

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made thisday of, 2013 at Bhopal,

BETWEEN

Bharat Heavy Electricals Ltd, a Company as defined under the provisions of the Companies Act, 1956, having its registered office at BHEL House, Siri Fort, New Delhi 110049 and a unit at Piplani, Bhopal 462021 (India) hereinafter called 'BHEL'

AND

_____ (supplier), a Company as defined under the provisions of the Companies Act, 1956, and having its registered office at _____, address _____ (Country's name) hereinafter called '_____' (supplier's nick name)

WHEREAS:

- (a) BHEL is engaged in business of designing, manufacture and sale of turbines, industrial and traction motors, Generators, transformers and associated equipments in relation to which it has valuable information of a secret and confidential nature.
- (b) BHEL is regularly placing orders on _____ for manufacture and supply of various _____ as per BHEL specifications, required for manufacture and supply of traction machines.
- (c) On the request of _____ (supplier), BHEL has prepared technical specifications / drawings, shown in the **ANNEXURE-1** for production of _____ (item) as per BHEL Specification, which is the part and parcel of this agreement.
- (d) _____ (supplier) has requested BHEL to communicate it's specifications, shown in ANNEXURE- 1 above, for manufacture and supply of the said _____ (item)
- (e) BHEL has consented to communicate the said specifications to _____(supplier) , which is a confidential document, of which the confidentiality is to be maintained by _____(supplier), its servants, agents and by its other associates.

NOW THEREFORE, in view of the foregoing premises and in consideration of the mutual covenants, hereinafter set forth, the parties hereto agree as follows:

1. DEFINATION OF CONFIDENTIAL INFORMATION :

In this Agreement, a '**Confidential Information**' means information mentioned in the Annexure-1 to this agreement and also contained in the further correspondences / communications in the form of clarifications and replies from time to time in connection with this agreement.

2. OWNERSHIP :

- 2.1 BHEL is the sole owner of the confidential information as shown in Annexure-1 to this agreement.
- 2.2 Disclosure of this confidential information shall be at the discretion of BHEL. BHEL will provide this confidential information to _____ (supplier), without any consideration, and it shall always remain the property of BHEL.
- 2.3 The _____ (supplier) acknowledges and agrees that all Confidential Information shall remain the property of BHEL and nothing in this agreement or in any disclosures made hereinafter shall be construed as granting to _____ (supplier), any patent, copyright or design license, or right of use under similar industrial property rights which may now or hereinafter exist in the Confidential Information.

3. USE AND NON DISCLOSURE:

- 3.1 _____ (supplier) undertakes and agrees that the Confidential Information communicated to it will be held in strict confidence and will only be used for the proper purpose defined in this agreement.
- 3.2 The (supplier) undertakes and agrees not to make copies or extracts of and not to disclose to others any or all of the Confidential Information communicated to it hereunder except as follows:
- (a) _____ (supplier) shall not be prevented from disclosing any or all of the Confidential Information to such of its officers and employees as are required by their duties to have knowledge thereof for the proper purpose provided that the Confidential Information (or copies thereof) disclosed shall be marked clearly as the "Confidential and

proprietary information” of BHEL and that such officers and employees shall be similarly bound by undertakings of confidence, restricted use and non-disclosure in respect of such Confidential Information.

(b) _____ (supplier) shall not be prevented to make any disclosure required by (i) order of a court of competent jurisdiction or (ii) any competent regulatory authority or agency where such disclosure is required by law provided that where _____ (supplier) intends to make such disclosure, it shall first inform in writing to BHEL and take all reasonable steps requested by it to minimize the extent of the Confidential Information disclosed and to make such disclosure in confidence.

3.3 _____ (supplier) undertakes to maintain a register of all copies and extracts which it may make the Confidential Information under Clause 3.2 above, which register shall record the serial number of each copy or extract and names of the recipients and shall on request of BHEL supply the same to it.

RETURN OR DESTRUCTION OF INFORMATION:

_____ (supplier) shall promptly, upon BHEL request at any time (i) return all copies and extracts made thereof and/or destroy all Confidential Information communicated to it in the manner as advised by BHEL and (ii) provide BHEL with a statement that such Confidential Information was entirely returned or destroyed with an undertaking that if it is found that the confidential information reached the hands of any other person and BHEL has to suffered loss, the supplier shall compensate the same.

4. SCOPE AND APPLICATION:

4.1 This agreement shall apply to Confidential Information as aforementioned and which may have been communicated to _____ (supplier) prior to the date of this agreement provided that it was communicated for the proper purpose.

4.2 This agreement shall not apply in respect of any part of the Confidential Information communicated which was in the lawful possession of _____ (supplier) prior to its first receipt thereof before, on or after the date of this agreement.

5. DURATION:

This agreement shall become effective on the date first written above and remain in force till it is revoked by the parties hereto and thereafter save that the obligations of _____ (supplier) under this agreement shall continue until fully discharged by performance. Any obligations and duties which by their nature extend beyond the expiration of this agreement, including the provisions of Clause 5, shall survive till the expiration of this agreement.

6. AMENDEMENT/MODIFICATIONS:

Any amendment or modification of this agreement shall be in writing and signed by both the parties to make it effective. Any major amendment / modification shall be through a separate agreement and minor changes and clarifications may be through exchange of letters and the same shall be part and parcel of this agreement.

7. REMEDY:

_____ (supplier) accepts and agrees that the Confidential Information disclosed or to be disclosed pursuant to this agreement is, by its nature, valuable proprietary commercial information, the misuse or unauthorized disclosure of which is likely to cause BHEL considerable damages for which monetary compensation is likely to be inadequate and accordingly _____ (supplier) concedes that, without prejudice to any other rights and remedies, BHEL is entitled to relief by way of injunction including interim injunction.

8. ARBITRATION:

Any dispute arising out of this agreement shall amicably be settled by the parties. In case, the dispute is not amicably settled, the same shall be referred to sole arbitration by GM of the division/ ED of the unit to an arbitrator from the approved panel of BHEL. The arbitration proceedings shall be conducted as per provisions of "The Arbitration and Conciliation Act, 1996" and BHEL guidelines. The arbitrator shall make and publish speaking award and the same shall be binding on the parties hereto.

9. APPLICABLE LAW:

This agreement shall be governed by the law of India and BHEL rules applicable to the subject matter.

10. JURISDICTION:

Only the Civil Courts at Bhopal shall have jurisdiction to adjudicate and decide the disputes between the parties arising out of the arbitration proceedings.

IN WITNESS WHEREOF, the parties hereto have put their signature and seal on the day, month and year mentioned hereinabove.

For and on behalf of
BHEL, Bhopal

For and on behalf of

Witnesses:

- 1.
- 2.



