

**BEML LIMITED**

(A Govt. of India Mini Rathna Company under Ministry of Defence)  
 BEML Soudha, 23/1, 4th Main Road, SR Nagar, Bangalore 560 027.  
 Phone 080-22963179 email: [cmrm@beml.co.in](mailto:cmrm@beml.co.in); [cmrm2@beml.co.in](mailto:cmrm2@beml.co.in).

Quotation in e-mode through GeM platform is invited for supply of Track shoe profiles to BEML.

SI no	Stock No	Description	Tender Qty
			Nos
1	125CT11172	TRACK SHOE (HEAVY DUTY) 560 MM	5248

- ✧ The Bidder supplies should comply material to BEML Grade & shoe dimensions should be as per drawing.
- ✧ Bidder should also submit their drawing matching to nearest BEML requirement. However, final discretion will be given by BEML. Bidder should mention the corresponding dimensions of their shoes against BEML requirements on BEML sketch and submit along with technical documents. Minor deviation to dimension and chemistry will be accepted subjected to BEML discretion. BEML decision on technical acceptance is final.
- ✧ Drill pitch and fitment aspects are critical and mandatory.

<b>Terms &amp; Conditions:</b>			
SI No.	Particulars	Terms	Bidder Confirmation (Yes/No)
1	Material Grade	As per BEML Standard. B1202	
2	Quote	Rate to be quoted as per tendering unit only, <b>including GST.</b>	
3	Delivery Terms	F.o.R BEML	
4	Delivery Schedule	Oct- 2023 – Dec 2023	
5	Payment terms	60 days on receipt & acceptance. For MSME firms, as per MSME act.	
6	MOQ	Buyer may quote MOQ, however, final qty is on BEML discretion.	
7	Local content	Firm shall submit the local content 50% as per Make In India for Class I and 20% for Class II Supplier	
8	Mill TC/ NABL TC	Bidder should submit Mill /LAB/ NABL TC along with supply.	

9	Deferent Clause	PO is subject to deferment, re-scheduling, cancellation, Short / Pre-closure based on equipment sales order.	
10	LD Clause	LD Applicable for late deliveries.	
11	Warranty	Successful Bidder should provide 1 Year/4500 Hrs warranty.	
11	Integrity Pact	Bidder should sign and submit integrity Pact as per Annexure J	
12	Bank Guarantee	Bidder should submit BG to the value of 10% of the PO value.	
13	NDA, Non-competition Agreement & Land border sharing declaration.	Bidder should submit NDA, Non-competition Agreement & Land border sharing declaration.	

Bidder Declaration.

I here by confirm to supply as per above terms and conditions.

Bidder Seal & Signature.

#### Major Terms & Conditions

1. Tender publishing Date : 09/08/2023

Tender Closing Date : 30/08/2023, 14:00 Hrs. (21 Days)

2. Quotation to send through Email to [cmtenderbox@beml.co.in](mailto:cmtenderbox@beml.co.in) only.

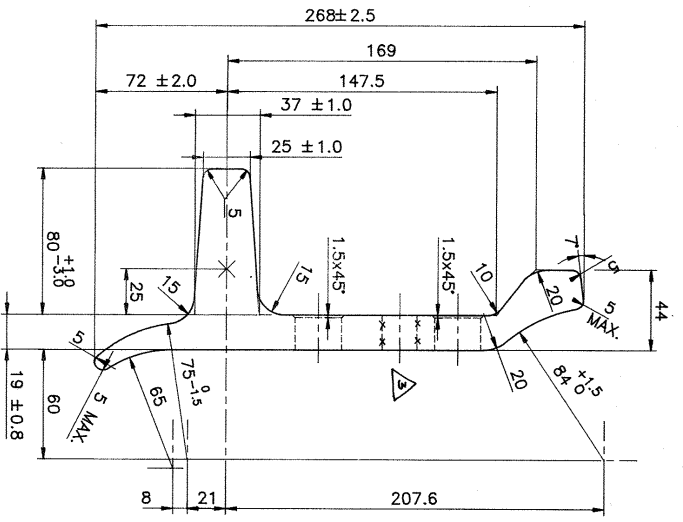
3. Quotation to send with two seperate attachment for commercial bid and Technical Bid.

Technical Bid - Bidder drawing, Filled TDC, Integrity Pact, NDA, Non Competition, Land border sharing declaration and other terms and conditions.

Comercial Bid - Price Bid

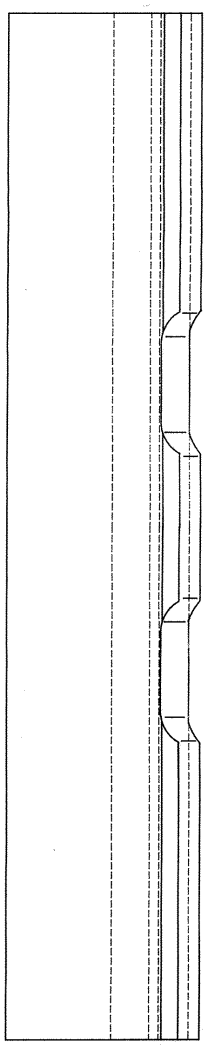
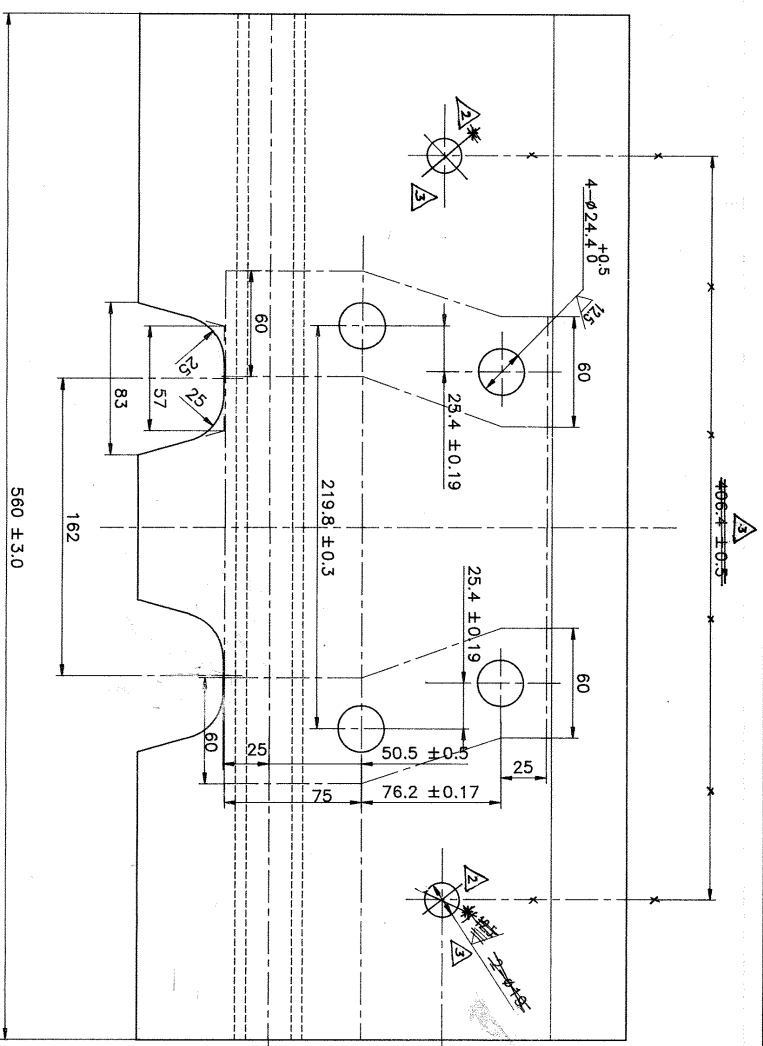
BEML LTD		QUALITY PLAN		DOC NO	323-QP-TRACK SHOES
EM DIVISION		QUALITY PLAN FOR FULLY FINISHED TRACK SHOES		ISSUE NO	1
				PAGE NO	2 OF 2
<b>Table -1</b>					
SL NO	TEST DESCRIPTION	PERIODICITY OF TESTS			FIRM'S OFFER
<b>Raw material Stage</b>					
1	Visual examination	Track shoes surface shall be free from seams, folds,laps,cracks,deep pits,groove and excess scaling.			
2	Raw material manufacturing process	Rolled Track shoe profiles to be used for Manufacturing all Track shoes as mentioned above .			
3	Chemical composition	One sample per batch shall be checked for chemical composition and shall conform to the company standard as below. & reports to be submitted along with supply.			
		ELEMENTS		B1202	
		Carbon ( C )		0.28/0.33	
		Silicon (Si)		0.25/0.35	
		Manganese		1.00/1.30	
		Phosphorus (P)		0.03 Max	
		Sulphur (S)		0.03 Max	
		Chromium (Cr)		0.35/0.65	
		Molybdenum (Mo)		0.08/0.15	
	Titanium (Ti)		--		
	Boron (B)		0.0005/0.003		
4	Metallurgical aspects(inclusion rating/Jominy hardneability & Grain size)	For ensuring quality of rawmaterial used such as inclusion rating/Jominy hardneability & Grain size B1201 & B1202 standard may be referred. Test reports covering all these aspects to be reported for every batch of supply			
<b>AFTER FINAL HEAT TREATMENT STAGE</b>					
5	HEAT TREATMENT (QUENCH & TEMPER)	Track shoes are heat treated to achieve surface hardness & Core hardness as below for all Models.			
		Description of item	Surface hardness	Core hardness at 25 mm at X2 from base plate surface (Refer Komatsu standard 90.254.1)	Remarks
		BD155 Track shoes 125CT11172	43/51 HRC	40 HRC Min	1)Surface hardness to be checked as per sampling** listed below. 2) Core hardness to be ensured for 01 no. in every batch by sectioning . Also, hardness gradient survey for every 10mm from Grouser tip across the section needs to be tested in the sectioned shoe.
		<b>Firm's Offer</b>			
6	MAGNETIC PARTICLE TESTING	During development stage 100 % components shall be tested for MPI test. During Bulk supply MPI test shall be carried out as per sampling plan **			
7	MECHANICAL PROPERTIES(Impact strength)	Mechanical properties such as Impact strength to be tested at Grouser & plate portion of Track shoe for every HT batch as per komatsu standard 90.254.1& shall be reported . Requirement of mechanical properties are as listed below. Minimum of 5 specimens to be tested & average to be reported . U notch (2mm) Impact specimen to be made & direction of notch to be followed as per komatsu standard 90.254.1			
		Description of item	Impact strength at grouser portion	Impact strength at plate portion L direction(Along rolling direction of Track shoe profile)	Impact strength at plate portion C direction(Transverse to rolling direction of Track shoe profile)
		BD155Track shoes	6 kgm/cm <sup>2</sup> (Min)	--	4 kgm/cm <sup>2</sup> (Min)
		<b>Firm's Offer</b>			
8	MECHANICAL PROPERTIES (Tensile strength, yield strength & % Elongation)	Mechanical properties such as Tensile strength , yield strength & % Elongation to be tested on a representative test piece of 50 mm diameter (of same material grade) which shall be heat treated along with Track shoes for every HT batch and reported suitably.			
		Description of item	Tensile strength(kg/mm <sup>2</sup> )(Min)	yield strength (kg/mm <sup>2</sup> ) (Min)	% Elongation(min)
		BD155Track shoes 125CT11172	145	120	10
<b>Firm's Offer</b>					
9	Dimensions	During Development stage,100 % components shall be checked for dimensions as per applicable			
<b>** Sampling plan</b>					
		Lot size	Sample quantity		
		2 ~ 15	02 no's		
		16 ~ 50	05 no's		
		51 ~ 300	13 no's		
		300 ~ 1200	20 no's		
		1200 ~ 3200	32 no's		

27111 125 CT 11172  
DRG. NO.



NOTE:-

- 1. \* MARKED HOLES ARE RESERVED WHEN STEEL PLATES ARE TO BE MOUNTED (OPTIONAL)
- 2. HEAT TREATMENT AS PER CLASSIFICATION SYMBOL H OF NKS 90-254.1



TOLERANCE	MACHINING DEVIATIONS FOR LINEAR DIMENSIONS										THE REST
	0.1	0.2	0.3	0.5	1.0	2.0	3.0	5.0	10.0	20.0	
±0.1	±0.1	±0.2	±0.3	±0.5	±1.0	±2.0	±3.0	±5.0	±10.0	±20.0	±30.0

NEXT ASSY. 125 CT 01014, 125 CT 01022 & 125 CT 01006, 125 CT 01055		PRODUCT <b>BD155</b>		DESIGN REF. -	
DRAWN BY: <i>[Signature]</i>		CHECKED BY: <i>[Signature]</i>		DATE: 18/03/18	
APPROVED BY: <i>[Signature]</i>		TITLE: <b>SHOE TRACK M/C</b>		SHEET NO. 1	
DRA/ENCL NAME: <i>[Signature]</i>		USED ON QTY/MATL: 125 CT 11001		NO. OF SHEETS 1	
REVISED BY: <i>[Signature]</i>		H.T. 82		WT. IN KG 32.4	
REVIEWED BY: <i>[Signature]</i>		S.T. PSTJ, PR1031-C		SCALE 1:2	
CHECKED BY: <i>[Signature]</i>		C.A.D. <i>[Signature]</i>		DRG. NO. 125 CT 11172	
STDS. <i>[Signature]</i>		BEML		KGF	
		BHARAT EARTH MOVERS LTD.			

**Annexure (J)**

*(To be executed on plain paper and applicable for all tenders of value \_ Rs. 1 Crore and above)*

**INTEGRITY PACT**

**Between**

**BEML Limited (BEML) hereinafter referred to as “The Principal”**

**And**

**..... hereinafter referred to as “The Bidder/Contractor”**

**Preamble**

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

.....

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

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

**Section 1 – Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:
  - a) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b) The Principal will, during the tender process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/ additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
  - c) The Principal will exclude from the process all known prejudiced persons.
- (2) If the principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or it there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

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

- (1) The Bidder(s)/ Contractor(s) commit themselves to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
  - a) The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
  - b) The Bidder(s)/ Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - c) The Bidder(s)/ Contractor(s) will not commit any offence under the relevant IPC/PC Act; further, the Bidder(s) / Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or documents provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d) The Bidder(s)/ Contractor(s) of foreign origin shall disclose the name and address of the Agents/ Representatives in India, if any. Similarly, the Bidder(s)/ Contractor(s) of Indian Nationality shall furnish the name and address of the foreign Principals, if any. Further, as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is placed at **Annexure (J-1)**.
  - e) The Bidder(s) / Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder(s)/Contactor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

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

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

### **Section 4 – Compensation for Damages**

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

### **Section 5 – Previous Transgressions**

- (1) Bidders to disclose any transgression with any other public / government organisation that may impinge on the anti-corruption principle. The date of such transgression, for the purpose of disclosure by the bidders in this regard, would be the date on which cognizance of the said transgression was taken by the competent authority. The period for which such transgression (s) is / are to be reported by the bidder shall be the last three years to be reckoned from date of bid submission. The transgression(s), for which cognizance was taken even before the said period of three years, but are pending conclusion, shall also be reported by the bidders
- (2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

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

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

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

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

### **Section 8 – Independent External Monitor / Monitors**

- (1) The Principal appoints competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. It will be obligatory for him to treat the information and documents of the Bidders/Contractors as confidential. He reports to the CMD, BEML.
- (3) The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Subcontractor(s) with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- (6) The Monitor will submit a written report to the CMD, BEML, within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise submit proposals for correcting problematic situations.



- (7) If the Monitor has reported to the CMD, BEML, a substantiated suspicion of an offence under relevant IPC/PC Act, and the CMD, BEML has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (8) The word 'Monitor' would include both singular and plural.

### **Section 9 – Pact Duration**

This pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded. If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged/ determined by CMD of BEML

### **Section 10 – Other provisions**

- (1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Corporate Office of the Principal, i.e. Bangalore.
- (2) Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the reminder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- (5) The bidder shall not approach the Courts while representing the matters to IEMs and he/ she will await their decision in the matter.

(6) In case of joint venture, all the partners of the joint venture should sign the Integrity Pact. In case of sub-contracting, the Principal contractor shall take the responsibility of the adoption of IP by the sub-contractor. It is to be ensured that all sub- contractors also sign IP.

(7) In the event of any dispute between the management and the contractor relating to those contracts where Integrity Pact is applicable, in case, both the parties are agreeable, they may try to settle dispute through mediation before the panel of IEMs in a time bound manner. If required, the organization may adopt any mediation rules for this purpose.

In case, the dispute remains unresolved even after mediation by the panel of IEMs, the organization may take further action as per the terms and conditions of the contract.

The fees / expenses on dispute resolution shall be equally shared by both the parties.

(8) In the event of any contradiction between the Integrity Pact and its Annexure, the Clause in the integrity pact will prevail

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(For & On behalf of the Principal)

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(For & On behalf of Bidder/Contractor)

(Office Seal)

(Office Seal)

Place-----

Place-----

Date -----

Date -----

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

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

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

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

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**Annexure J-1**  
**GUIDELINES FOR INDIAN AGENTS OF FOREIGN SUPPLIERS**

- 1.0 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*.
- 1.1 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.
- 1.2 Wherever the Indian representatives have communicated on behalf of their principals and the foreign parties have stated that they are not paying any commission to the Indian agents, and the Indian 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.
  
- 2.0 DISCLOSURE OF PARTICULARS OF AGENTS/ REPRESENTATIVES IN INDIA, IF ANY:
  - 2.1 Tenderers of Foreign nationality shall furnish the following details in their offer:
    - 2.1.1 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.
    - 2.1.2 The amount of commission/remuneration included in the quoted price(s) for such agents/representatives in India.
    - 2.1.3 Confirmation of the Tenderer that the commission/ remuneration if any, payable to his agents/representatives in India, may be paid by BEML LTD in Indian Rupees only.
  - 2.2 Tenderers of Indian Nationality shall furnish the following details in their offers:
    - 2.2.1 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.
    - 2.2.2 The amount of commission/remuneration included in the price (s) quoted by the Tenderer for himself.
    - 2.2.3 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 Indian Rupees on satisfactory completion of the Project or supplies of Stores and Spares in case of operation items.
- 2.3 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 Indian Rupees on expiry of 90 days after the discharge of the obligations under the contract.
- 2.4 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.

Signature  
(For & On behalf of Bidder/Contractor)

## Annexure III

### Compliance certificate

#### **Bidders having beneficial ownership in countries which share land border with India**

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the competent Authority.
- II. “ Bidder “ ( including the term ‘ tenderer ‘ , consultant ‘ or service provider ‘ in certain contexts ) means any person or firm or company , including any member of a consortium or joint venture ( that is an association of several persons, or firms or companies ) every artificial juridical person not falling in any of the descriptions of bidders stated here in before , including any agency branch or office controlled by such person , participating in a process.
- III. “Bidder from a country which shares a land border with India “ for the purpose of this order means : -
  - a. An entity incorporated , established or registered in such country ;or
  - b. A subsidiary of an entity incorporated, established or registered in such a country ;or
  - c. An entity substantially controlled through entities incorporated, established or registered in such a country ; or
  - d. An entity whose beneficial owner is situated in such a country ; or
  - e. An Indian ( or other ) agent of such an entity ; or
  - f. A natural person who is a citizen of such a country ; or
  - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.
- IV. The beneficial owner for the purpose of (iii) above will be as under :
  1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s) , who , whether acting alone or together , or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.
    - a. “ Controlling ownership interest “ means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company
    - b. “ Control “ shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreement s or voting agreements;
  2. In case of a partnership firm , the beneficial owner is the natural person(s) who , whether acting alone or together , or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
  3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who , whether acting alone or together , or through one or more juridical person , has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.
5. In case of a trust , the identification of beneficial owner(s) shall include identification of the author of the trust , the trustee , the beneficiaries with fifteen percent or more interest in the trust an any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

V An agent is a person employed to do any act for another, or to represent another in dealings with third person.

VI The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the competent Authority.

I/we have read the clause regarding above terms and conditions regarding restrictions on procurement whether goods, services (including consultancy service and non consultancy services) or works (including turn key projects)

I / We M/s .....(Name of the bidder) are not from a country which shares land border with India and as per the above terms and conditions are eligible to participate in this tender.

Or

I / We M/s .....are from a country which shares land border with India and as per the above terms and conditions ,we are registered with Competent authority with Registration no..... are eligible to participate in this tender.

[ Format for seeking registration for bidders having beneficial ownership in countries which share land border with India and further details refer Notification no P-45021/112/2020-PP (BE-II) (E-43780 ) dated 14.10.2020 Department of promotion of industry and internal trade , Ministry of Commerce and Industry , Govt. of India .]

(Signature of authorized signatory of the tenderer)

Name:

Designation:

Place

Seal :

Date:



# NON – DISCLOSURE AGREEMENT

BETWEEN

BEML LIMITED  
BENGALURU

AND

.....

## **NON – DISCLOSURE AGREEMENT**

This Non – Disclosure Agreement (hereinafter referred to as "**NDA**") is made and entered into between ;

**M/s BEML LIMITED**, a Central Public Sector Undertaking, coming under the administrative control of Ministry of Defence, and a Company incorporated under the Companies Act, 1956, having its Corporate Office at 'BEML SOUDHA',23/1, 4<sup>th</sup> Main, SR Nagar, Bengaluru – 560027, India (hereinafter referred to as "**BEML**" which expression, unless repugnant to the context, shall mean and include its successors and permitted assigns) of the One Part ,

And

M/s..... (Hereinafter referred to as "**Consultant**" which expression, unless repugnant to the context, shall mean and include its successors and permitted assigns) Other Part.

Hereinafter, BEML and the Consultant 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, manufacture and marketing of a variety of equipment and spare parts and aggregates required for Mining &Construction ,Rail and Metro Defence and Aerospace, etc.

Whereas the Firm is engaged in .....

Whereas BEML intends to procure trackshoe profiles from the firm where the drawings will be shared to the firm. (hereinafter referred to as "**the Purpose**"). If the firm emerged as the successful bidder and agreed to provide his products in accordance with terms and conditions specifically stipulated in -the Tender

Whereas as per the Tender documents the Successful bidder has to execute a Non-Disclosure Agreement on Non-judicial stamp paper before placement of Purchase order

as the Parties may disclose certain Information to each other, and the Parties recognise that careful protection and non-disclosure by the Party receiving the Confidential Information (hereinafter referred to as the "**Receiving Party**") from the Party disclosing such Confidential Information (hereinafter referred to as the "**Disclosing Party**") is of vital importance while executing the purpose.

NOW THEREFORE, in consideration of the mutual promises made herein, the Parties agree to disclose and receive certain Confidential Information only under the following terms and conditions:

## **1. SCOPE OF THE NDA**

1.1. The Parties recognise that there is a need to disclose to one another certain Confidential Information for the purpose. Confidential information is to be used only for the Purpose.

1.2. The following terms and conditions shall apply when the Disclosing Party discloses Confidential Information to the Receiving Party. Nothing contained in this NDA shall be construed as granting rights by the Disclosing Party to the Receiving Party, by license or otherwise, to any of the Confidential Information under any patent, know-how or other rights till now or hereinafter held by the Disclosing Party except as specified in this NDA. The Disclosing Party will provide Confidential Information without warranties of any nature whatsoever.

1.3. The firm should not participate in any tenders published by BEMLS customer in terms of spares or any kind of supply of the products to BEML customers.

## **2. CONFIDENTIAL INFORMATION**

The term "Confidential Information" shall mean and refer to all or any information and data of confidential or proprietary in nature which is disclosed by the Disclosing Party to the Receiving Party, including but not limited to, past, current and future customer information, proprietary, technical, financial, personnel,



marketing, pricing, sales and/or commercial information with respect to the “Purpose” as well as ideas, concepts, designs, drawings and inventions, embedded hardware design, data and information, computer source and object code and computer programming techniques; and all record bearing media containing or disclosing such information and techniques which are disclosed pursuant to this NDA

### **3. EXCEPTIONS**

This NDA imposes no obligation upon the Receiving Party with respect to information that:

- a) is now, or hereafter becomes, through no act or failure to act on the part of the Receiving Party, generally known or available to the public;
- b) is hereafter rightfully furnished to the Receiving Party by a third party, without restrictions to use or disclosure;
- c) is disclosed with the prior written consent of the Disclosing Party; or
- d) is required to be disclosed in pursuant to law, order of the court or Government authority, and then only to the extent ordered by the court or governmental authority, provided that the Receiving Party shall give a notice as early as possible to enable the Disclosing Party to get a protective order.

### **4. NON-DISCLOSURE**

All Confidential Information is and shall remain the property of the Disclosing Party. The Receiving Party agrees to hold the Confidential Information disclosed to it by the disclosing party in strict confidence and will not disclose the Confidential Information to any third party without the prior written consent of the Disclosing party.

### **5. RECEIVING PARTY'S OBLIGATIONS:**

The Receiving Party undertakes:

- a) to use the same care and discretion to avoid disclosure, publication or dissemination of the Confidential Information as it uses with respect to its own Confidential Information, but no less than reasonable care;

- b) not to use the Confidential Information for any other purpose except for the purpose for which the information has been disclosed.
- c) to comply with any other reasonable security measures requested in writing by the Disclosing Party;
- d) not to, under any circumstances, copy, replicate, or reverse engineer any products or services of the Disclosing Party by unauthorised use of Confidential Information and shall not infringe the intellectual property rights law applicable to the Disclosing Party;
- e) not to, directly or indirectly, make or permit any oral or written communications to the public media regarding the Confidential Information of the Disclosing Party, its business or clients or use the name of the Disclosing Party in any public announcements, promotional, marketing or sales materials or efforts, without the express prior approval of the Disclosing Party.
- f) Not to disclose Confidential Information to any third party without the prior consent of the Disclosing party.
  
- g) to disclose the confidential information to its employees, on a 'need to know' basis for the purpose of this NDA.

## **6. REMEDIES**

The Parties recognise 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 that, further 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

## **7. TERM**

The term of this NDA shall be till the completion of purchase order and that the obligations of the Receiving Party to protect the Confidential Information under this NDA shall survive for a period of two (2) years from the date of its early termination or expiry.

## **8. TERMINATION**

This NDA shall, unless otherwise extended by mutual agreement of the Parties, terminate upon happening of any of the following events :

- (a) Termination by mutual consent.
  
- (b) Termination by either party due to breach of any of the covenants hereof by the other
  
- (c) by giving written notice in the event of the liquidation, bankruptcy, reorganization, dissolution or insolvency of the other Party resulting in that Party's inability to perform the obligations under this Agreement;

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

## **9. RETURN OF CONFIDENTIAL INFORMATION**

Upon the expiry or termination of this NDA or at the earlier request of the Disclosing Party, the Receiving Party shall return all Confidential Information to the Disclosing Party without retaining any copies of such Confidential Information or, if so desired by the Disclosing Party, confirm in writing that all such Confidential Information has been destroyed. Notwithstanding the return or destruction of the Confidential Information, the Receiving Party will continue to be bound by its obligations of confidentiality and other obligations hereunder.

## **10. DISPUTE SETTLEMENT & JURISDICTION :**

Disputes if any, arising between the Parties, in connection with this NDA or any other matters connected therewith, the same will be mutually discussed and amicably settled between the parties, failing which, the disputes shall be referred to Arbitration in accordance with the provisions of Arbitration and Conciliation Act, 1996 and Rules framed there under from time-to-time. The place of Arbitration shall be at Bengaluru and the Arbitration proceedings shall be conducted in English language.

Courts at Bengaluru alone will have jurisdiction to entertain, try and adjudicate any matter connected with this Agreement, including Arbitration.

## **11. NON-SOLICITATION**

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

## **12. AMENDMENT**

Any amendment or modification of this NDA shall be valid only if the same is in writing and signed by or on behalf of each of the Parties.

## **13. MISCELLANEOUS**

13.1 Severability and Waiver. 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. The Parties shall replace any invalid provision with a valid provision, which must closely approximate the intent and economic effect of the invalid provision. The waiver by the Disclosing Party of a breach of any provision of this NDA shall not operate or be interpreted as a waiver of any other or subsequent breach.

13.2.Notices. All notices under this NDA must be in writing and must be either: faxed; mailed by registered or certified mail, postage prepaid and return receipt requested; or delivered by hand to the party to whom such notice is required or permitted to be given at the address set out in the title of this NDA.

IN WITNESS WHEREOF, the Parties hereto have set their respective hands to this NDA on .....(Day) ..... (Month) ..... (Year)at ..... (Place) in the presence of the following witnesses.

For BEML LIMITED

Firm

Name:

Name:

Signature:

Signature:

WITNESSES :

WITNESSES :

1.

1.

2.

2.

**Annexure – F : Agreement Proforma****NONCOMPETITION AGREEMENT**

**THIS NON COMPETITION AGREEMENT** is made and executed on this the.....day of .....at Bangalore **BETWEEN** M/s. BEML Ltd, a Government of India undertaking, having its Registered office at No.23/1, "BEML SOUDHA", 4th Main Road, Sampangirama 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 by .....the 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 supply

.....to 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 there under. 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 there under. Courts at Bangalore shall alone have sole jurisdiction to decide any issue arising out of the Arbitration or this Non-Competition Agreement.

Thanking you

Yours faithfully,

For BEML LIMITED