

SCOPE OF WORK – ‘Replacement work’

Indent No.:

Name of Work: Replacement of Asbestos sheet with Colour coated Galvalume sheet on the roof & side walls of old Production shop (OPS), Old Administrative building (OAB), Renewal Energy Group (erstwhile Buisness Development cell) & Quality office, Central Stores and parking shed at CFP Rudrapur.

The following shall be in the Contractor's Scope:

- 1) Existing old asbestos sheets to be removed without breaking / without damage, to the extent possible (Removal of sheets from the roof by hammering / Cutting is not allowed).
- 2) Contractor shall also remove cement asbestos debris / off-cuts / broken pieces (if any) resulting due to work and dispose-off the same within a distance of 150 mtrs. The final disposal of old asbestos debris shall be carried out by depositing the same at the face of landfill site or at the bottom of an excavation dug for it, as per Cl. 9 of IS 11768. The site for such disposal shall be provided by BHEL.
- 3) BHEL shall provide color coated Galvalume Sheets, FRP sheets, puffed sheets, Gutters, Ridges, down take pipe and Turbo ventilators.
- 4) Quantity mentioned in the tender is the finished area quantity which is tentative and may vary at the time of actual execution. The payment will be subject to actual finished area quantity executed as per the final measurement of work.
- 5) The Sheet shall be fixed using self-drilling/ self-tapping screws of suitable size with EPDM seal, complete up to any pitch in horizontal/ vertical or curved surface including cutting to size and shape as per requirement of BHEL.
- 6). All hardware required for installation including self-drilling screws will be in the contractor's scope. **Specified make for hardware is Hilti / HP / Corroshield / Patta.** Hardware will be supplied in sealed pack and will be verified by BHEL before opening of packing. The tools tackles and other miscellaneous not specified shall be in the sccpe of contractor.
- 7). Any issue related to poor workmanship observed during working or within the warranty period will be rectified by contractor free of cost.
- 8) Contractor has to keep due care of all safety measures and provide the safety equipments to their workmen.

TERMS & CONDITIONS

1. Work is to be executed strictly as per scope of work & Terms & conditions stipulated in Annexure – I & Annexure – II respectively.
2. Bidder has to quote prices only in Price bid format Annexure-IV. The rate for individual activities shall be calculated as per Annexure- III (BOQ cum Price distribution sheet).
3. **Safety:** Adequate safety precautions, safety belts, safety shoes, helmet, PPEs for contractor's workmen & taking work permit from BHEL as per Format F-HSE-18 (shall be provided by BHEL) for working at height >7ft, arrangement & use of safety net at Old Production Shop to prevent falling of splinters / accidental fall of workmen engaged shall be the sole responsibility of contractor. It may be noted that wearing of safety shoes shall be the essential requirement for entering into BHEL premises. Contractor should ensure & provide valid test certificate of safety belt and for all PPEs used by the contractor or its workmen. Contractor shall follow all preventive norms as applicable at BHEL premises regarding COVID-19.
4. **Site clearance** for commencement of work shall be provided by BHEL within one week from the date of LOI / Work order.
5. **Delivery terms:** Work shall be completed in all respect within 45 days from the date of award of LOI / Work order.
6. The co-ordination of work is to be ensured by the contractor during execution of work.
7. **Workmanship:** The overlapping of sheets, ridges & gutters in work should be as per direction of site in-charge.
Items mishandled or damaged by workmen / representative of contractor is to be rectified / replaced by the contractor to the satisfaction of BHEL by contractor free of cost before site handover to / takeover by BHEL. Work not found as per specified make / specification shall not be considered for measurement and billing.
8. All Tools, Tackles, Safety equipment's / provisions, PPE's, movement of manpower & material for the work, fulfilment of statutory obligations w.r.t. the workmen engaged, shall be arranged by the contractor.
9. All Material / tools & tackles supplied / brought inside BHEL premises by the contractor under the contract awarded shall be through contractor's material challan (returnable / non-returnable) duly stamped at BHEL security gate, a copy of which is also to be submitted to Civil deptt. of BHEL-CFP for records.
10. **Inspection:** Inspection of work executed by the contractor shall be carried out by BHEL at site.
11. **Measurement of work:** The work executed by the contractor shall be measured, recorded & verified at site jointly by BHEL & Contractor representatives and the same shall be entered in measurement book (M.B.). Unit of measurement for individual items shall be the finished area quantity as mentioned in Annexure-III. Length & width measurement of the executed work for sheets, ridges, gutters & down take pipes shall be considered in running meters. Overlapping portion shall not be considered in measurement / billing.

- 12. **Handing over / Taking over of site:** Contractor shall hand over the site to BHEL after completion of work. BHEL shall take over the site after inspection based on satisfactory completion of work by contractor and measurement of work.
- 13. **Payment terms:** Contractor shall raise invoice only after completion of 100% work. Payment against satisfactory completion of work shall be made to the contractor on actual measurement of work as per Cl. 11, within 30 days of submission of invoice in duplicate along with handing over / taking over certificate by the contractor through e-payment to the contractor's account.
*Note: The payment shall be subject to the following conditions:
 - (i) All payments will be subject to TDS & GST. Other statutory deduction as per applicable rules.
 - (ii) No mobilization / re-mobilization advance for the work or compensation therefor shall be Payable by BHEL to the contractor.
- 14. **Risk Purchase:** BHEL reserves the right to exercise risk purchase in case of failure on the part of contractor to meeting the contractual obligations under the contract w.r.t. unsatisfactory execution of work and/or quality, incomplete work carried out by the contractor & failure to meet delivery schedule. BHEL shall not be liable to compensate the contractor for any loss arising out of risk purchase action.
- 15. **Liquidated DAMAGES/PENALTY:** If the contractor fails to maintain the required progress of work resulting in delay in the completion of the work against delivery schedule, BHEL shall have the right to impose Liquidated Damage / Penalty at the rate of 0.5% of the contract value, per week of delay or part thereof subject to a maximum of 10% of the contract value. For this purpose, the period of delay shall be the delay attributable to the Contractor for the completion of work as per contract. Contract Value for this purpose, shall be the final total non-executed value of contract.
- 16. **Time Extension :** In case, the work is delayed due to Force majeure conditions like, abnormally bad weather, serious loss or damage by fire, civil commotion, strike or lockout, flood, riots, cyclone, earthquake etc. any other cause including non-availability of storage / delay in site clearance for work by BHEL, which in the absolute discretion of BHEL is beyond the contractor's control, request for extension of time along with reason(s) to be eligible for consideration, shall be made by the contractor in writing within seven days of the happening of the event causing delay but before expiry of scheduled date of completion. BHEL may or may not, at its discretion, give any extension after review of contractor's application and mere submission of application for extension shall not absolve the contractor of its obligation to complete the work within scheduled time or liable to be penalized for delay unless time extension is provided by BHEL. Status on grant / turndown of extension request shall be communicated to the contractor.
- 17. **Warranty & Security Deposit:** Onsite **warranty of 24 months** against defective workmanship shall be applicable from the date of completion of work against contract and taking over of site by BHEL. Any defect in workmanship detected during warranty period shall be rectified free of cost by the contractor. Contractor shall be required to deposit an interest free security deposit @5% of contract value before start of the work, which shall be retained by BHEL up to two months after successful completion of the warranty period.

18. Contractor shall take due care in carrying out the works so as not to cause damage to BHEL property. Any damage to BHEL property caused and attributed to the contractor or its workmen shall be repaired / 100% compensated by the contractor at its risk & cost.

19. Bidder / contractor shall provide the following information:

Particulars	Requirement	Bidder's / Contractor's Remarks
EPF Registration No	Enclose a Copy	
ESI Registration No.	Enclose a Copy	
Pan Card No	Enclose a Copy	
GST Registration no.	Enclose a Copy	
Bank Account Details IFSC Code Account No. Bank Name Branch Name	Furnish details	
Acceptance to engage trained /qualified staff / workmen	Bidder's acceptance required	

19. The actual quantity used in the final work may vary up to 10% for the individual activities vis-à-vis the quantity mentioned in Annexure-III.

ANNEXURE-III

BOQ CUM PRICE DISTRIBUTION SHEET - for 1 set of work

Name of Work: Replacement of Asbestos sheet with Colour coated Galvalume sheet on the roof & walls of old Production shop (OPS), old Administrative building (OAB), Renewal Energy Group (erstwhile Business Development Cell) & Quality office, Central Stores and parking shed at CFP Rudrapur as per scope of work (in Annexure-I) and Terms and conditions (in Annexure-II).

S. No.	Description of Activity	Quantity	Unit	Activity wise Percentage against total cost
1	REMOVAL OF ASBESTOS SHEET AND INSTALLATION OF COLOR COATED GALVALUME STEEL PROFILE SHEET OF 0.50MM (Min) +0.05% TCT HIGH STRENGTH 550MPA (MIN) CONFORMING TO IS 14246:2013 & HAVING ZINC COATING OF MIN 120GM/M2 AS PER IS 277:2018, 5-7 MICRONS EPOXY PRIMER ON BOTH SIDE & POLYSTER TOP COAT 15-18 MICRONS HAVING PLASTIC PROTECTIVE FILM 25 MICRONE (Min) TO AVOID DAMAGE DURING TRANSPORTATION	3796.5	Sqm	61.26%
2	REMOVAL OF EXISTING GUTTERS AND INSTALLATION OF COLOR COATED GALVALUME STEEL SHEET GUTTERS 600MM OVER ALL GIRTH, 0.50MM (Min) +0.05% TCT ZINC COATING 120GSM AS PER IS 277:2018 IN 550MPA (MIN) STEEL GRADE, 5-7 MICRONS EPOXY PRIMER ON BOTH SIDE & POLYSTER TOP COAT 15-18 MICRONS CONFORMING TO IS 14246:2013	971	RM	5.54%
3	REMOVAL OF EXISTING RIDGES AND INSTALLATION OF COLOR COATED GALVALUME STEEL SHEET RIDGE 600MM OVER ALL GIRTH, 0.50MM (Min) +0.05% TCT ZINC COATING 120GSM AS PER IS 277:2018 IN 550MPA (MIN) STEEL GRADE, 5-7 MICRONS EPOXY PRIMER ON BOTH SIDE & POLYSTER TOP COAT 15-18 MICRONS CONFORMING TO IS 14246:2013	500	RM	1.63%
4	REMOVAL OF EXISTING DOWNTAKE PIPES AND INSTALLATION OF COLOR COATED GALVALUME STEEL SHEET DOWN TAKE PIPES OF GIRTH 400MM SQUIRE CONSTRUCTION, 0.50MM (Min) +0.05% TCT ZINC COATING 120GSM AS PER IS 277:2018 IN 550MPA (MIN) STEEL GRADE, 5-7 MICRONS EPOXY PRIMER ON BOTH SIDE & POLYSTER TOP COAT 15-18 MICRONS CONFORMING TO IS 14246:2013	385	Rm	1.63%
5	REMOVAL OF OLD FRP SHEET AND INSTALLATION OF DAY LIGHT PROFILE PANEL (FRP) OF 2MM (MIN) THICKNESS CONFORING TO IS 12866 SHAPE & PITCH OF TRAPOZOIDAL PROFILE FRP SHEET SHOULD MATCH WITH PROFILE OF SL. NO.1	713.94	Sqm	12.57%
6	REMOVAL OF ASBESTOS SHEET AND INSTALLATION OF POLYURETHANE FOAM (PUF) OF 30 MM (Min) TCT CONFORMING TO IS 12436:1988 HAVING COLOR COATED GALVALUME STEEL OF 0.50MM (Min)+0.05% TCT HIGH STRENGTH 550MPA (MIN) AT TOP & BOTTOM SHEET CONFORMING TO IS 14246:2013 & SHALL HAVE ZINC COATING OF MIN 120GSM AS PER IS 277:2018 HAVING PLASTIC PROTECTIVE FILM 25 MICRONE (MIN)	660	Sqm	13.77%
7	INSTALLATION OF 24 INCH TURBO VENTILATOR ALONG WITH FRP BASE SHEET OF LENGTH 1800MM (MIN) WIDTH 1200MM (MIN) SHAPE & PITCH OF TRAPEZOIDAL PROFILE OF BASE SHEET SHOULD MATCH WITH PROFILE OF SL. No.1	26	Nos.	3.60%
TOTAL		-	-	100.00%

FORMAT OF PRICE BID - for 'Replacement Work'

SL. NO.	DESCRIPTION OF WORK	QUANTITY	TOTAL amount including GST (in Rs.)
1	Replacement Galvalume sheet (removal & installation) on the roof & walls of old Production shop (OPS), old Administrative building (OAB), Renewal Energy Group (erstwhile Business Development Cell) & Quality office, Central Stores and parking shed at CFP Rudrapur as per annexure- I, II & III.	1 Set	

Total amount (including GST) in words : Rupees

_____ Only

Note: (1) No term / condition should be mentioned in the price bid. If any term / condition is found mentioned by the bidder in the price bid, the offer shall be rejected.

(2) Total amount quoted above shall be distributed as per Annexure - III.

(3) Evaluation of price bid will be done on "Total amount including GST" .

Declaration by the bidder :

I have read and understood all the documents of NIT and have submitted our quote accordingly

(Bidder's Signature with Stamp)

PRE-QUALIFICATION REQUIRMENT

1	Submission of EMD as specified in NIT (Receipt copy to be enclosed)
2	<p>Bidder should have successfully executed (partly completed running contract / fully completed contract) of similar works for any of the following during the last seven years as on date of opening of tender:</p> <ol style="list-style-type: none"> One Similar work costing not less than the amount to Rs. 5.79 Lakh each or Two Similar works costing not less than the amount to Rs, 3.62 Lakhs each or Three Similar work costing not less than the amount to Rs. 2.89 Lakhs each. <p>Actual executed value shall be considered based on the value including the amount of taxes.</p> <p>Bidders to submit work execution certificate duly stamped in original from the work contracting organization bearing its complete address, name of contact person and valid contact phone no(s) in support of this criteria.</p> <p>Note: (i) Bidder should enclose copy of work order / contract against which execution certificate is submitted. (ii) The value of similar work should be distinctly identifiable in the work order / contract.</p>
3	<p>(a). Average Financial turnover during the last three years, ending 31st March 2021 should be at least 2.17 Lakhs.</p> <p>(b). Bidder must have earned profit in any of the three financial years as applicable in the last three financial years as furnished for (a) above.</p> <p>The following documents should be submitted by the bidder:</p> <p>(i). Balance sheet and Profit & Loss Account (audited) of last three years ending on 31st March 2021 in support of the above.</p> <p>(ii). If financial statements are not required to be audited statutorily, then financial statements are required to be certified by Chartered Accountant.</p>
4	Bidder to submit signed & stamped (on each page) copy of terms & conditions and scope of work unequivocal acceptance of all terms & conditions and scope of work of contract.

Note (i): The party should submit EMD as per Sl. 1, documents mentioned in Sl. NO. 2 & 3 and acceptance as per Sl. 4. These are mandatory qualifying criteria & non fulfillment of any one or more criteria shall render the offer as technically rejected.

Note (ii): Time period for achievement of the Qualification Requirements is in the last 7 years ending on the 'latest date of Bid Submission' of tender.

Note (iii). Definition of similar work:

Structural erection having following (partially or completely) in its scope :

“Supply and Installation / Replacement works* of profile sheets on building’s roof or side cladding or Construction of shed / Mezzanine / Warehouse / Workshop” .

*Note: The scope having only installation/ replacement/ construction works shall also be considered as similar work. However, the scope having only supply works will not be considered as similar work.

Authorized Sign. With seal

Name of the Bidder
Contact details

Address:
E-Mail Address:

Commercial (Tax) Sheet-Unpriced

(To be filled by the BIDDER and send along with Techno-Commercial (unpriced) Bid Document)

NIT No. **202104821**, REPLACEMENT OF ASBESTOS SHEET WITH COLOUR COATED GALVALUME at CFP Rudrapur

Name of Bidder.....

Sl. No.	Item Detail	Applicable GST rate in %
1	REPLACEMENT OF ASBESTOS SHEET WITH COLOUR COATED GALVALUME SHEET ON THE ROOF & WALL OF OLD PRODUCTION SHOP, OLD ADMINISTRATIVE BUILDING, RENEWAL ENERGY GROUP (ERSTWHILE BUSINESS DEVELOPMENT CELL) & QUALITY OFFICE, CENTRAL STORES AND PARKING SHED AT BHEL-CFP RUDRAPUR AS PER ANNEXURE-I, II & III	

➤ Do not mention Prices over here.

Sign & Seal of Bidder

Special terms and Conditions

Risk Purchase Clause-Risk Purchase Clause: If the supplier fails to deliver the whole or any part of the goods or services within the stipulated delivery period mentioned in the Purchase order, BHEL shall be entitled to terminate the contract and to purchase the same or “the best and the nearest available substitute” from elsewhere at the risk and cost of the seller either the whole or any part of the goods/Services. In case of deviation or non-acceptance of Risk Purchase clause, offer shall be liable for rejection. Risk & Cost Amount payable by Supplier or recoveries in-lieu of Risk Purchase may be recovered from supplier by encashing/invoking Bank Guarantee, Security Deposits available with BHEL against the same or any other contract or may be adjusted against dues payable to supplier by BHEL against other purchase orders/contracts/work orders etc by any unit/region etc. of BHEL. Risk and Cost against Balance Work: Risk & Cost Amount= $[(A-B) + (A \times H/100)]$ Where, A= Value of Balance scope of Work/ Supply (*) as per rates of new contract B= Value of Balance scope of Work/ Supply (*) as per rates of old contract being paid to the contractor/ supplier at the time of termination of contract i.e. inclusive of PVC & ORC, if any. H = Overhead Factor to be taken as 5 In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero). *(Balance scope of work/ supply) Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for ‘Termination of Contract’, shall be taken as balance scope of Work/ Supply for calculating risk & cost amount. Contract quantities are the quantities as per original contract. If, Contract has been amended, quantities as per amended Contract shall be considered as Contract Quantities.

Suspension of Business Dealings-Action shall be taken as per extant BHEL

“Guidelines for Suspension of Business Dealings with Suppliers/Contractors AA/MM/SB/01 Rev.02 Dated 22.07.2016” against Supplier as well their agents who either fail to perform or are

in default without any reasonable cause like force majeure, cause loss of business/money/reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding processor influence the price, tempering with tender process etc. Further details in this regard can be accessed through BHEL website www.bhel.com

Fraud Prevention Policy-The Bidder along with its associate/ collaborators/ sub-contractors/ sub-vendors/ consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice."

Cancellation of Contract-In the event of non-performance of the contract by the supplier within specified delivery period, BHEL reserves the right to cancel the purchase order with issue of a written notice through e-mail/postal etc. BHEL would provide a curing period of not more than 15 days for the supplier to rectify the situation without any prejudice to terms and conditions mentioned in Purchase order/Framework Agreement. If situation is not rectified within notice period after issuance of notice, BHEL shall be free to execute Risk purchase in addition to invoking of CEBG and other legal remedies.

Arbitration-In case amicable settlement is not reached between the Parties, in respect of any dispute or difference or claim or controversy arising out of the formation, breach, termination, validity or execution of the Contract(or Agreement) or the respective rights and liabilities of the parties or in relation to interpretation of any provision of the Contract or in any manner touching upon the Contract, then, either party may, by a notice in writing to the other Party refer such dispute or difference or controversy of claim, (except as to any matters, the decision of which is specifically provided for therein) to the sole arbitration by the arbitrator appointed by Head/In-Charge of the BHEL Unit/Division/Region. b) The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the parties to the dispute. c) Subject as aforesaid, the provisions of

Arbitration and Conciliation Act 1996 (India), or other statutory modifications of re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceeding under this clause. The seat of arbitration shall be at Component Fabrication Plant, Rudrapur, Distt. Udham Singh Nagar, Uttarakhand. d) In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable: e) In the event any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of Public enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to

the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively. f) Notwithstanding the existence of any dispute or differences and/or reference for the arbitration, the Supplier shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner.

Jurisdiction-Suits or any matter arising out of the PO shall be settled in Rudrapur, Uttara hand, India courts. All Contracts shall be under jurisdiction of Indian Courts only.

Reverse Auction-Applicable as per BHEL extended guideline.

BHEL shall be resorting to Reverse Auction (RA) (Guidelines AA: SSP: RA:05: amdt 01 Dated: 1 0.03.2021 as available on www.bhel.com) for this tender. RA shall be conducted among all the techno-commercially qualified bidders.

Price bids of all techno-commercially qualified bidders shall be opened and same shall be considered as initial bids of bidders in RA. In case any bidder(s) do(es) not participate in online Reverse Auction, their sealed envelope price bid along with applicable loading, if any, shall be considered for ranking.”

1. Start price for RA to be L 1 of e-bid/ sealed envelope price bids.
2. Minimum two techno-commercially qualified bidders are required to conduct RA.
3. In case of two or three techno-commercially qualified bidders, there shall be no elimination of H 1 bidder (whose quote is highest in sealed envelope price bid).
4. In case of four qualified bidders, H 1 bidder to be eliminated whereas in case of five qualified bidders, H 1 and H2 bidders are to be eliminated.
5. Wherever six or more techno-commercially qualified bidders are available, RA would be conducted amongst first 50% of the bidders arranged in the order of prices from lowest to highest. Number of bidders eligible for participating in RA would be rounded off to next higher integer value if number of techno commercially qualified bidders is odd (e.g. if 7 bids are technically qualified, then RA will be conducted amongst lowest four bidders). However, there will be no elimination of bidders who are MSE or qualifying under PPP-MII Order, 2017.

**ANNEXURE TO MODEL CONCILIATION CLAUSE FOR CONDUCT OF
CONCILIATION UNDER THE BHEL CONCILIATION SCHEME, 2018**

BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS

1. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter-claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in **Format 7** hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in **Format-8** hereto.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-9**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-5**.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30 days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the

proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.

- 7.** The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
- 8.** Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.
- 9.** In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by either/both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.
- 10.** Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.
- 11.** When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.
- 12.** In case no settlement can be reached between the parties, the IEC shall by a written declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.
- 13.** Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months.

- 14.** In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.
- 15.** The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.
- 16.** Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.
- 17.** In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.
- 18.** A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party(ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.
- 19.** The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.
- 20.** Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.

- 21.** Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.
- 22.** The proceedings of Conciliation under this Scheme may be terminated as follows:
- a.** On the date of signing of the Settlement agreement by the Parties; or,
 - b.** By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,
 - c.** By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - d.** By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - e.** On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.
- 23.** The Conciliator(s) shall be entitled to following fees and facilities:

Sl No	Particulars	Amount
1	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No. 27 herein below.
2	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5crores. Rs 50,000/- (Sole Conciliator) In cases involving claim and/or counter-claim of exceeding Rs 5 crores but less than Rs 10 crores.

Sl No	Particulars	Amount
		<p>Rs 75,000 (per Conciliator) In cases involving claim and/or counter-claim of more than Rs 10 crores.</p> <p>Rs 1,00,000/- (per Conciliator) Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the, Signing of the Settlement Agreement after approval of the Competent Authority or Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.</p>
3	Secretarial expenses	<p>Rs 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC.</p> <p>Where Conciliation is by multi member Conciliators –Rs 30,000/- (one time)- to be paid to the IEC</p>
4	<p>Travel and transportation and stay at outstation Retired Senior Officials of other Public Sector Undertakings (pay scale wise equivalent to or more than E-8 level of BHEL)</p> <p>Others</p>	<p>As per entitlement of the equivalent officer (pay scale wise) in BHEL.</p> <p>As per the extant entitlement of whole time Functional Directors in BHEL.</p> <p>Ordinarily, the IEC Member(s) would be entitled to travel by air Economy Class.</p>
5	Venue for meeting	Unless otherwise agreed in the agreement, contract or the Memorandum of Understanding, as the case may be, the venue/seat of proceedings shall be the location of the

Sl No	Particulars	Amount
		concerned Unit / Division / Region / Business Group of BHEL. Without prejudice to the seat/venue of the Conciliation being at the location of concerned BHEL Unit / Division / Region / Business Group, the IEC after consulting the Parties may decide to hold the proceedings at any other place/venue to facilitate the proceedings. Unless, Parties agree to conduct Conciliation at BHEL premises, the venue is to be arranged by either Party alternately.

- 24.** The parties will bear their own costs including cost of presenting their cases/evidence/witness(es)/expert(s) on their behalf. The parties agree to rely upon documentary evidence in support of their claims and not to bring any oral evidence in IEC proceedings.
- 25.** If any witness(es) or expert(s) is/are, with the consent of the parties, called upon to appear at the instance of the IEC in connection with the matter, then, the costs towards such witness(es)/expert(s) shall be determined by the IEC with the consent of the Parties and the cost so determined shall be borne equally by the Parties.
- 26.** The other expenditures/costs in connection with the Conciliation proceedings as well as the IEC's fees and expenses shall be shared by the Parties equally.
- 27.** Out of the lump sum fees of Rs 75,000/- for Sitting Fees, 50% shall be payable after the first meeting of the IEC and the remaining 50% of the Sitting Fees shall be payable only after termination of the conciliation proceedings in terms of para 22 hereinabove.
- 28.** The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 4 of the Table at para 23 above, and in case such arrangements are not made by the BHEL Unit, the same shall be reimbursed to the IEC on actuals limited to their entitlement as per Serial No. 4 of the Table at Para 23 above against supporting documents. The IEC Member(s) shall submit necessary invoice for claiming the fees/reimbursements.

- 29.** The Parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of its implementation and enforcement or as required by or under a law or as per directions of a Court/Governmental authority/ regulatory body, as the case may be.
- 30.** The Parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the Disputes that is the subject of the Conciliation proceedings:
- a.** Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
 - b.** admissions made by the other party in the course of the Conciliator proceedings;
 - c.** proposals made by the Conciliator;
 - d.** The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.
- 31.** The Parties shall not present the Conciliator(s) as witness in any Alternative Dispute Resolution or Judicial proceedings in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
- 32.** None of the Conciliators shall act as an arbitrator or as a representative or counsel of a Party in any arbitral or judicial proceeding in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
- 33.** The Parties shall not initiate, during the Conciliation proceedings, any arbitral or judicial proceedings in respect of a Disputes that is the subject matter of the Conciliation proceedings except that a Party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights including for preventing expiry of period of limitation. Unless terminated as per the provisions of this Scheme, the Conciliation proceedings shall continue notwithstanding the commencement of the arbitral or judicial proceedings and the arbitral or judicial proceedings shall be primarily for the purpose of preserving rights including preventing expiry of period of limitation.
- 34.** The official language of Conciliation proceedings under this Scheme shall be English unless the Parties agree to some other language.

Format 5 to BHEL Conciliation Scheme, 2018
STATEMENT OF CLAIMS/COUNTER CLAIMS TO BE SUBMITTED TO THE
IEC BY BOTH THE PARTIES

1. Chronology of the Disputes
2. Brief of the Contract/MoU/Agreement/LOI/LOA
3. Brief history of the Disputes:
4. Issues:
5. Details of Clam(s)/Counter Claim(s):

SI. No.	Description of claim(s)/Counter Claim	Amount (in INR)Or currency applicable in the contract	Relevant contract clause

6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

Note– *The Statement of Claims/ Counter Claims may ideally be restricted to maximum limit of 20 pages. Relevant documents may be compiled and submitted along with the statement of Claims/ Counter Claims. The statement of Claims/ Counter Claims is to be submitted to all IEC members and to the other party by post as well as by email.*

FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY BHEL FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,

M/s. (Stakeholder's name)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY BHEL**

Ref: Contract No/MoU/Agreement/LOI/LOA& date _____.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which arise out of the above- referred Contract/MoU/Agreement/LOI/LOA are reproduced hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring disputes to conciliation.

In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby seek your consent to refer the matter to Conciliation by Independent Experts Committee to be appointed by BHEL. You are invited to provide your consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which you might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA.

Please note that upon receipt of your consent in writing within 30 days of the date of receipt of this letter by you, BHEL shall appoint suitable person(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you
Yours faithfully

Representative of BHEL

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

**FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY A
STAKEHOLDER FOR REFERRING THE DISPUTES TO CONCILIATION
THROUGH IEC**

To,

BHEL (Head of the Unit/Division/Region/Business Group)

Subject: **NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE
CONTRACT BY A STAKEHOLDER**

Ref: Contract No/MoU/Agreement/LOI/LOA& date _____.

Dear Sir/Madam,

As you are aware, with reference to above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which have arisen out of the above-referred Contract/MoU/Agreement/LOI/LOA are enumerated hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/ LOA for referring inter-se disputes of the Parties to conciliation.

We wish to refer the above-said disputes to Conciliation as per the said Clause of the captioned Contract/MoU/Agreement/LOI/ LOA. In terms of Clause -----of Procedure i.e., Annexure ----- to the Contract/MoU /Agreement / LOI / LOA, we hereby invite BHEL to provide its consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which it might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA and to appoint suitable person(s) as Conciliator(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you
Yours faithfully

Representative of the Stakeholder

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.

FORMAT FOR INTIMATION TO THE STAKEHOLDER ABOUT APPOINTMENT OF CONCILIATOR/IEC

To,

M/s. (Stakeholder's name)

Subject: **INTIMATION BY BHEL TO THE STAKEHOLDER AND CONCILIATOR(S) ABOUT APPOINTMENT OF CONCILIATOR/IEC**

Ref: Contract No/MoU/Agreement/LOI/LOA& date _____.

Sir,

This is with reference to letter dated ----- regarding reference of the disputes arising in connection with the subject Contract No /MoU/Agreement/LOI/LOA to conciliation and appointment of Conciliator(s).

In pursuance of the said letter, the said disputes are assigned to conciliation and the following persons are nominated as Conciliator(s) for conciliating and assisting the Parties to amicably resolve the disputes in terms of the Arbitration & Conciliation Act, 1996 and the Procedure ---- to the subject Contract/MoU/Agreement/LOI/LOA, if possible.

Name and contact details of Conciliator(s)

a)

b)

c)

You are requested to submit the Statement of Claims or Counter-Claims (strike off whichever is inapplicable) before the Conciliator(s) in Format 5 (enclosed herewith) as per the time limit as prescribed by the Conciliator(s).

Yours faithfully,

Representative of BHEL

CC: To Conciliator(s)... for Kind Information please.

Encl: As above

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.