid or unenforceable provision.

40. 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 Limited for disposal purpose according to Indian Environmental standard.

41. LIMITATION OF LIABILITY AND PRODUCT LIABILITY:

- a) Supplier shall assume full 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.
- b) 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.

- c) 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.

42. CONFIDENTIALITY 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 B**) 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.

43. 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 C**) 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.

44. DEFECT LIABILITY PERIOD & SPARES SUPPORT :

- a) The Defect Liability period for each train set shall be twenty four (24) months after successful testing and taking over of the 6 car Train sets by DMRC
- 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 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.

- d)** 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.
- e)** 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 / DAP 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 / DAP for Domestic suppliers) at the earliest as end customer will carry out auditing once in 3 months.
- f)** The supplier has to submit separate list of D.L.P spares with prices 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.
- g)** 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.
- h)** RAMS: The bidder shall meet the RAMS (Reliability, Availability, Maintainability and Safety) requirement as per clause 7 of PTS GR/TD/3992 Rev (1) dtd: 08.04.19.

45. WARRANTY:

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.

Please note that you have to attend to repair/service the equipment/system within 48 hours of breakdown call during the warranty period.

BEML reserves the right for

- a) Acceptance of the proposal of the supplier to remove the defects by reworking
- b) Subjecting the reworked / replaced goods to inspection by BEML at their works.

a) Guarantee / Warranty replacement:

Guarantee / Warranty replacement shall be dispatched on “DDP –Delivered Duty Paid BEML Stores” basis for imported items and “DAP – BEML Stores / designated destination” basis for indigenous items.

b) De-Boarding Clause:

Any penalty imposed by end-customer towards de-boarding of commuters for the reasons attributable to the manufacturing defect will be passed on to the supplier account.

c) Design modification:

The supplier agrees that should any design modification be required to any equipment or component as a consequence of failure analysis, the period of 24 months shall re-commence from the date when the modified part is commissioned into service or 24 months from the date of taking over of the last train whichever is later. If the date of modification is later than the date of taking over of each train set by the end customer, such modification shall be carried out free of cost to the BEML in all cars. In such cases warranty will be applicable on complete finished product as a whole even when only a component has been modified / replaced / repaired due to design change.

d) Other conditions:

- i. The supplier owes a duty of care to the BEML in relation to the performance of its duties under the Contract; and will replace free of cost to the BEML any defect or failure of equipment provided in the works during the defect liability period.
- ii. The supplier shall maintain in the manufacture & supply of spares (including those of his Sub-Contractors / Vendors) for the equipments supplied in the purchase order for at least 10 years from the date of completion of the contract.
- iii. The provisions of this Warranty shall be without prejudice to and shall not be deemed or construed so as to limit or exclude any rights or remedies which the BEML may have against the supplier, whether in tort or otherwise.
- iv. This Warranty shall be governed by and construed according to the laws for the time being in force in India.
- v. Wherever and whenever defect(s) or fault(s) should appear during the warranty period, Supplier shall, at its discretion, repair or replace the defective equipment / components at free of charge in site to the complete satisfaction of BEML / End user.
- vi. All replacement and repairs under the warranty shall be carried out by the supplier promptly and to the complete satisfaction of the engineer on notification of the defects by the end-user so that no car is out of revenue service for more than 48 hours.
- vii. If the defect or damage is such that it cannot be remedied expeditiously on the site and if the end-user gives consent, the supplier may, remove from the site for the purposes of repair any part of the equipment/material, which is defective or damaged. This consent may require the supplier to increase the amount of performance security by the full replacement cost of these items or to provide other appropriate security acceptance to the BEML.

- viii. If any defect or damage is one requiring immediate attention from safety / environmental view point / operational viewpoint, the BEML has the authority to proceed with rectification in any manner suitable and deduct such sums from the suppliers Bill or purchase order whichever is active.
- ix. Supplier shall bear reasonable costs for removal and installation, mutually agreed between Supplier and BEML prior to rectification of such defect.
- x. The Supplier at his expense and care shall supply onsite all spare parts, consumables and other items that will be required for the correction of defects during the warranty period in accordance with BEML's specification.
- xi. For the implementation of the whole Project effectively, Supplier shall reserve sufficient number of warranty spares of the needed parts of components and/or equipments at its own costs, which is repaired and/or replaced from commission stage to the completion of warranty period. For the project such parts will be taken from the stock in (Suppliers workshop).

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 Indian 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. DUTY ON INPUT CONTENT IMPORTED BY INDIAN BIDDERS TO MANUFACTURE TENDERED ITEMS:

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 authorized 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 with prices 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.

h) 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.

i) RAMS: The bidder shall meet the RAMS (Reliability, Availability, Maintainability and Safety) requirement as per clause 7.6.3 of PTS GR/TD/4260 Rev (2) Dt: 05.08.2019.

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

Customs Duty Exemption certificate 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.

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.

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.in.
- 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.

COMPLIANCE REPORT TO MANDATORY CLAUSES
(To be submitted along with Technical Bid - Annexure -I)

R.F.Q. Reference :

Firm :

Item details : **Two types of Floor Seat Screws for MRS-1 Project.**

SI No.	TDC Terms	Complied	Not Complied	Remarks
1	The seat screws and plates shall be supplied as per BEML tender drawings.			
2	The material used shall be austenitic stainless steel to grade SUS 304 / AISI 304, 2B finish, unless otherwise specified in the drawing and shall be procured from reputed sources like M/s. SAIL or M/s. JSL Stainless Pvt Ltd.			
3	The firm shall submit material test certificates for chemical composition and mechanical properties from the source.			
4	The seat screws and plates shall be cut from the sheets by laser cutting.			
5	The seat screws and plates shall be of sound quality without any defects which would impair the usability of the item.			
6	Dimensional check sheets for the parts shall be submitted along with the supplies.			
7	Each component shall be marked with corresponding drawing number with a permanent marker.			
8	The supplier shall submit confirmation for the above points along with their technical offer.			
9	ACCEPTABLE CURRENCIES			Applicable Currency to be INR
10	WARRANTY			Unconditional compliance

Authorized signatory with company seal / stamp

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 :

COMPLIANCE REPORT TO GENERAL TERMS & CONDITIONS(To be submitted along with Technical Bid)**R.F.Q. Reference** :**Firm** :**Item details** : **Two types of Seat Screws for MRS-1 Project.**

Sl. No.	Terms / Clause	Complied	Not Complied	Remarks
1.	GLOSSARY, DEFINITIONS & INTERPRETATIONS			
2.	SCOPE OF SUPPLY			
3.	QUALIFYING REQUIREMENTS OF THE TENDERERS			
4.	TENDER SUBMISSION CONDITION			
5.	SUBMISSION OF OFFER IN TWO-BID SYSTEM (TECHNICAL & COMMERCIAL OFFER SEPARATELY)			
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.	DOCUMENT SUBMISSION CLAUSE			
17.	FALL CLAUSE			
18.	DELIVERY, LIQUIDATED DAMAGES FOR LATE DELIVERY AND RISK PURCHASE CLAUSE			
19.	INSPECTION & CONSEQUENCE OF REJECTION			
20.	LAWS APPLICABLE			
21.	JURISDICTION			
22.	ARBITRATION			
23.	INDEMNITY			
24.	BRIBES AND GIFTS			

Authorized signatory with company seal / stamp

COMPLIANCE REPORT TO GENERAL TERMS & CONDITIONS(To be submitted along with Technical Bid)**R.F.Q. Reference** :**Firm** :**Item details** : **Two types of Seat Screws for MRS-1 Project.**

Sl. No.	Terms / Clause	Complied	Not Complied	Remarks
25.	FORCE MAJEURE CLAUSE			
26.	RIGHT TO VARY QUANTITIES			
27.	RAW MATERIALS ARRANGEMENT			
28.	LANGUAGE			
29.	TAX CLAUSE			
30.	PACKING AND MARKING			
31.	SPARES SUPPORT			
32.	POST-WARRANTY SERVICE			
33.	CHANGES IN THE NAME OF FIRM			
34.	MODIFICATION, ADDITION AND AMENDMENTS			
35.	ASSIGNMENT OF THIRD PARTY			
36.	INVOLVEMNET OF ANY AGENT AND MIDDLEMEN			
37.	INFRINGEMENT OF PATENTS			
38.	SUPERVISION, TECHNICAL ASSISTANCE AND SERVICE SUPPORT			
39.	SEVERABILITY			
40.	SAFETY ASSURANCE			
41.	LIMITATION OF LIABILITY AND PRODUCT LIABILITY			
42.	CONFIDENTIALITY AGREEMENT			
43.	NON COMPETITION AGREEMENT			
44.	DEFECT LIABILITY PERIOD & SPARES SUPPORT			
45.	WARRANTY			
46.	REJECTION REPLACEMENT			
47.	DUTY ON INPUT CONTENT IMPORTED BY INDIAN BIDDERS TO MANUFACTURE TENDERED ITEMS			

Authorized signatory with company seal / stamp

**Special Conditions arising out of Implementation of GST
(Which is 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.

Contd...2

-2-

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:

for M/s.....

Date:

Signature

**COMMERCIAL BID
(through Reverse Auction)**

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 price should be quoted only in the acceptable currencies i.e. INR, EUR and JPY.
3. Bidder shall submit Price bid for quantity of 504 numbers of metro cars in SRM portal.
4. 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-makeindia-order-2017>.

5. COMMERCIAL EVALUATION PROCEDURE:

Commercial ranking will be arrived on line item basis that includes the following:

- a. Equipment
 - b. Spares (Mandatory spares, Unit Exchange spares, Consumable spares, Special Tools, Testing & Diagnostic Equipment and Over hauling spares)
 - c. Non-recurring charges (NRC): Bidders may indicate lump sum price for non-recurring activities as defined/specified in BEML PTS underspecified line item in SRM portal. Detailed breakup to be provided in text. In case, bidder does not indicate any NRC charges, it is presumed by BEML that such costs are amortized by the bidder along with equipment costs.
 - d. 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 under ‘Notes & Price Attachments’.
 - e. The standard payment terms of BEML are as given at Clause 6 of GENERAL TERMS AND CONDITIONS - ANNEXURE – IV. For Bidders not agreeing with above terms, their prices will be suitably loaded with applicable cash credit interest while evaluation of bids.
 - f. For the purpose of arriving the Landed Cost in INR, the exchange rates for EUR / JPY prevailing as on date of tender opening (date of technical bid opening in case of two bid tender) as per website www.xe.com will be considered.
 - g. Total requirement will be ordered on a single source
6. The price bid to be submitted through e-mode Reverse Auction on BEML SRM system. The following are the item details.

ITEM DETAILS					
SL NO	PART NO.	ITEM DESCRIPTION	QTY in Nos (a)	Unit Price, Rs. (b)	Extended Price, Rs. C=(axb)
1	52516130	PLATE, BOARD JOINT	996		
2	52516132	SEAT SCREW, WINDOW MASK	3984		
Grand Total, Rs.					

NOTE:

1. The delivery schedule of materials for DMRC Project should commence tentatively from December -2020 (Delivery date at BEML Ltd). However, the contract delivery schedule will be discussed mutually based on the production plan before finalizing the PO

**CONFIDENTIALITY AGREEMENT
(To be typed in Rs.100 value document)**

This Confidentiality Agreement is made and entered into between M/s BEML Limited, (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 B EML, 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 Limited 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 Limited

For M/s. XXXX

WITNESS:

1.

1.

2.

2.

List of the items :

NON-COMPETITION AGREEMENT

(To be executed on Stamp paper of value of Rs. 200/-)

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 Limited

For M/s.

WITNESS:

1.

1.

2.

2.