

ANNEXURE-III

PRE-QUALIFICATION REQUIREMENT

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> <ul style="list-style-type: none"> a. Three Similar work costing not less than the amount to Rs. 14.23 Lakh each or b. Two Similar works costing not less than the amount to Rs. 17.79 Lakhs each or c. One Similar work costing not less than the amount to Rs. 28.46 Lakhs each. <p>Actual executed value shall be considered based on the value excluding 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 2020 should be at least 10.67 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>Note: PROFIT shall be PBT earned during any one year of last three financial years as in (a) above.</p> <p>The following documents should be submitted by the bidder:</p> <ul style="list-style-type: none"> (i). Balance sheet and Profit & Loss Account (audited/issued by Chartered Accountant) of last three years ending on 31st March 2020 in support of the above. (ii). If financial statements are not required to be audited statutorily, then financial statements are required to be certified by Chartered Accountant.
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:

Construction or repair work of civil nature including masonry construction and/or RCC and/or Flooring and/or Tiling work.



H. Rahman

18/12/2020



S. Ahmad

18/12/20

Authorized Sign. With seal

Name of the Bidder
Contact of details

Address:
E-Mail Address:

SCOPE OF WORK

- 1). Excavation of excess soil from the work area and disposal of excavated earth lead up to 50 M and lift up to 1.5 M, as directed by Engineer-in-charge.
- 2). Surface dressing and removal of vegetation and in-equalities and disposal of rubbish lead up to 50 M and lift up to 1.5 M.
- 3). Filling available excavated earth at down areas to level it, in layers not exceeding 20cm in depth, consolidating each deposited layer by ramming and watering.
- 4). Supply of 60 mm thick factory made cement concrete interlocking paver block of M-30 grade made by block making machine with strong vibratory compaction, of approved size, design & shape, laid in required color and pattern.
- 5). Laying of 60 mm thick factory made cement concrete interlocking paver block of M-30 grade made by block making machine with strong vibratory compaction, of approved size, design & shape, laid in required color and pattern
- 6). All materials, manpower and tools & Tackles required for performing the work will be in the scope of contractor.
- 7). Contractor shall depute his supervisor for routine supervision of the work and day to day work measurement and co-ordination with civil department of BHEL.

Rashman
18/12/2020

H. H. T.
18/12/2020

J. H. H. T.
18/12/2020

TERMS & CONDITIONS

1. **Safety:** Adequate work safety precautions, safety shoes, helmet, Anti impact Gloves for carrying and placement of Interlocking tiles, PPEs for contractor's workmen. It may be noted that wearing of safety shoes shall be the essential requirement for entering into BHEL premises including safety terms w.r.t. COVID-19 by contractor /its workman at BHEL premises.
2. **Sourcing of Material:** CC interlocking paver blocks shall be sourced from manufacturer conforming to IS 15658:2006. Contractor shall submit delivery challan from manufacturer as proof of sourcing against firm order from BHEL.
3. **Test Certificate:** Manufacturer's test certificate shall be provided by supplier along with the supply against firm order from BHEL.
4. **Delivery Schedule:** Work to be completed in all respect as per scope **within 3 months** from the date of award of WO/LOI. The site clearance will be given by BHEL within a week after receipt of material and notice of supplier.
5. **Delivery terms:** F.O.R. BHEL, Rudrapur.
6. **Quality of Supply & workmanship:** Contractor should ensure that the supply of the items be made strictly as per the specifications. Items not as per the required make / specification, damaged, misaligned / improper installation at the time of supply or final work before handover to BHEL shall be liable to be rejected.
7. All Tools, Tackles, Safety equipment's / provisions, PPE's, movement of manpower & material for the work, fulfilment of statutory obligations w.r.t. workmen engaged, shall be arranged by the contractor.
8. **Measurement of work:** Work carried out by the contractor shall be measured jointly by BHEL & Contractor and the same shall be entered in measurement book (M.B.) & verified. Contractor shall hand over the construction site after completion of work for taking over by BHEL. Contractor shall close all the observations/ punch points/ non conformity (if any) as informed by BHEL before final takeover.
9. **Payment terms:** Payment against satisfactory execution of work shall be made to the contractor based on handing over / taking over report & M.B. records and invoice submitted by the contractor (in duplicate) through e-payment to contractor's account within 45 days.
10. **Risk Purchase:** BHEL reserves the right to exercise risk purchase in case of failure on the part of contractor to meet the contractual obligations under the contract i.e. unsatisfactory execution of work / quality, incomplete work carried out by the contractor. BHEL shall not be liable to compensate the contractor for any loss arising out of risk purchase action.
11. **Liquidated Damage (LD):** In case of delay in delivery and/ or execution of work against schedule as mentioned in Cl. 4, caused due to reasons attributed to the contractor, LD shall be recovered by BHEL from the contractor @ 0.5% per week or part thereof on total contract value, except for Force majeure conditions mentioned in Cl. 12.
12. **Time Extension/Force Majeure :** In case, the work is delayed by 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.

13. Warranty & Security Deposit: Contractor is required to deposit an interest free security deposit @ 5% of contract value before start of the work which shall be retained by BHEL till successful completion of warranty period. Onsite **warranty of 24 months** against defective supply & poor workmanship shall be applicable from the date of completion of work against contract and handing over of site, to BHEL. Any defect found in supply during warranty period shall be replaced free of cost by the contractor. Similarly, any defect in workmanship detected during warranty period shall be rectified free of cost by the contractor.

14. Testing of Samples: The samples against each supplied lots of CC interlocking paver blocks will be done at our site by BHEL in presence of representative of contractor.

15. Contractor have to provide the following documents and acceptance:

1	Name & Address of Party	
2	EPF Registration No. (Enclose a Copy)	
3	ESI Registration No. (Enclose a Copy)	
4	Pan Card No. (Enclose a copy)	
5	GST Registration no. (Enclose a Copy)	
6	Bank Account Details IFSC Code Account No. Bank Name Branch Name	
7	Acceptance to provide trained /qualified staff	
8	Acceptance of E-Payment	

BOQ Cum Price Distribution Sheet for construction of FG storage yard by laying of interlocking tiles (1 set).

S. No.	Description of Work	Quantity	Unit	Activity wise Percentage against total cost
1	Earth work in excavation by mechanical means (Hydraulic excavator)/manual means over areas (exceeding 30 cm in depth, 1.5 m in width as well as 10 sqm on plan) including getting out and disposal of excavated earth lead upto 50 m and lift upto 1.5 m, as directed by Engineer-in-charge.	240.00	Cu.Mt.	0.84%
2	Surface dressing of the ground including removing vegetation and in-equalities not exceeding 15 cm deep and disposal of rubbish, lead upto 50 m and lift upto 1.5 m.	6056.00	Sq.Mt.	1.70%
3	Filling available excavated earth (excluding rock) in trenches, plinth, sides of foundations etc. in layers not exceeding 20cm in depth, consolidating each deposited layer by ramming and watering, lead up to 50 m and lift upto 1.5 m.	240.00	Cu.Mt.	0.44%
4	Providing 60mm thick factory made cement concrete interlocking paver block of M -30 grade made by block making machine with strong vibratory compaction, of approved size, design & shape, laid in required colour and pattern.	6056.00	sqm	80.00%
5	Laying of 60mm thick factory made cement concrete interlocking paver block of M -30 grade laid including 50mm thick compacted bed of coarse sand, filling the joints with fine sand etc. all complete as per the direction of Engineer-in-charge.(i/c filling of coarse sand in the interstices of stone of size 53 to 22.4mm sand)	6056.00	sqm	17.02%
TOTAL				100%

Note: Gross Amount quoted by the bidder in Annexure-V shall be distributed to individual items/ activities as per the percentage allocated above. Accordingly the rate of each item/ activity will be derived by dividing the amount to quantity for respective item/ activity.

Manager (WEX)

Rahman
18/12/2020

DGM (WEX)

Rahman
18/12/2020

18/12/2020
Addl. Engr. (Civil)

Indent No- 20200395

Annexure- V

FORMAT OF PRICE BID

SL. NO.	DESCRIPTION OF ITEM	QUANTITY	TOTAL VALUE (Rs.)
1	Construction of FG Storage Yard by Laying of interlocking cemented tiles.	1 set	
	GST (_____ %) in Rs.		
	GROSS AMOUNT (Rs.)		

Gross amount in words : Rupees

_____ Only

Note: (1) GST to be mentioned in % age and value in the above format

(2) 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

(3) Price Distribution of individual item/ activities shall be Annexure -IV.

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)



18/12/2020



18/12/20

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.

Reverse Auction-Not Applicable

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. Udhampur, Jammu and Kashmir. 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.

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)</p> <p>In cases involving claim and/or counter-claim of more than Rs 10 crores.</p> <p>Rs 1,00,000/- (per Conciliator)</p> <p>Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the,</p> <p>Signing of the Settlement Agreement after approval of the Competent Authority</p> <p>or</p> <p>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	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)	As per entitlement of the equivalent officer (pay scale wise) in BHEL.
	Others	<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 Claim(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-7

**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-8

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.