भारत सरकार
रक्षा मंत्रालय
भारतीय आयुध निर्माणियाँ

Government of India
Ministry of Defence
Indian Ordnance Factories

मशीनी औजार आदिरूप फैक्टरी
अम्बरनाथ - 421 502
(आय.एस/आय.एस.ओ 9001:2008 एवं आय.एस/आय.एस.ओ.14001:2004 प्रमाणित तथा एन ए बी एल प्रत्यायित प्रयोगशाला)

MACHINE TOOL PROTOTYPE FACTORY
AMBARNATH – 421 502
(An IS/ISO 9001:2008 & IS/ISO 14001:2004 certified with NABL Accredited Laboratory)
Website: www.ofbindia.gov.in/units/index.php?unit=mpf

संबोधित करें Please Address
महाप्रबन्धक The General Manager
(तथा किसी अधिकारी के नाम से नही)
(And not any officer by name)

फोन/ Phone: 91-251-2613884,
फैक्स / Fax: 91-251-2613065
ई-मेल / email: mpf.ofb@nic.in

Through email

TE. No.	19TE210606	TE. Date:	18.09.2019	TE Opening Date:	25.10.2019	14.30 (Hrs.)

Detals of Stores agisnt Tender Enquiry :-

Sl No.	Description	Qty.
1	**SUPPLY OF EPD FUZE PCBS(PCB-I&PCB-II)ASSEMBLED WITH ALL ELECTRONIC COMPONENTS AS PER BILL OF MATERIAL AND GERBER FILES ENCLOSED AS ANNEXURE-'A' AND ANNEXURE-'B' RESPECTIVELY.**	**500 Nos**

STANDARD TENDER ENQUIRY FOR PROCUREMENT OF STORES

1. The Tender Enquiry (TE)/RFP is issued without any financial commitment. The Buyer reserves the right to amend or modify any part of the TE at any stage. Such amendments/modifications to the TE, if any, shall be duly notified similarly as the TE. Buyer reserves the right to withdraw the TE at any stage, should it so become necessary.

2. Effective Date of the Contract: Unless the consequent Contract specifically defines a different effective date-of-the-contract, the effective date-of-the-contract shall be the date on which the Parties to the Contract have affixed their respective signatures on the Contract or the date of Supply Order. The Contract shall come into effect on the effective date and remain valid until the completion of the obligations of the Parties under the Contract. The deliveries, supplies and performance of the services under the Contract shall commence from the effective date-of-the-contract.

3. The TE is divided into the following five Parts:

a) Part I – Contains general information and instructions for the Bidders about the TE such as the date, time, place of submission and opening of tenders, validity period of Tenders, etc.

b) Part II – Contains essential details of the stores/ items/services required, such as the Schedule of Requirements, Technical Specifications, Delivery Period, Mode of Delivery and Consignee details, which will form part of the consequent Contract with the successful Bidder.

c) Part III – Contains standard conditions of TE, which will form part of the consequent Contract with the successful Bidder.

d) Part IV – Contains special conditions applicable to this TE and which will also form part of the consequent Contract with the successful Bidder.

e) Part V – Contains evaluation criteria and format for price bids.

4. All procurements valuing above the specified threshold limit (presently Rs. 2 lakhs & above) is normally procured through e-procurement. However, in certain situations, the Buyer may consider it necessary to resort to the conventional manual system even if the procurement is above the specified threshold limit with the approval of competent authority as per OFBPM 2018. Procurements below the specified threshold limit may be through the conventional manual system. The web address of the e-procurement portal is https://www.ofbeproc.gov.in.

5. Prospective Suppliers are supposed to enroll themselves through the e-procurement portal. The system is accessible through the internet by (i) Digital Signature Certificates (ii) User login ID & password. Tender Management activities through the e-procurement system includes:

a) Online enrolment by vendors
b) Publication of Tenders and amendments/ modifications, if any, thereafter
c) Bid submission by the Bidders
d) Seeking and publication of clarifications, including clarifications resulting out of pre bid meeting, if scheduled
e) Opening of bids (both technical and commercial bids)
f) Technical evaluations of the Bids and automatic generation of Comparative Statement of Technical Bids
g) Commercial evaluations of the technically qualified Bids and automatic generation of Comparative Statement of Commercial Bids

6. The e-procurement portal has a centralized Help Desk facility with toll free number, online customer complaint facilities and full-fledged operational manuals. The portal also contains the manual for e-procurement as well as the OFBPM 2018. These operational & procedure manuals provide requisite information on using the portal as well as an insight into the procurement procedure followed by the Ordnance Factory Organization.

7. Tender fees shall not be applicable for tenders processed through e-procurement. However, in procurements made through the conventional manual system a nominal Tender fee is applicable in advertised (Open/ Global) tenders. Micro and Small Enterprises (MSEs) having UAM number (to be submitted by MSEs) as defined in MSE Procurement Policy issued by Department of MSME are exempted for tender fee. The requisite Tender fees in the prescribed form needs to be submitted either along with the application for Tender documents or along with the Bid. Non submission of requisite Tender fee in the prescribed form may result in rejection of the Bid. There is no provision for providing Tender fees subsequent to the Tender opening. In cases where the drawings, specifications, etc., are priced, the same shall be so stated in the TE, which is applicable for both systems of procurement.

8. The usage of the term 'Bid' in the TE, unless repugnant to the context, refers to the Bids (including the documents, financial instruments, etc., required to be submitted) in the e-procurement as well as the conventional manual system.

9. The usage of the term 'Seller' in the TE, unless repugnant to the context, refers to the successful Bidder (s) in the TE on whom the consequent Supply Order/ Contract has been placed.

10. The usage of the term 'Contract' in the TE, unless repugnant to the context, refers to the consequent Supply Order/ Contract.

11. All dates and times specified in this TE are in date/month/year and 24 Hrs formats, respectively.

12. As a strategic requirement the Buyer may need multiple sources, in such cases the Buyer may conclude orders on more than one firm in the order of ranking on financial evaluation. The ratios of splitting may be either

(a) 60:40 if two sources are necessary (provided at least three sources were issued tenders and have also quoted).

Or

(b) 50:30:20 if three sources are necessary (provided at least four sources were issued tenders and have also quoted).

13. **WARRANTY:** The material supplied should have the Warranty/Guarantee for 12 months. Warranty/Guarantee certificate is to be submitted along the supplies.

14. **PACKING:** The contractor should ensure proper packing to avoid damages during transit and storage.

15. **MARKING**: The material supplies should have the following marking:

a. NAME OF THE FIRM:
b. SUPPLY ORDER NO. & DATE:
c. MONTH AND YEAR OF MANUFACTURE:
d. ITEMS DELIVERY TO:
e. NO. OF PACKINGS/BOXES:

16. TEST CERTIFICATE&TEST SAMPLES: Pre-Inspection report test certificate from Govt. test laboratory along with a covering declaration as per format given in supply order. Also the test samples as specified in supply order should be submitted along with the supplies. All other terms & conditions will be within the overall ambit of OFBPM -2018 and amended from time to time.

PART I – GENERAL INFORMATION AND INSTRUCTION FOR BIDDERS

Part I of the Tender Enquiry (TE) contains general information and instructions about the TE such as the date, time, place of submission and opening of tenders, validity period of tenders, etc.

1.1. The The General Manager, Machine Tool Prototype Factory, Ambarnath (India), on behalf of the President of India (the Buyer), through this TE No. 19TE210606 , Dated 18.09.2019, issued as Open Tender Enquiry (for source development), invites Bids on Two Bid basis, from all eligible Bidders for supply of 'SUPPLYOF EPD FUZE PCBS(PCB-I&PCB-II'.

1.2. The pre-qualification/ eligibility criteria, if any has been prescribed by the Buyer, shall be indicated under this paragraph as sub-paragraphs (a), (b), … (n) , if none has been indicated under this paragraph , the TE shall be open to any bidder desirous of participating in the tender. a) …… b) ……., etc.
: Not Applicable to this Tender

1.3. Bidders shall be solely responsible for ensuring timely submission of their sealed Bids (and their related final instruments & documents) by the specified date & time, and in the manner prescribed in the TE. If due to any exigency, the due date for Tender opening is declared as a closed holiday, the Tender opening will be held on the next working day at the same time or on any other day/time, as intimated by the Buyer. Should it so become necessary for the Buyer to extend the Tender opening date, such extended date shall be duly intimated/ notified. In e-Procurement, the tenders shall be opened online.

1.4. In the e-procurement system of procurement various procurement activities mentioned in paragraph 5 above are performed online. In conventional manual system, the relevant details to facilitate submission of Bids are given below:

a) The last date and time for Bid submission is 25.10.2019, at 02.00 PM
b) Bids & queries to be addressed to: The General Manager, MPF Ambarnath
c) Postal address for sending the Bids: The General Manager, Machine Tool Prototype Factory,
d) Location of the Tender Box is near Main Gate, Machine Tool Prototype Factory marked as “Tender Box”
e) Tender shall be opened on 25.10.2019, at 02.30 PM
f) Place of opening of Bids is Building 08, Main Gate Office, (Reception Room)
g) Name/ designation of the contact person: P.ROJALI, DGM/PV
h) Telephone number (s) of the contact person: 0251 2612713
i) Official e-mail ID (s) of contact person: mpfpv.ofb@gov.in
j) Fax number : 0251 2613065

1.5. Bids (including the related financial instruments, etc.,) received with a lower validity than that specified in the TE can be treated as invalid and may be rejected. The prescribed validity for financial instruments is given in subsequent Parts of the TE. Bids should necessarily remain:

a) valid for 90 Days from the specified last date for Bid submission
b) valid till ……. (date)

1.8. Bidders requiring clarifications on the contents of the TE may request the Buyer in writing or through e-Procurement System (so as to reach the Buyer not later than fourteen days prior to the date of Tender opening) bringing out unambiguously the specific clarifications needed. Copies of the clarifications requested by the Bidder and the clarifications provided by the Buyer shall be sent to all prospective Bidders who have been issued TE.

1.7. In e-procurement, the Bidders shall upload along with their Bid, the scanned copies of the instrument of their EMD and forward the original EMD instrument by post in a separately sealed envelope clearly mentioning the ‘EMD for TE No …….. and due date of opening of technical bid…..’ on the envelope. However, if the physical original instruments is not received by the Buyer prior to the specified Tender opening date & time, the Bid being incomplete on Tender opening, shall be treated as invalid/ late tender and rejected.

1.8. Bidders requiring clarifications on the contents of the TE may request the Buyer in writing or through e-Procurement System (so as to reach the Buyer not later than fourteen days prior to the date of Tender opening) bringing out unambiguously the specific clarifications needed. Copies of the clarifications requested by the Bidder and the clarifications provided by the Buyer shall be sent to all prospective Bidders who have been issued TE.

1.9. Manual Bidders should forward their Bids under their original memo/ letter pad inter-alia furnishing details like GST number, Bank details with NEFT account details, complete postal & e-mail address, telephone & fax numbers, etc., of their office. In e-procurement bids shall be submitted through e-procurement portal.

1.10. When Bids are called on Single Bid basis the technical and financial/ commercial bids shall be submitted in the same bid. However, when Bids are called for on Two Bids basis, the Bids shall comprise of two parts, namely (i) Technical Bid, and (ii) Financial/ Commercial Bid. In manual bidding, the Technical Bid and the Financial/ Commercial Bid should be sealed by the Bidder in separate covers duly super-scribed to indicate the appropriate Bid. Both these sealed covers are to be put in a bigger cover, which should also be sealed and super-scribed as prescribed below.

1.11. Bids, for supply of the item (s) listed in Part II of the TE, shall be submitted through the e- procurement portal or in sealed cover in case of procurements on conventional manual system. In conventional manual system, the sealed cover of the Bids should neatly and legibly be super-scribed with the details of (a) Title of the TE (b) TE No. and date (c) Tender opening date. Lack of these superscription may result in the Bid being declared invalid.

1.12. In conventional manual system, Bidder may modify or withdraw his bid after submission provided a written notice of modification or withdrawal is received by the Buyer prior to the deadline prescribed for Bid submission. The withdrawal notice may be sent by fax provided it is followed by a signed confirmation copy to be sent by post and such signed confirmation reaches the purchaser not later than the Bid submission deadline. In case of e-procurement, a bidder can change, withdraw or cancel earlier submitted offer before the bid submission closing date and time. In case tender specifications or price bid format is revised the submitted bids will become null and void & the vender need to re-submit the bids. TE closing date & time, opening date & time will also change. Information for the same will be sent to vendor through e-mail.

1.13. Bids cannot be modified after the Bid submission deadline. Similarly, after the Bid submission deadline, Bids cannot be withdrawn till expiry of the Bid validity.

1.14. In conventional manual system, only Bids that are found in the specified Tender Box shall be opened. Bids, if any, dropped in a wrong Tender Box shall be treated as invalid Bids.

1.15. In conventional manual system, Bidders may depute their representatives, duly authorized in writing, to attend the opening of Bids on the due date and time. Rates and other important commercial/ technical clauses quoted by all Bidders will be read out in the presence of the representatives of all the Bidders. This event will not be postponed due to the absence of the representative of any Bidder. In case of e-procurement, the tenders shall be opened online and bidders, who participated in the TE can view the spot CST also online through OFB e- procurement portal.

1.16. In Two-bid system, only the Technical Bids will be opened on the specified Tender opening date and time. Financial Bids of only those firms will be opened, whose Technical Bids are found technically compliant/ suitable on Technical Evaluation by the Buyer. Date of opening of the Financial Bids shall be separately intimated after evaluation of the Technical Bids.

1.17. During evaluation of Bids, the Buyer may, if so required, ask the Bidder (s) for clarification on the Bid submitted. The request for such clarification shall be in writing (or through e- Procurement System). The clarification furnished by the Bidder should not result in any change in prices or substance of the Bid nor will the same be permitted. No post-bid clarification at the initiative of the Bidder will be entertained.

1.18. In procurements where it is necessary to physically verify the facilities & capacities of the Bidder, the Buyer may depute Capacity Verification Teams for carrying out such physical verification of facilities & capacities as per OFB Standard Operating Procedure (SOP) for Capacity Verification and Vendor Registration as available on the Ordnance Factory Board website and e-procurement portal. However, for the items valuing up to Rs. 2.5 Lakh the said SOP will not be mandatory.

1.19. Canvassing in any form by the Bidder, unsolicited letter and post-bid amendment/ modifications/ corrections shall attract summary rejection of the Bid with forfeiture of EMD.

1.20. Bidder should comply with all the Parts of this TE and confirm acceptance of all the clauses of Part II, Part III, Part IV and Part V of the TE, which shall automatically be part of the consequent contract with the successful Bidder (s) (i.e. Seller in the consequent contract) . Failure to confirm acceptance to the clauses mentioned under Part II, Part III, Part IV and Part V of the TE may result in rejection of the Bid submitted by the Bidder. Conditional Bids shall be treated as invalid and rejected. In the manual system, the bidder should sign on each page of the tender document.

1.21. In case of LTE, Bidders not willing to participate in the TE should ensure that an intimation to that effect reaches the Buyer before the date and time prescribed for opening of Bids, failing which the defaulting Bidder may be delisted for the range of items for which the TE is issued.

1.22. The Buyer reserves the right to reject/cancel/scrap the Tender Enquiry or change the quantity of tendered item(s) without notifying any reason whatsoever.

1.23. In case of any dispute, the decision of the Buyer shall be final and binding on all participants in the tender.

1.24. In e-Procurement cases, Bidders have to submit their bids through OFB e-Procurement portal only. Bids submitted by any other mode shall be treated as invalid.

PART II – ESSENTIAL DETAILS OF STORES REQUIRED BY THE BUYER

Part II of the TE contains essential details of the Stores/ Services required, such as the Schedule of Requirements,

2.1. The Schedule of Requirements, duly indicating the Stores/ Services required, is given below:

Sl. No.	Nomenclature of the Stores/ Service	Specification of the Store/Description of the Service	Quantity Required
1	**SUPPLY OF EPD FUZE PCBS(PCB-I& PCB-II)ASSEMBLED WITH ALL ELEC TRONIC COMPONENTS AS PER BILL OF MATERIAL AND GERBER FILES ENCLOSED AS ANNEXURE-'A' AND ANNEXURE-'B' RESPECTIVELY**	**AS PER ANNEXURE A&B**	**500 Nos**

2.2. Technical details of the stores/ service required are given below.

a) Specifications/drawings details or Type of Service required:
As Per :- AS PER ANNEXURE A&B

b) Technical details duly covering all technical parameters or detailed Scope of Service required:
As Per :- AS PER ANNEXURE A&B

c) Evaluation, Inspection and Factory Acceptance Trial criteria or Minimum Acceptable Service Level (MASL):
As Per enclosed.. Monitoring Instruction for incoming Direct Material Inspection and as applicable.

d) Installation/ commissioning requirements:
Not Applicable to this tender

e) Pre-site/ Pre-dispatch inspection requirements or basis of assessing MASL:
Not Applicable to this tender

f) Warranty and post-warranty requirements:
12 Months

g) Training/on-job training requirements:
Not Applicable to this tender

h) Technical documentation required:
As Per enclosed AS PER ANNEXURE A&B .. Monitoring Instruction for incoming Direct Material Inspection and as applicable

i) Details of any other requirements:
FIRM MUST HAVE PLANT & MACHINERY AS PER ANNEXURE 'C'.

2.3. If the Buyer finds it necessary to hold a pre-bid Conference (refer Part IV) to familiarise the prospective Suppliers with the requirement of the TE, then the notice of such pre-bid Conference shall be provided as hereunder. If such notice for pre-bid Conference is not specified as hereunder then it should be considered that the Buyer does not intent to hold any pre-bid Conference.

Notice for Pre-bid Conference

i) Date: ……
ii) Time: ……
iii) Venue: ……

2.4. For strategic reasons the quantity tendered in this TE may be distributed as per the distribution ratio (refer Part IV).

2.5. In cases where the Buyer issues material to the Supplier under the consequent Contract, the issued material will be duly secured by obtaining a Bank Guarantee, from a bank authorized to carry out government business, of value equal to the 110% of the value of the issued material and validity till delivery of supplies accepted by the Buyer. The details pertaining to such issued material is given below:

a) Batch size of issue material, if applicable ……
b) Value of issue material for the Batch size
c) BG value …….
d) Other special instructions ……

2.6. The Bidders shall furnish along with their Technical Bid a clause-by-clause Compliance Statement bringing out the compliance (without disclosing the price) of their offer to the TE specifications and duly indicating unambiguously the deviations, if any. The detailed Compliance Statement shall be provided in the format attached herewith.

2.7. Delivery period for supply of the Stores/ Services shall be 90 days from receipt of S.O. from the effective date (refer Part III) of the consequent Contract placed on the successful Bidder. The mode/ terms of delivery shall be Local Delivery at Site Reckoning the date of delivery on the basis of the mode/ terms of delivery shall be as given below.

2.8. Staggered deliveries (where applicable) required in the TE is given below. In TE with staggered deliveries, the Buyer shall clearly specify hereunder as to whether the consequent Contract will be an "Entire Contract" or a "Severable Contract". If nothing is specified the consequent Contract shall be an "Entire Contract".

Sl. No.	Quantity to be Delivered	Date of Delivery/ Delivery Period	Remarks/ Special Instructions for Delivery
1	500 Nos	90 days from receipt of S.O.	Nil

2.9. Inspection Authority in the consequent Contract shall be **GM,MPF**. The mode of Inspection applicable in the consequent Contract shall be **Buyers Inspection.** The Inspection applicable in the consequent Contract shall be **Buyers Receipt Inspection**. The **GM/MPF** Shall be the Inspection Officer. The firm should furnish the test report of chemical and physical parameters of raw materials used for manufacture of components, fabricated stores, tools and gauges along with chalan. The instruments used for carrying out test as above shall have national traceability and evidence of the same will be furnished in the certificate.

2.10. The mode/ terms of delivery required in the TE is **FOR Destination** To enable equitable comparison of Bids received against the TE, it is necessary that the Bidders quote as per the mode/ terms of delivery specified in the TE.

2.11. The applicable Rules & Regulations for delivery & transportation of Stores (domestic and from foreign countries) shall be as per the contemporary version of International Commercial Terms

(INCOTERMS). Reckoning the date of delivery from the terms of delivery shall be as given below.

Sl.No	Mode/ Terms of Delivery	Reckoning of the Date of Delivery
a)	Local Delivery at Site	The date on which the delivery is made at the Buyers site mentioned in the contract
b)	Ex-works	The date the Seller delivers the goods to the Buyer at the Sellers Works mentioned in the contract
c)	F.O.R Station of Dispatch	The date on which the goods are placed, by the Seller, on rail with clear Rail Receipt
d)	By Post Parcel	The date of postal receipt
e)	FCA (Airport)	The date of Air-way Bill
f)	F.O.R. Destination	The date on which the goods reach the destination specified in the contract, unless otherwise stated
g)	C.I.P. Destination	The date on which the delivery is effected at the destination mentioned in the contract
h)	F.A.S. Portof Shipment	The date on which the Seller deliver the goods alongside the vessel at the specified port of shipment mentioned in the contract. This date is reflected in Bill of Lading
i)	F.O.B. Port of Shipment	The date on which the Seller delivers the goods at the Port of shipment mentioned in the contract, the dated as reflected in the Bill of Lading
j)	C.I.F. Port of Destination	The date on which the goods actually arrived at the destination Port mentioned in the contract

2.12. The FAS, FOB & CIF terms of delivery are applicable only for Stores directly imported from foreign countries against the consequent Contract and not for imports by the Seller under its own arrangement. The CIP terms of delivery are applicable both for domestic as well as imported supplies.

2.13. Special instructions on consignee details & other special conditions pertaining to shipment, transportation, etc., if any applicable under this TE, shall be as indicated hereunder.

a) Consignee details: **The General Manager, MPF Ambarnath, Dist Thane, Maharashtra PIN 421 502**

b) Packing instructions: **As per Standard Conditions of TE Part III para 3.4**

c) Shipment/ Transportation instructions: **By Rail/Road Transport.**
Goods to be insured by the Seller for above transit.

d) Other Special instructions, if any: **All packing, forwarding, insurance and delivery charges arising would be borne by the Seller.**

2.14. Bidders shall offer their quotes only on firm and fixed basis, unless otherwise the Buyer has specifically invited the TE on variable price basis duly prescribing the Price Variation (PV) formula in Part III. In such TEs with the Price Variation formula specified, the Bidders shall quote strictly in accordance with the Price Variation formula prescribed. Quotes not conforming to the prescribed Price Variation formula shall be treated as unresponsive and rejected.

2.15. Time being the essence of the contract, Bidders should note that the consequent Contract can be cancelled unilaterally by the Buyer in case deliveries are not received within the contracted delivery period. In this regard the provisions of the Risk & Expense clause in Part IV may be perused.

2.16. Extension of contracted delivery period due to reasons attributable to the Seller of the consequent Contract shall be at the sole discretion of the Buyer, with applicability of Liquidated Damages (LD) clause as mentioned in Part III.

PART III – STANDARD CONDITIONS OF THE T.E

Part III of the TE contains the Standard Conditions of the TE.

3.1. Scope of Supply -Technical Description/Requirement/Quality requirement etc.:

The stores supplied shall be of the best quality and Workmanship, shall be in strict conformity with all the drawings and specifications furnished with the Purchase Orders and shall address the Technical description in all respects. Where tenders are called for in accordance with 'particulars', the seller's tender to supply in accordance with such 'particulars' shall be deemed to be an admission on his part that he has fully acquainted himself with the details thereof and no claim on his part which may arise on account of non-examination or insufficient examination of the 'particulars' will in any circumstances be considered. The items not specifically listed but required for completeness of stores / system deemed to be included. All supplies should be accompanied by Sellers works inspections/ test certificates duly certifying, the Stores are in strict conformity with the drawings/specifications. The final acceptance will be subject to inspection and approval at Buyer's premises. Once the material are rejected and communicated to the Seller, no request shall be entertained for re- inspection or acceptance of the stores. However, Buyer reserves the right to re-inspect the stores and consider acceptance at his discretion.

3.2. Price:

Price: The rates offered shall be 'Firm & Fixed' with full and detailed breakup of various applicable cost elements like Basic Price, packing charges, freight/ transport, forwarding charges, handling charges, landing & clearing charges, installation & commissioning, training, technical assistance, etc.; and duly indicating all the applicable Taxes & Duties along with the relevant taxation rate and value for each of the applicable Tax/ Duty, till the execution of the total quantity on the order. To facilitate assessment of reasonability of price quoted, the Bidder shall indicate split-up details of the cost elements of the Basic price. No increase shall be permissible on any account after finalization of the order / till delivery of total quantity of the order. Price quoted should on F.O.R. Destination basis, for delivery at Buyer premises inclusive of all charges including transit insurance. Foreign sellers will quote the prices on the FOB/FCA Port of dispatch basis, as applicable (INCOTERMS 2010).

Seller should clearly mention whether the prices hold good when the full quantity of enquiry is not ordered but only a part of it. Unless otherwise mentioned, it would be assumed that the rates hold good even when lesser quantities than those enquired of are ordered. Any increase in prices at a later date for ordering lesser quantities will not be agreed to.

3.3. Price Variation Clause :

Invariably, Purchase Orders shall be placed on a firm price basis. In exceptional cases, where the firm insists on escalation or on price ruling at the time of despatch, the purchase order should contain a clause to this effect for admissibility. The Purchase order should clearly specify the formula for determining the quantum of escalation admissible with reference to a fixed base period and prices ruling at that period taken as a base for deciding the escalations. The base period and prices should be mutually agreed based on necessary documentary evidence. The claims shall be supported by necessary documentary evidence, as compared to the base prices for admitting the escalation claims. Price Escalation Clause needs to clearly define applicability of Escalation up to point of ordering or point of delivery. Whether the escalation to be calculated on year to year basis or point to point basis, same to be specified. Methodology of calculation of escalation is to be specified.

PV formula may specify cut-off dates for material and labour, as these inputs taper off well before the scheduled delivery dates. The Price Variation formula may also provide for a ceiling on the price variations as a percentage per annum or an overall ceiling or both.

If advance or stage payments have been allowed, no price variations will be admissible on such portions of the price, after the dates of such payment. No price variation will be admissible beyond the original scheduled delivery date for defaults on the part of the supplier. Price variation may be allowed beyond the original scheduled delivery date, by specific alteration of that date through an amendment to the contract in cases of Force Majeure or defaults by the purchaser.

When deliveries are accepted beyond the scheduled delivery date subject to levy of liquidated damages as provided in the contract, the liquidated damages (if a percentage of the price) will be applicable on the price as varied by the operation of the Price Variation clause.

Where contracts are for supply of goods, etc., imported (subject to customs duty and foreign exchange fluctuations) and/ or locally manufactured (subject to excise duty and other duties and taxes), the percentage and element of duties & taxes included in the price should be specifically stated, along with the selling rate of foreign exchange element taken into account in the calculation of the price of the imported item. The mode of calculation of variations in duties & taxes, foreign exchange rates, and the documents to be produced in support of claims for such variations should also be stipulated in the contract.

Price Variation formula will vary from Contract to Contract. However, a suggested price variation formula could be as follows: P = Po {(A + B(L/Lo)+ C (M/Mo)} P = Final price payable in the year of delivery Po = The base price at _ (year) economic conditions Lo = Average Labour Index of the base _ (year) Mo = Average Material Index of the base _ (year) L = Average Labour Index …….. Months prior to date of delivery (as applicable at Seller's country). M = Average Material Index …….. Months prior to date of delivery (as applicable at Seller's country). A, B & C = Percentages corresponding to fixed elements, labour and material respectively. Escalation cap (+/-) applicable (percentage) with the above price variation formula to be indicated.

The indices incorporated in the escalation formula should be Govt. Published/ in public domain and capable of being verified.

Escalation/Revision in price shall not be admitted for the delayed supplies.

3.4. Packing Conditions:

The stores should be properly packed for tropical storage and for transport by rail, road, sea or air so as to ensure and to protect them against loss, damage, corrosion in transit on arrival at their destination. The packing and marking of packages shall be done by and at the expense of the seller. Each package shall contain a Packing Note quoting Purchase Order number and date showing its contents in detail. Each package shall be properly marked with Purchase Order No., Consignee’s name & address, gross weight, package-handling instructions etc. The package shall have adequate provision for handling during transit and at destination.

The packing, shipping, storage and processing of the delivery must comply with the prevailing legislation and regulations concerning safety, the environment and working conditions. In case of Imports, items packed with raw/ solid wood packing material should be treated as per ISPM-15 (fumigation) and accompanied by Phytosanitory/ Fumigation certificate. If safety information sheets exist for a delivery or the packaging, the seller must always supply these sheets direct (at the same time). The packing shall allow for easy removal and checking of goods on receipt and comply with carrier's conditions of packing or established trade practices. If any consignment needs special handling instruction, the same shall be clearly marked with standard symbols / instructions. Hazardous material should be notified as such and their packing, transportation and other protection must conform to relevant regulations.

3.5. Inspection and Technical documents requirements:
(a) The supply made against respective orders will be subject to Buyer inspection at his premises. The Seller shall be responsible for items supplied till the same have been inspected and accepted by Buyer. In case the goods / services are rejected at the time of inspection at Buyer Place or the rejections are noticed at the time of further processing the Seller will be informed of these rejections. On receipt of this information the Seller shall immediately arrange to collect the rejected items at his cost and risk and arrange for the replacement of goods within the shortest possible time. Under no circumstances the Seller shall compel the Buyer to rework the rejected goods. The rejected material will lie in Buyer factory premises at the risk and cost of the Seller, pending receipt of disposal instruction from them. If so desired by the Seller, the rejected materials, for which no payment made by Buyer may be packed and returned to the Seller for arranging replacement /rectification on 'freight to pay' basis at his cost and risk and the dispatch documents will be forwarded to
the Seller directly by Buyer to enable him to arrange insurance and take delivery of the same. Wherever payment is already made by Buyer to the Seller, the rejected material will be returned to the Seller against refund of the amount already paid by Buyer / submission of BG for the value of rejected goods. The packing, freight charges etc., on replacement of returned materials shall be borne by the Seller irrespective of the terms in the purchase order, since such charges were already incurred and borne by Buyer on the original
consignment, which got rejected and returned to the Seller. In case the rejected materials are not required to be replaced, freight, insurance charges etc., incurred by Buyer on the original consignment shall be recovered from the
(b) Ground Rent: If the material supplied by the vendors is rejected at the factory premises, the vendor is required to lift the rejected material within 30 days of issue of rejection I-Note. Factories have right to recover a charge for the storage space at @1% of the cost of material un-cleared, per week or part thereof, with maximum ceiling of 10% of value of the items. After lapse of 10 weeks, if it is found that firm has not taken any action for lifting of items, the goods may be confiscated and disposed off as per disposal procedure in vogue after sending a notice and giving 30 working days time to the firm. Ground rent shall be calculated from the date of expiry of the period of removal of item. No ground rent should be charged from Central/State Govt/Central PSUs. When the firm fails to pay the applicable ground rent within the prescribed period, factory is entitled to recover the ground rent due and all incidental expenses from EMD/PSD.
(c) Buyer or his authorized representative shall be entitled at all reasonable times during execution to inspect, examine and test at the Seller's premises the material and workmanship of all stores to be supplied under the Contract, and if the part of the stores are being manufactured at other premises the Seller shall obtain Buyer's or his authorized representative's concurrence to inspect, examine and test as if the said stores are being manufactured at the Seller's premises. Such inspection, examination and testing, if made shall not release the Seller from any obligation under the Contract. If the defects are not remedied within a reasonable /stipulated time, the purchaser may proceed to rectify the defects at the seller's risk & cost but without prejudice to any other rights which the buyer may have against the Seller in respect of their failure to remedy such defects. All costs related to inspections and re-inspections shall be borne by the Seller. The cost of inspection staff/ third party specified by the Buyer shall be borne by Buyer, unless otherwise specifically agreed. When the Contract provides for tests on the premises of the Seller or any of his Subcontractor/s, Seller shall be responsible to provide assistance such as, labour, materials, electricity, fuels, stores, apparatus, instruments as may be required and as may be reasonably demanded to carry out such tests efficiently. Cost of any type test or such other special tests shall be borne by the Buyer only if specifically agreed. The Seller shall give the authorized representative of the Buyer reasonable prior notice in writing of the date on and the place at which any stores will be ready for inspection/ testing as provided in the Contract.

3.6. Acceptance of Goods:

Material on arrival at Buyer's premises will be inspected by QA/Inspection Department as per appropriate Quality Assurance Plan and their decision in the matter will be final. The test certificate and relevant supporting documents should be sent along with the consignment.

3.7. Training & Technical Assistance :

The successful tenderer shall arrange for the training of a reasonable number of the Buyer's technical personnel in shops manufacturing the equipment and in plants where equipment similar to those covered in the tender documents are in operation. The number of such personnel and the period of training will be mutually agreed upon. The travelling and living expenses of the trainees will be borne by the Buyer.

Training and technical assistance clause may include:

i. Manufacturing processes of the stores wherever applicable, as well as quality assurance procedures, programming, operation, mechanical maintenance and electronic/electronic maintenance at seller's work and also during commissioning.

ii. Duration of training,
iii. No. of personnel to be trained.
iv. Place of training.
v. Charge applicable / or FOC
vi. Documentation / training material.
vii. Boarding, lodging & travelling charges etc.
viii. Free Mandays / Extra Mandays for service engineering.
ix. Any other aspect related to training & technical assistance.

3.8. Payment Terms :

The standard payment terms shall be 100% payment against Seller's bill by Account transfer through NEFT/RTGS only for accepted materials within 30 days from the date of receipt of material or submission of bills/documents, whichever is later. Normally no request for Advance Payment is entertained. However, where Advance Payment is considered in select cases, the same may be allowed, subject to furnishing Bank Guarantee (in prescribed format) from a scheduled commercial Bank (other than Cooperative Bank) for an amount equal to 110% of the advance released. Or 90% of the contract amount shall be paid against provisional receipt of the item at the consignee's premises along with inspection note from NABL accredited /authorised Lab and other relevant documents. Balance 10% shall be paid after the stores have been properly checked and accounted for. Alternatively, where considered necessary, 95% of the contract amount can be paid against provisional receipt of the item at the consignee's premises along with inspection note and other documents. Balance 5% can be paid after the stores have been properly checked and accounted for . Or

Stage-wise payments (may be considered only in complex cases, provided the stage-wise payments admissible is indicated above). Or

Quarterly/ monthly payments for work completed on submission of User Clearance Certificate in respect of AMC/ Service contract. Or

Payment may also be made through TReDS (Trades Receivable Discounting System) on its implementation

3.9. Warranty:

(a) All the Stores supplied shall be warranted against any defect in material, Workmanship, defective design, materials and non-conformance to intended performance, manufacturing defects, or dimension etc., for a period of 12 calendar months from the date of receipt and acceptance of supply in Buyer's place / buyer's designated place, whichever is earlier and the seller shall remedy such defects at his/her own cost or replace free of charge such stores when called upon to do so.

(b) The seller cannot absolve their responsibility for warranty of material even though it is inspected & approved by Inspection authority.

(c) In case of defective Stores which need to be re-exported for repairs to the manufacturer's works, To & Fro freight, insurance charges & custom duty for replacement have to be borne by the seller.

(d) During warrantee period any equipment or component thereof supplied by the seller, suffers due to defective material and or due to improper design and or due to defective drawing or due to faulty workmanship the seller will assume full responsibility of rectification of such defective equipment or component thereof including direct expenses
related to removal and re-positioning of the replacement/repaired equipment or component thereof and subsequent test & trial, incurred thereon without any financial implication to Buyer.

(e) In the event Buyer desires to have extension of Warranty period beyond the stipulated period, as above, the seller shall quote for the same (on monthly basis) for the period of such extension.

(f) If the defects intimated during the Warranty period are not remedied within a reasonable / stipulated time, the Buyer may proceed to rectify the defects at the seller's risk and cost, but without prejudice to any other rights which the Buyer may have against the Seller in respect of the failure of the Seller to remedy such defects.

(g) In the event of Seller's failure to attend the Warranty defects within a reasonable period of time, the Performance Bank Guarantee will be encashed by the Buyer. The Buyer's decision shall be final and binding on Seller in this regard.

(h) All packing, forwarding, insurance and delivery charges arising against this would be borne by the Seller. The guarantee period would be extended by equivalent period for which the material is not available for the repaired parts, which were repaired & replaced during the Warranty period. The Warranty is subject to proper preservation, maintenance, storage,handling and usage of equipment by Buyer & Buyer's customer and does not covers repairs carried out without the prior consent of the seller / seller rep.

(i) Warranty calls needs to be attended within 48 hrs. Warranty of the stores will be extended by residual period

3.10. Option Clause: Not applicable for this TE
(a) No Option clause in case of SDOTE/OTE

(a) In case of LTE, the Buyer reserves the right to place orders for additional quantity up to a maximum of 25% of the originally contracted quantity at the same rate and terms of contract within the original Delivery Period (DP) as well as Re-fixed/Extended DP subject to:

(i) There being a requirement for the item,

(ii) Incorporation of Option clause in the contract,

(iii) There being no downward trend in price (consent of supplier is not necessary) or if there is a downward trend, the supplier agreeing to reduce the price for the enhanced quantity duly matching with the fall in prices, and

(iv) If no fruitful result will accrue by floating fresh TE or when the store is urgently required for meeting production targets.

(b) The Option clause can be exercised (if necessary more than once) provided the cumulative of the Option clause quantities exercised does not exceed the option clause quantity provided in the contract.

(c) In multi vendor situation, to provide a level playing field to all the vendors, any bid received without compliance to Option clause, may be considered as unresponsive by concerned TPC.

(d) Option clause may be operated normally on completion of 90% quantity of original supply order (or lesser qty as decided by concerned TPC).

3.11. Product Support :

The successful Seller should agree to provide product support for the equipment supplied, assemblies/sub-assemblies, fitment items and consumables, Special Maintenance Tools (SMT) / Special Test Equipments (STE) subcontracted from other agencies / manufacturer by the Seller, by making available spare parts, components & tools etc., accessories of equipment and services for a minimum period of 10 years from the date of supply.

Seller should supply recommended spares for operator level servicing and should carry out necessary product support activities. Seller should also recommend a list of test equipment / fixtures and special tools required for servicing at MPF, Ambarnath/its customer bases. Seller will extend need based technical assistance to the BUYER for maintenance of the product/System during the warranty period. Seller shall provide an effective Product Support and maintenance services on demand from the BUYER and at mutually agreed financial consideration, for mutually agreed period from the date of supply of the product/System. Product Support covers the following areas:

Spares Support
Field Support
Maintenance Support

SPARES SUPPORT:

1.SELLER shall advice on the requirement of spares and stock to be maintained as and when required by the BUYER.

2.Supply spares on demand.

3.Should any of the spares or equipment be earmarked for discontinuance of production, give notification to BUYER one year before the production is discontinued, to allow for a life time purchase. SELLER shall assist the BUYER in establishing alternate source of supplies.

FIELD SUPPORT:

On the request of the BUYER, SELLER shall resolve all technical queries and problems on product/System in service and provide the services of its service engineers at base of the BUYER on mutually agreed terms and conditions as and when required to facilitate repair of the product/System or to carry out modifications within the framework of system safety and for other field services.

MAINTENANCE SUPPORT:

SELLER shall carry out scheduled, periodic and unscheduled maintenance and snag rectification and for this purpose maintenance personnel will be deputed at mutually agreed terms and conditions.

In case of prices for long-term supplies of spare parts or price catalogue are not available/applicable, provision for entering into long term business agreements on supply, servicing and repairs like LTSA/LTRA should be provided by Seller in the scope of the contract till establishment of Repair Overhaul Facility at _____ or in India. Seller should indicate lead time for supply of spares and should authorize _____ for direct purchase from OEMs/Primary vendors.

The Seller agrees to undertake Maintenance Contract for a maximum period of _____ months, extendable till the complete Engineering Support Package is provided by the Seller. In the event of any obsolescence during the above mentioned period of product support in respect of any component or sub-system, mutual consultation between the Seller and Buyer will be undertaken to arrive at an acceptable solution including additional cost, if any. Any improvement / modification / up gradation by the Seller or their sub supplies on the stores / equipment being purchased under the Contract will be communicated by the Seller to the Buyer and, if required by the Buyer, these will be carried out by the Seller at Buyer's cost. The Seller agrees to provide an Engineering Support Package as modified after confirmatory Maintenance Evaluation Trials (METs). The Seller agrees to undertake the repair and maintenance of the equipment, SMTs/STEs test set up, assemblies / sub assemblies and stores supplied under this contract for a period of _____ years as maintenance contract as specified or provision of complete Engineering Support Package to the Buyer whichever is later, as per terms and conditions mutually agreed between the Seller and the Buyer.

3.12. Taxes & Duties

a) GST: Rate of GST or any other Tax chargeable should be clearly indicated in the offer/ bid as inclusive in the price quoted or extra. If not indicated, Buyer will assume that the rates quoted are inclusive of taxes.

b) Wherever Excise Duty is applicable and payable, the same shall be reimbursed at actual against production of qualified Excise Duty gate pass in original as a proof for having paid the duty on the particular consignment. The Seller should ensure that the Gate Pass accompanies each consignment that are sent to us. In addition a photocopy of Gate Pass, in advance along with Invoice to be sent to Purchase Department in case of payment through Bank. If the terms of payment is other than the above, the photo copy of the Gate Pass with the bills etc., shall be sent to concerned Accounts Department. The Excise Duty Gate Pass number and date shall be incorporated in the Invoice, Delivery Challan and all other dispatch documents.

c) Seller is entitled for increase in statutory taxes, duties & levies within original DP and extended DP. However, there is decrease in statutory taxes, duties & levies, the same must be passed on to the Buyer.

d) Foreign Bidders: All taxes, duties, levies and charges which are to be paid for the delivery of goods in their respective
(e) Customs Duty:

(i) In case of imported stores offered against forward delivery, the Bidders shall quote prices exclusive of customs duty, duly specifying separately the CIF Price and the customs duty payable. The Bidder shall also indicate the rate of customs duty applicable along with Indian Customs Tariff Number. Customs duty actually paid shall be reimbursed on production of necessary documents i.e.
(1) copy of Bill of Entry,
(2) copy of Bill of Lading,
(3) foreign Principals invoice. However, if the Bidder imports the stores in question against his own commercial quota Import license, he will also be required to submit in addition to the triplicate copy of bills of entry, etc., a certificate from his Internal Auditor on the bill, to the effect that the following items/ quantity in the bill of entry are related to the stores imported against the Buyers Contract Number …… dated ……

(ii) Subsequent to the reimbursement of customs duty if the Seller obtains any refund of customs duty, such refund shall immediately be remitted, in full, to the Buyer. In case of failure to do so, the Buyer shall be fully empowered to deduct a sum equivalent to the amount of customs refunded, without any further reference to the Seller, from any of their outstanding bills against the contract or any other pending Government contract and no disputes on this account shall be raised by the Seller.

(iii) Subsequent to the reimbursement of customs duty, the Seller shall submit to the concerned Paying Authority a certificate to the effect that he has not obtained any customs duty refund. In addition, Seller shall also submit to the Paying Authority a certificate, immediately after lapse of the period specified in the Customs Act by which application for refund are to be filed with the Customs Authorities, stating that he has not applied for refund of the customs duty.

3.13. Pre-contract Integrity Pact:

a) For purchases exceeding Rs. Five(5) Cr, a Pre-contract Integrity Pact shall be signed between the Buyer and the Bidder. This is a binding agreement between the Buyer and Bidder in which both agree to enter into a pre-contract agreement to avoid all forms of corruption by following a system that is fair, transparent and free from any influence prior to, during and subsequent to the currency of the contract.

b) Bidder shall submit duly signed Pre-contract Integrity Pact in original, strictly as per the format (without any deviation) enclosed with the T.E/RFP. Bidders not complying with this are liable for rejection and their bids will not be considered for evaluation. In case of two bid system, the Bidder is required to submit the signed pre-contract IP as part of technical bid, failing which offers are liable for rejection.

c) The Pre-contract Integrity Pact shall be valid, from the date of signing of the contract, for a period extending up to 5 years or completion of contractual obligations whichever is later.

d) The Pre-contract Integrity Pact requires every Bidder to deposit along with his Bid the following amount as Security Deposit.

i) Rs 1 Cr (Additional financial guarantee), if the estimated cost procurement is above Rs 100 Cr and up to Rs. 300 Cr.

ii) Rs 3 Cr (Additional financial guarantee), if the estimated cost procurement is aboveRs. 300 Cr.
iii) All procurement cases above Rs. 5 Cr & up to Rs. 100 Cr, Integrity Pact is required to be executed without any additional Financial Guarantee. The EMD/SD/PBG required to be submitted by the vendor as prescribed in OFBPM 2018 shall only act as the financial guarantee for the IP.

iv) For procurement cases above Rs. 5 Cr & up to Rs. 100 Cr, in case EMD is exempted and/or PSD is waived, separate Bank Guarantee of the PSD value required to be submitted by the vendor.

v) Bidder shall furnish the said EMD/ Security Deposit through any of the following instruments: 1) Bank Draft or Pay Order in favour of the PCA(Fys) Kolkata. 2) A Confirmed Guarantee by an Indian Nationalized Bank, promising payment of the guaranteed sum to the Buyer, on demand, within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the Buyer shall be treated as conclusive proof for payment. 3) In case foreign suppliers, the Bidder may, if necessary, furnish the Bank Guarantee from a first class International Bank provided the same is confirmed/ verified by the State Bank of India.

vi) The EMD/ Security Deposit shall be valid up to a period of five years beyond the bid validity specified in the TE (or subsequent request made by the Buyer for validity extension) or the complete conclusion of contractual obligations to complete satisfaction of both the Bidder and the Buyer, whichever is later.

vii) In case there are more than one bidder, the Earnest Money/Security Deposit shall be refunded by the Buyer to those bidder(s) whose bid does not qualify (do not qualify)after the stages of TEC/ TPC, as constituted by the Buyer, immediately after a recommendation is made by the TEC/ TPC on bid(s)after an evaluation.

viii) No interest shall be payable by the Buyer to the Bidder(s) on Earnest Money/Security Deposit for the period of its currency.

ix) The Buyer has nominated **Shri M N Krishnamurthy, IPS (Retd.) as Independent External Monitor (IEM)** for this Pact.

Address:
Shri M N Krishnamurthy, IPS (Retd.)
910, 3rd Cross Road,
9th Main, HRBR Layout,
Kalyan Nagar, 1st Block Bangalore-560043
Mob No: 9591110000
e-mail: krishnamurthymn19@gmail.com

3.14. Liquidated Damages (LD):

The time for and the date of delivery of the stores stipulated in the Purchase Order shall be deemed to be the essence of the contract, and delivery must be completed not later than the dates specified therein. Should the Seller fail to deliver the material to our premises or any consignment thereof within the period prescribed for such delivery, Buyer shall be entitled to recover from the Seller agreed liquidated damages, and not by way of penalty a sum of 0.5% per week of delay or part thereof, subject to a maximum of 10% as our claim towards liquidated damages on the undelivered part of the order. The LD will be charged on the basic cost excluding taxes and duties. Imposition, recovery or settlement of this LD shall not affect Buyer's right to performance, compensation and termination of the agreement. Liquidated Damages in contracts with Price Variation formula shall be levied on the price as varied by the operation of the Price Variation clause.

3.15. Earnest Money Deposit:

a) EMD for a value of NIL to be submitted in the form of Account Payee Demand Draft / Fixed Deposit Receipt /Banker's Cheque / Bank Guarantee (in prescribed format) from any of the Commercial banks / SBI Collect. EMD should be valid for45 ____ days beyond the validity of the bid.

Bank details are as follows:_____.

b) Offers not accompanied with requisite amount of EMD or EMD not submitted in the specified form in original shall be summarily rejected.

c) EMD will not carry any interest for the period it is retained with Buyer. EMD will be forfeited if a Seller withdraws, amends, impairs and/or derogates within validity period.

d) EMD is to be submitted by the bidders except Micro and Small Enterprises (MSEs) having UAM number as defined in MSE Procurement Policy 2012 issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organisation or the concerned Ministry or Department (including OFs) or Start-ups as recognised by Department of Industrial Policy and Promotion (DIPP), irrespective of the store for which they are registered. EMD is also not required from Central PSUs. Bidders/Sellers exempted from submission of EMD must submit certified copy of Govt of India authority for such exemption in lieu of EMD.

e) EMD of the technically rejected bidder shall be returned immediately after technical evaluation. EMD of balance unsuccessful bidders will be returned to them at the earliest after expiry of the final bid validity and latest on or before the 30 th day after award of contract/ finalization of the tender. The EMD of the successful bidder would be returned, without any interest whatsoever, after the receipt of PSD from them as called for in the consequent Contract.

f) In case of two bid system EMD in original form should be enclosed along with the technical bid. Technical bid without EMD in original will be rejected.

g) EMD remittance document, either in Indian currency or any other convertible currency of the specified amount, can be arranged by the Indian subsidiary / branch office in India of a foreign Seller which shall be submitted along with a certificate confirming the relationship of subsidiary / branch office in the Seller's offer.

h) EMD shall be submitted in favour of GM, MPF(Sr.GM/GM/HOD).

3.16. Performance Security Deposit (PSD): Applicable as under

(a) The Seller (successful bidder awarded contract) shall deposit 5% of the total value of this order /contract value including taxes & duties as Performance Security Deposit which amounts to Rs. _____by way of Account Payee Demand Draft/Banker's Cheque/Fixed Deposit Receipt from a Commercial Bank of India/Bank Guarantee in the prescribed format(enclosed) from a Commercial Bank of India (for Indigenous Sellers)/ Bank of International repute for which counter guarantee is given by Indian Bank (for Foreign Sellers) within specified date(normally 30 days after notification of the award of contract/ date of acceptance). Indemnity Bonds may be accepted as PSD from Central PSUs.

(b) PSD is not necessary for contracts valuing up to Rs. 10 lakhs.

(c) The PSD/Performance Bank Guarantee should be valid for additional period of 60 days beyond the delivery date of completion of all contractual obligation including Warranty period (if any). In the event of the Contractual delivery period being extended by the Buyer, the Seller shall be responsible to ensure that the validity of the Performance Guarantee is also simultaneously extended/re-validated so that it is valid for additional period of 60 days beyond the new delivery date of completion of all contractual obligation including warranty period (if any).

(d) In the event of non-performance of the item and if Seller fail to attend the defects within reasonable period of time, the PSD will be forfeited /the Performance Bank Guarantee will be encashed. In case any claims or any other contract obligations are outstanding, the Seller shall extend the Performance Bank Guarantee as requested by the Buyer till such time as the Seller settles all claims and completes all contract obligations. The Performance Bank Guarantee shall also be liable for encashment/forfeited if conditions regarding adherence to delivery schedule and other provisions of the contract are not fulfilled by the Seller. The Buyer decision shall be final and binding in this regard.

(e) Performance Security Deposit is initially to be given by the supplier for original supply order quantity without option clause quantity. PSD (without interest except FDR) for the original supply order quantity may be returned after 60 days of fulfillment of all contractual obligations of the original supply order quantity including warranty period (if any). Regarding Option Clause, PSD amount may be worked out based on Option Clause quantity. PSD for Option Clause quantity may be returned after 60 days of fulfillment of all contractual obligations of the Option Clause quantity including warranty period(if any)

(f) PSD will be submitted in favour of **Principal Controller of Accounts (Fys) Kolkata**. The Seller should sent original copy of PSD to Factory /Unit concerned first with a copy to PCA(Fys) Kolkata. After verification/confirmation of genuineness by the relevant Bank, a copy of the same can be forwarded by Factory to PCA(Fys) Kolkata.

3.17. Spares Management: Seller should provide Product Support for full lifetime of the product.

SELLER:

a) Shall advice on the requirement of spares and stock to be maintained as and when required by the BUYER.

b) Supply spares on demand. Should any of the spares or equipment be earmarked for discontinuance of production, give notification to BUYER one year before the production is discontinued, to allow for a life time purchase.

c) Shall assist the BUYER in establishing alternate source of supplies

3.18. Obsolescence:
The Seller shall continue to support the equipment for a minimum period of ___ years from the date of supply by making available spare parts and assemblies of the equipment supplied. For any reason Seller wishes / decides to close / discontinue the line for manufacture of the products or procurement of certain components, sub-components, Seller undertakes to notify such a decision to Buyer by means of a prior __ years notice (before closure of the said production line) in writing so as to enable Buyer to place buy
order / a life time buy of all spares before closure of said production line. Seller will transfer tools, drawings etc to Buyer after such notice period. Seller to indicate the source from where Buyer can procure these items. The said aspect would also form an integral part of the contract.

3.19. Withholding tax :
(a) BUYER would be deducting at source applicable Income Tax as per Government of India Rules applicable at the time of making payments in respect of services rendered in India. (Generally on the amounts towards services like training, technical assistance offered by the Seller and license fees). As per the Rules, Income tax has to be borne by the recipient of the Income and relevant certificate to this effect will be issued to the Seller on deduction of such amounts, if applicable.
(b) Seller should bear the applicable withholding income tax in India. Tax would be deducted at source by Buyer as per DTAA where the Seller could claim the benefit of double taxation in their country as per the bilateral agreement between the two countries. Certificate to this effect would be issued by Buyer to enable the Seller to claim the benefit under DTAA.
(c) Seller is required to indicate the PAN/TAN No. issued by Indian Income Tax Authorities and Permanent Establishment Certificate, If Applicable.

3.20. Product Liability :
The Product Civil Liability on the product, for any loss arising in course of its utilization, for which Buyer may be held legally responsible, is the responsibility of Seller.
Seller will carry out Product Liability Insurance to the extent set for herein in an amount not less than Rs. ___. Buyer will not be responsible for the payment of any premium for this policy.

3.21. Risk Purchase :

(a) If the equipment / article / service or any portion thereof be not delivered / performed by the scheduled delivery date / period, any stoppage or discontinuation of ordered supply / awarded contract without written consent by Buyer or not meeting the required quality standards, the Buyer shall be at liberty, without prejudice to the right of the Buyer to recover Liquidated Damages / penalty as provided for in these conditions or to any other remedy for breach of contract, to terminate the contract either wholly or to the extent of such default. Amounts advanced or part thereof corresponding to the undelivered supply shall be recoverable from the Seller at the prevailing bank rate of interest.

(b) The Buyer shall also be at liberty to purchase, manufacture or supply from stock as it deems fit, other articles of the same or similar description to make good such default and or in the event of the contract being terminated, the balance of the articles remaining to be delivered there under at the risk & cost of Seller. Any excess over the purchase price, cost of manufacture or value of any articles supplied from the stock, as the case may be, over the contract price shall be recoverable from the Seller.

3.22. Termination Clause :
Buyer reserves the right to cancel the order with 15 days notice without any financial liability in the event of any of the following:

a) When the item offered by the Seller repeatedly fails in the inspection and/or the Seller is not in position to either rectify the defects or offer items conforming to the contracted quality standards.
b) When the Seller fails to honour any part of the contract including failure to deliver the contracted stores/ render services in time.
c) Adulterated supplies as determined according to Prevention of Food Adulteration Act, 1954 and Rules, 1995 as amended from time to time.
d) Supplies inferior to the specified quality.

e) Unbranded/deceptively branded / spurious supplies against branded items in the Purchase Order.

f) Time expired supplies.

g) When the Seller is found to have made any false or fraudulent declaration or statement to get the contract or he is found to be indulging in unethical or unfair trade practices.

h) Based on the decision of Arbitration Tribunal.

i) The seller is declared bankrupt or become insolvent.

3.23. Insolvency :

If the Seller enters into liquidation, whether compulsory or voluntary (otherwise than or amalgamation or reconstruction with another party taking over all his rights as well as commitments) or becomes insolvent or Suffers a receiver of the whole or part of this asset to be appointed,

i) shall forthwith notify the same to Buyer and the Buyer shall have the right without prejudice to his other rights or remedies to terminate the unexecuted part of this Contract.

ii) In such an event, the Buyer shall become entitled forthwith to get the refund within 30 days of all the advance payments received by the Seller and expenditure incurred as a part of its obligations under this contract.

3.24. Appropriation :

Whenever under this contract any sum of money is due or recoverable from Seller or payable by the Seller, Buyer shall be entitled to recover such sum by appropriating in part or whole by deducting any sum then due or which at any time thereafter may become due to the Seller in this or any other contract entered by Buyer as a whole its Divisions and Branch Offices etc., held by him/her alone or in partnership with others.

Should this sum be not sufficient to cover the full amount recoverable, the Seller shall pay to Buyer on demand the remaining balance due within 30 days of such written notice. The remaining balance due, if any, will be recovered through due process of law in case seller becomes defaulter.

3.25. Applicable Laws/Jurisdiction: All questions, disputes or differences arising out of or in connection with the contract, if concluded shall be subject to the exclusive jurisdiction of the Court within the local limits whose jurisdiction the place from which the Acceptance of Tender is issued, is situated i.e. District Civil Court, Thane. This contract shall be governed by and subject to and interpreted and construed in accordance with the Laws of the Republic of India, as may be in force from time to time.

3.26. Arbitration:

(i) Any dispute or difference whatsoever arising between the parties out of relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be settled by bilateral discussions.

(ii) Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof, which cannot be settled amicably within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, shall be settled by arbitration.

(iii) The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (amended time to time) and the award of such Arbitration shall be enforceable in Indian Court only. The law applicable to an arbitration shall be Indian law. In case of Foreign Seller, Indian law of Foreign law to be decided by contracting parties is applicable.

For Indigenous Seller: The arbitration tribunal shall be consisting of sole arbitrator. The sole arbitrator shall be nominated by the parties within ninety(90) days of the receipt of the notice mentioned above through mutual discussions and referred to Director General Ordnance Factories, Government of India, Ordnance factory Board, 10 –A, S.K.Bose Road, Kolkata 700001 for appointment of the Sole Arbitrator with the mutual consent of the parties. The Arbitrator so appointed shall be a Government Servant /Ex Government Servant (with mutual consent) who had not dealt with matters to which this agreement relates and in course of his duties had not expressed views on all or any of the matter in disputes or differences. Failing which the arbitrator shall be nominated under the provision of Indian Arbitration and Conciliation Act, 1996 (amended time to time) at the request of either party or by dispute resolution institutions like Indian Council of Arbitration or ICADR, but said nomination would after consultation with both the parties. The Award of arbitration shall be final and binding on the parties to this contract.

For Foreign Seller: The arbitration tribunal shall be consisting of sole arbitrator. The arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the arbitrator may be nominated under the provisions of Indian Arbitration and Conciliation Act, 1996 (amended time to time) or by dispute resolution institutions like Indian Council of
Arbitration and ICADR. In case, nomination of third arbitrator under Indian Arbitration and Conciliation Act, 1996 (amended time to time) or by dispute resolution institutions like ICA and ICADR are not acceptable to the SELLER, then the sole arbitrator may be nominated by the President of International Chamber of Commerce, Paris, but the said nomination would be after consultation with both the parties and shall preclude any citizen with domicile of any country as mentioned above.

The Arbitration Tribunal shall have its seat in _____ in India or any suitable place in India as may be decided by the arbitrator.

Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal. In the event of a vacancy caused in the office of the arbitrator, the parties which nominated such arbitrator shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.
In the event of both parties failing to nominate arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration or ICADR to nominate another arbitrator as above.

The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitrator proceedings.

The language(s) of the arbitration shall be English.
"Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of (all /both) parties."

In case of technical disputes involving confidential matters, the issue shall be referred to a high level technical authority for each party, appointed for this purpose.

For CPSUs/DPSUs

In the event of any dispute or difference relating to the interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator 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 (amended time to time) shall not be applicable to the disputes, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to be Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/ Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator. If the Department of Public Enterprises fails to settle the dispute, the same will be referred to the Committee constituted by the Cabinet Secretariat.

3.27. Indemnity against Patent rights: The Seller shall at all times protect, indemnify and save/keep harmless the Buyer, its successors, assigns, , any claim made by a third party against all liability, including costs, expenses, claims, suits or proceedings at law, in equity or otherwise, arising out of, or in connection with, any actual or alleged patent infringement (including process patents, if any), or violation of any license with respect of the stores covered by the order.

3.28. Bribes: The Seller undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contracts or forbearing to do or for having done or for borne to do any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Government. Any breach of the aforesaid undertaking by the seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the seller) or the commission of any offers by the seller or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1988 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the seller and recover from the seller the amount of any loss arising from such cancellation. A decision of the buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the Seller.

Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the seller towards any officer/employee of the buyer or to any other person in a position to influence any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/ penalty as the Buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

3.29. Sub-contracting/Sub-letting with the permission of the Buyer : Seller shall not be entitled without buyer's prior written consent to Sub-contract/Sublet to a third party all or part of the benefits or obligations of the Contract (even by way of change of ownership or control), except as expressly permitted in this Contract if any, to sub-contract any of its rights and interest under this Contract.

3.30. Works & Payments during Arbitration: Work under the Contract shall be continued by the Seller during the arbitration proceeding, unless otherwise directed in writing by the Buyer or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrators is obtained, and save as those which are otherwise expressly provided in the Contract, no payment due or payable by the Buyer shall be withheld on account of such arbitration proceedings, unless it is the subject matter or one of the subject matters thereof.

3.31. Fall Clause: The price quoted shall be in no event exceed the lowest price at which you sell the stores or offer to sell stores of identical description to any person(s) / organization including the purchases by any department of the Govt. of India, the State Govt. or any statutory undertaking of the Govt. of India / State Govt., as the case may be during the period till the completion of the performance of the order placed and during currency of the order. If at any time during the said period, the Seller reduces the sales price, sells or offers to sell such stores to any person/ organization including the Buyer or any department of Central Govt. or any Dept. of State Govt., or any statutory undertaking of the Central or State Govt., as the case may be at a price lower than the price chargeable under the contract, he shall forthwith notify such reduction/sale or offer to sale to the Buyer and the price payable under the contract for the stores supplied after the date of coming into force of such reduction or sale or offer to sale shall stand correspondingly reduced with due
allowance for quantities and intervening time period.

3.32. Export License: Foreign Seller making proposals should ensure availability of export license as per their Govt. regulations for export to India. Seller shall be required to obtain and maintain all Export/Import licenses and permits etc., as the case may be, required for performing supplies against this tender. Obtaining export license shall be entire responsibility of the Seller and he shall discharge this within a reasonable time. End User Certificate will be issued by the Buyer.

3.33. Immunity to the Government of India: It is expressly understood and agreed by and between Seller & buyer that buyer is entering into this contact solely on its own behalf and not on behalf any other person or entity. In particular, it is expressly understood and agreed that Government of India is not a party to this contract and has no liabilities, obligations or right hereunder. It is expressly understood and agreed that buyer is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable laws of India and general principles contract law. Seller expressly agreed acknowledges and understand that buyer is not an agent, representative or delegate to the Government of India. It is further agreed and understood that Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, Seller hereby expressly waives releases and foregoes any and all actions, including counterclaims, impleader claims or counter claims against the Government of India arising out of this contract and covenants as to any manner, claim cause or action or this whatsoever arising out of or under this contract.

3.34. Intellectual Property Rights:

(a) If any Patent design, trademark, copyright or any other intellectual property rights apply to the delivery or accompanying documentation, Buyer shall be entitled to the legal use thereof free of charge by means of a non-exclusive, worldwide, perpetual license. All intellectual property rights that arise due to the execution of the delivery by the Seller and by its employees or third parties involved by the Seller for performance of the agreement belong to Buyer.

(b) The Seller shall be obligated to do everything necessary to obtain or establish the above mentioned rights. The Seller guarantees that the delivery does not infringe on any of the intellectual property rights of third parties. The Seller shall also be obligated to do everything necessary to obtain or establish the alternate acceptable arrangement pending resolution of any (alleged) claims by third parties. The Seller shall indemnify the Buyer against any (alleged) claims by third parties in this regard and shall reimburse Buyer for any damages suffered as a result thereof.

3.35. Amendment & Waiver :

Any amendment to Purchase Orders / Contracts would be enforceable only if made in writing and duly signed by authorized representatives of the parties hereto. Failure of either Party at any time to enforce any of the provisions of this Contract shall not per se constitute a waiver by that Party of any such provisions nor in any way affect the validity of the Contract or any part hereof.

3.36. Classified/Confidentiality: The conditions are as follows:-

(a) This Contract and its annexure(s) shall be treated as confidential by the Parties and their officers and employees.

(b) Unless otherwise specified herein, neither Party or any of their affiliated companies shall make any news release, public announcement, advertisement, denial or confirmation, disclose of some or any part of this Contract or transactions contemplated under this Agreement to any third party without the prior consent of the other Party.

(c) The Party Disclosing information is termed as Disclosing Party and the Party receiving information is termed as Receiving Party, Each Party undertakes:

i) to keep the other Party's Confidential Information confidential using the same degree of care as the receiving Party uses to protect its own Proprietary Information against public disclosure but in no case any less degree than reasonable care; and

ii) not to make any disclosure of the other Party's Confidential Information to any third party and to use the same only for the Purpose; and

iii) not to make any copies of the other Party's Confidential Information, or translation or transfer of the same to other documents or media nor to disseminate the same within its own organisation save as is strictly necessary for the Purpose; and

iv) not to assign the rights and obligations of the Parties without their prior written consent thereto.

(d) Provided, however, that the foregoing restrictions and obligations shall not apply to any information which it can be shown:

i) is already or hereafter becomes published otherwise than through the fault or negligence of the receiving Party; or
ii) is lawfully obtained by the recipient from a third party having rights to disclose to the receiving Party, without
iii) is already known to the receiving Party at the date of receipt of the information pursuant to this Agreement, or
iv) is independently developed by the receiving Party.

v) is required to be disclosed under any law, judicial order or Government order or regulation provided receiving Party gives disclosing Party timely notice, where possible, of the contemplated disclosure so as to give the disclosing Party an opportunity to intervene to preserve the confidentiality of the information. Or such disclosure is limited to those persons to whom the Receiving Party is legally compelled to disclose the information to; and

(e) The technical information provided by SELLER under this Contract shall be treated as confidential by the BUYER and shall be used by BUYER only for purpose intended and shall not be disclosed to any third party.
(f) The provisions of this clause shall survive and remain in force notwithstanding the termination or expiry of this Contract.
(g) The BUYER shall limit access of technical documentation being provided under this Contract only to such of its employees involved in relevant operations concerning the equipment on a need to know basis.
(h) Non-adherence to this Clause by the Seller shall be treated, amongst others, as a material breach of this Contract.
3.37. Agents / Agency Clause : The seller confirms and declares to the buyer that the seller is the original manufacturer or authorized distributor / stockiest of original manufacturer or Govt. Sponsored / Designated Export Agencies (applicable in case of countries where domestic laws do not permit direct export by OEMS) of the stores referred to in this offer / contract / Purchase order and has not engaged any individual or firm, whether Indian or Foreign whatsoever, to intercede, facilitate or in any way to recommend to Buyer or any of its functionaries, whether officially or unofficially, to the award of the contract / purchase order to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such individual / firm, and paid or intended to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or
institution, whether before or after the signing of this contract / purchase order, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from participating in any RFQ / Tender for new projects / program with Buyer for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract / Purchase order either wholly or in part, without any entitlement or compensation to the Seller who shall in such event be liable to refund all payments made by the Buyer in terms of the Contract / Purchase order along with interest at the rate of 2% per annum above LIBOR (London Inter Bank Offer Rate) (for foreign vendors) and Base Rate of SBI (State Bank of India) plus 2% (for Indian vendors). The Buyer will also have the right to recover any such amount
3.38. Force Majeure:
(a) If at any time during the execution of the supply order, the performance in whole or in part by either Buyer or and by the Seller(s) is / are delayed by any reason of force majeure situations such as acts of civil war, civil commotion, sabotage, hostilities, war, fires, explosions, epidemics, natural calamities like floods, earthquakes, volcanoes, storms, acts of God & laws of respective governments or any other causes beyond the control of either parties, hereinafter referred to as "events", provided notice of the occurrence of such
event/s is / are communicated by either party, to the other party within 21 days from the date of occurrence thereof, neither party shall by reason such events be entitled to terminate the contract nor shall either party have any claim for damages against the other in respect of such non performance and or delay in performance of the contract / order. Executions on either side shall be resumed as soon as practicable after such event has come to an end or ceased to exist and the decision of Buyer as to whether activities can resume or not, shall be conclusive and final. Occurrence of the events to be certified by Chamber of Commerce / Indian High Commission or Embassies / Government in that

(b) The performance in whole or in part under the captioned tender / contract is prevented or delayed by reason of any such event for a period exceeding sixty days either party may at its option terminate the contract / further processing of the tender. The relative obligations of both the parties remain suspended during the actual period of force majeure.

(c) The Buyer may extend the delivery schedule as mutually agreed, on receipt of written communication from the Seller regarding occurrence of 'Force Majeure' conditions, but not exceeding six months from the scheduled delivery date. If the 'Force Majeure' conditions extend beyond this period, the Buyer shall have the right to cancel the order without any financial implication to the Buyer or on terms mutually agreed to.

3.39. Exit Criteria: The contract/order may be terminated under the following circumstances:

(a) In the event of unsatisfactory performance by the Seller during the contract period, or any of the information provided by the Seller is found to be untrue, or Seller is found to have attempted to influence any person involved with the contract through unethical means, the contract shall be terminated with **One month's** advance notice without any financial implication to Buyer. Notwithstanding, the foregoing, in cases where it is found that a Seller is engaged in unethical practices, the same shall be barred from participating in the future contracts for a period of **Three years.**

(b) If there is change in Buyer requirement, contract shall be terminated with **One months** advance notice. The liability of Buyer in this case will be agreed mutually. In the event of termination of contract by either party the Seller shall ensure following:-

i) IPR's are transferred to Buyer to enable Buyer to proceed on the work with other Seller. Seller also will render all assistance till the other Seller fully take over the balance work.

ii) Transfer title and deliver all or any part thereof of the supplies, materials, work-in progress, finished Products, Tooling, drawings and data produced or acquired by Seller specifically for the Product being terminated.

iii) Supply of products and its components / spares at least for a period of **One** years from the date of such termination.

(c) The Seller is declared bankrupt or becomes insolvent.

(d) The delivery of material is delayed due to causes of Force Majeure by more than **(Three months).**

(e) Based on the decision of the Arbitration Tribunal.

3.40. Cartel Formation:

a) Cartel formation or quoting of pool rates or quoting in collusion is against the basic principle of competitive bidding and shall attract penal and punitive measures; including suspension/banning of such Bidders for a specific period as per Procedure for Penal Action in OFs/Units of OFB under the Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities in vogue, apart from reporting to the Competition Commission of India, other Regulatory Authorities, Chambers / Association of Commerce, etc.

b) Firms are expected to quote for full quantity or part thereof but not less than 50% of tendered quantity. Offers for quantity less than 50% of tendered quantity will be considered unresponsive and liable to be rejected if CARTEL Formation is suspected. The management(CFA), reserves the right to order any quantity on one or more firms.

c) Whenever all or most of the approved firms quote equal rates in CARTEL, the purchaser reserves the right to place order on any one or more firms with exclusion of the rest. The selection of firms for placement of order would be based on a pre-determined ranking of the firms.

d) The purchaser reserves the right to place order on two or three firms: in such cases tender quantity will be distributed between Rank 1(R1) and Rank 2(R2) firms in the ratio of 60:40 or among R1, R2 and Rank 3(R3) firms in the ratios 50:30:20 respectively.

e) The purchaser reserves the right to delete the registered firms who quote in CARTEL from list of approved/registered sources or to debar them for competing for a period of **Three years.**

f) The name of the newly registered firm which enters into CARTEL on getting registered will be summarily deleted from the list of registered suppliers.

g) New firms will have to submit an undertaking that they will not be part of a cartel with other vendors and will quote competitive rates in the tenders; otherwise would face expulsion from the list of vendor.

3.41. Access to Books of Accounts: In case it is found to the satisfaction of the Buyer that the Bidder has engaged an Agent or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents/Agency Commission and penalty for use of undue influence, the Bidder, on a specific request of the Buyer, shall provide necessary information / inspection of the relevant financial documents / information.

3.42. Non-disclosure: Except with the written consent of the Buyer/Bidder, the other Party shall not disclose the TE or consequent Contract or any provision, specification, plan, design, pattern, sample or information thereof to any third party.

PART IV – SPECIAL CONDITIONS OF TE

Part IV of the TE contains the Special Conditions of the TE that will form part of the contract with the successful Bidder

4.1 Pre-bid Conference: In certain procurements of specialised or complex nature, turn-key contract, etc., the Buyer may consider it necessary to hold a Pre-bid Conference with prospective Bidders for clarifying the requirement, specification or other allied technical/ evaluation/ commercial details of the procurement and also clearing doubts, if any, the Bidders may have on the TE. All eligible Bidders are requested to participate in the Pre-bid Conference. In procurements necessitating Pre-bid Conference, the notice for the Pre-bid Conference shall be given in the TE

4.2 Notices: Any notice required or permitted by the consequent Contract shall be written in English language and may be delivered personally or sent by FAX or registered /speed post/e-mail, addressed to the last known address of the Party to whom it is sent.

4.3 Special conditions for Source Development Open Tenders:

(a) Established sources for an item will not be eligible to participate in the SDOTE for that item. The status whether a firm is established or not shall be reckoned as on the last date of the previous month in which vendor selection TPC is held.

(b) Freak Rates: Any quote that is less than 70% of simple average of the basic rate (LTE and successfully executed SDOTE/OTE) at which orders (excluding import orders) have been placed over the preceding three years (reckoned from the date of tender opening) shall be deemed as freak rate and rejected.

(c) To have more firms developing an item and thereby improve the probability of developing new sources, in SDOTE the L-2 firm may be given 40% of the tendered quantity on accepting the L-1 rates, provided this was indicated in the tender.

(d) Vendors become established source for a particular item after securing order by participation in a SDOTE for the item and successfully delivering at least 60% of ordered quantity against the supply order, and the same being accepted on conformity to the qualitative requirements. However, supplies against subsequent LTE orders shall be accepted subject to completion of the supplies under the SDOTE. Established vendors for aggregates, assemblies and sub-assemblies shall be considered as established vendors for components and sub-assemblies that go into making of the aggregate, assembly and sub-assembly.

(e) The firm having one SDOTE supply order is also not allowed to participate in other SDOTE for same item, floated by same or any other Factory. An Undertaking in this regard may be obtained from firms.

(f) If a firm on which source development order has been placed, is unable to develop the item within the specified time frame, existing provision of OFB DFP should be followed for DP extension/re-fixation.

(g) In the retender, the firm that was unable to develop the particular item even with the extended timeframe that resulted in the retender shall not be allowed to participate.

(h) System Integrators may also be considered for participation having facility/capabilities of integration with testing facilities. These firms may not have manufacturing facilities but have agreement (self-declared by vendors) for supplying of components/assemblies/ sub-assemblies. The warranty of the integrated product shall be given by the integrator.

4.4 Applicable Currency: Domestic Bidders shall quote and be paid only in Indian Rupees (INR). Foreign Bidders may quote in US Dollars or Euros and may be paid in the same currency. If the offer of foreign Bidders includes some portion of the allied work/ services to be undertaken by Indian purchaser (e.g. installation, commissioning, etc.) such portion shall be quoted and paid only in INR. Authorised Indian dealers of foreign OEMs participating in the TE shall quote and be paid only in INR. The foreign exchange rates applied for conversion from one currency to another shall be the exchange rate (BC Selling Rate) notified by the Parliament Street Branch of SBI, New Delhi / RBI on the last date of submission of Bids.

4.5 Stage Payments: Stage payments are admissible, as well as relevant, only in rare cases involving very high value and where the throughput time for manufacture of the stores under procurement is very long. The Buyer, if satisfied that the throughput time and the value of procurement are very high, may then allow stage payment only against satisfactory completion of clearly identifiable physical milestones with the quantum of the stage payment being commensurate with the quantum of work completed up to the milestone, subject to the Seller submitting a Bank Guarantee in the prescribed format(enclosed) from a Commercial Bank of India (for Indigenous Sellers)/ Bank of International repute for which counter guarantee is given by Indian Bank (for Foreign Sellers), with validity up to additional period of 60 days beyond the delivery date of the completion of all contractual obligations, for an amount equivalent to the stage payment to be released. The physical milestones/ stages and the admissible stage payment as percentage of the total contract value are given in the table below. When stage payments are made in contracts with Price Variation formula, no price variations shall be admissible on such portions of the price, after the dates of such stage payments.

Stage Number	Physical Activity to be completed for claiming the stage payment	Stage payment as % of the total contract value

4.6 Mode of Payment:

Indigenous Bidders: It will be mandatory for the Bidders to indicate their bank account numbers and other relevant e-payment details to enable payments through ECS/ NEFT mechanism instead of payment through cheques, wherever feasible. A copy of the model mandate form prescribed by RBI to be submitted by Bidders for receiving payments through ECS is enclosed as annexure.

Foreign Bidders:

a) If the value of the contract is up to US $ 100,000, payments shall be made by Direct Bank Transfer. DBT payment will be made within 30 days of receipt of clean Bill of Lading/ AWB/ Proof of shipment and such other documents as are provided for in the consequent Contract, but such payments will be subject to the deductions of such amounts as the Seller may be liable to pay under the agreed terms of the Contract.

OR

b) The payment shall be through Letter of Credit from State Bank of India/ any other Indian Public Sector Bank, as decided by the Buyer, to the Bank of the Foreign Seller. The Seller shall give a notification within a specified period of …… days about the readiness of goods. Letter of Credit shall be opened by the Buyer within ……. days on receipt of notification of readiness from the firm. The Letter of Credit shall be valid for ninety days from the date of its opening, on extendable basis by mutual consent of both the Seller and the Buyer. All expenses related to Letters of Credit outside India shall be borne by the foreign vendor. In case of extension of delivery period the LC extension charges shall be borne by the Seller, if the extension is due to reasons attributable to the Seller.

4.7 Paying Authority: The organization of the Principal Controller/ Controller of Finance & Accounts concerned or their subordinate offices or any paying authority authorized to make payment for such procurements will be the Paying Authority. The name, address and contact details of the Paying Authority are:

Local Accounts Officer
Machine Tool Prototype Factory,
Ambarnath PIN 421 502

4.8 Document to be submitted for Effecting Payments:

The Seller submit the requisite documents to the Paying Authority to enable effecting the payment.

(a) Indigenous Sellers: Payment of bills will be made on submission of the following documents by the Seller to the Paying Authority along with the bill:

i) Ink-signed copy of Sellers Bill/ Commercial Invoice/ Contingent Bill
ii) Inspection Note (and User Acceptance, if applicable)
iii) Copies of Supply Order/ Contract along with all amendments to the Supply Order/ Contract.
iv) If DP was extended, copy of the amendment (s) to the Supply Order/ Contract duly indicating whether the extension was granted with or without LD
v) Claim for statutory and other levies to be supported with requisite documents/ proof of payment, like GST Invoice, Excise Duty Challan (wherever applicable), Customs Duty Clearance Certificate, ,proof of payment for EPF/ ESIC contribution with nominal roll of beneficiaries, etc., as applicable
vi) Exemption Certificate, if applicable.
vii) UAM number of MSEs for availing benefits of Procurement Policies for MSEs Order 2012
viii) Bank Guarantee for advance, if any, paid
ix) Performance Bank Guarantee/ Indemnity bond (only for PSUs), as applicable
x) Guarantee / Warranty certificate
xi) Name and address, Account type, Account number, IFSC code, MICR code (if these details are not incorporated in supply order/contract)
xii) Any other document / certificate that may be provided for in the consequent Supply Order/ Contract
(Note – From the above indicative list, the documents relevant to the procurement undertaken shall be included in the TE)

(b) Foreign Sellers: Paid Shipping documents shall be provided to the Bank, by the Seller, as proof of dispatch of goods as per consequential Contractual terms to enable the Seller to get payment from the LC. The Bank will forward these documents to the Buyer for getting the Stores released from the Port/ Airport. Documents shall include:

i) Clean on Board Airway Bill/ Bill of Lading
ii) Original Invoice
iii) Packing List
iv) Certificate of Quality and current manufacture from OEM
v) Performance Bond/ Warranty Certificate
vi) Dangerous Cargo certificate, if applicable
vii) Insurance policy for 110% of the CIF/ CIP contract
viii) Certificate of Conformity & Acceptance Test at PDI, if applicable
ix) Fumigation Certificate, if any
x) Any other document/ certificate provided for in the Supply Order/ Contract
(Note – From the above indicative list, the documents relevant to the procurement undertaken shall be included in the TE).

4.9 Quantity Tolerance: Normally no quantity variation in the supplies under the consequent Contract shall be permitted. However, in justified cases, such excess/ short supplies may be accepted by the Buyer, subject to the value of such excess/ short supplies not exceeding five percent of the original value of the contract, and the payment being admitted only for the actually quantity supplied.

4.10 Capacity Constraints of L1: Firms are expected to quote for full quantity or part thereof but not less than 50% of tendered quantity. The management (CFA), reserves the right to order any quantity on one or more firms. If the L1 Bidder has not quoted for the entire tendered quantity, then the supply order shall be placed for the balance quantity on L2 provided the L2 accepts the L1 rates. If the L2 is not agreeable to the L1 rate or if the L1 and L2 Bidders together cannot meet the tendered requirement, then the order for the balance quantity shall be placed on the next ranking supplier (L3) at the L1 rates provided L3 accepts the L1 rates. If the situation so warrants, this process shall be repeated in the order of the ranking (i.e. L1, L2,
L3... so on) till the entire tendered quantity is covered or no Bidder is left.

4.11 Distribution of Quantity for Strategic Reasons: As a strategic requirement the Buyer may need multiple sources, in such cases the Buyer may conclude orders on more than one firm in the order of ranking on financial evaluation (in the distribution ratio clearly specified in the TE Part II). The ratios of splitting may be either (a) 60:40 if two sources are necessary (provided at least three sources were issued tenders and have also quoted). Or (b) 50:30:20 if three sources are necessary (provided at least four sources were issued tenders and have also quoted). The distribution shall be done between L1 and L2 (on the L2 accepting the L1 rates) or between L1, L2 and L3 (on the L2 and L3 accepting the L1 rates) depending on whether 60:40
or 50:30:20 is specified as the distribution ratio. If the L2 or L3 Bidder (s) does not accept the counter-offered L1 rate then such undistributed quantity shall revert back to the L1 Bidder. If the distribution ratio is not specified hereunder then the supply order shall be concluded only on the L1 Bidder.

4.12 Acceptable Year of Manufacture: Unless stated other-wise in the TE, the goods supplied shall
be of current manufacture. Quality/ Life certificate will need to be enclosed by the Seller along with the Bill.

4.13 Transportation: Standard transportation instructions are as follows:
a) CIF/CIP (Port of Destination): Seller will bear the costs and freight charges necessary to bring the goods to the port of destination. The Seller shall also procure Marine Insurance against the Buyers risk for loss or damage during the carriage. In this regard the Seller shall contract for the insurance and pay the insurance premium. Seller shall obtain the necessary clearances for export of the goods. The date of issue of the Bill of Lading shall be considered as the date of delivery. No part shipment of goods would be permitted. Trans-shipment of goods would not be permitted. In case it becomes inevitable to do so, the Seller shall not arrange part-shipments and/or transshipment without the express/prior written consent of the Buyer. The goods may be shipped through Indian vessels. Seller will be required to convey the following information well in advance before the Ship sails the port of loading:

i) Name of the Ship:
ii) Port of Loading and name of Country:
iii) ETA at Port of Discharge:
iv) Number of Packages and Weight:
v) Nomenclature and details of major equipment:
vi) Special instructions, if any, to be provided by the Buyer:
OR
b) FOB/ FAS (Port of Shipment): The stores may be shipped through Indian Ships in case of FOB/ FAS contracts. Notice about the readiness of Cargo for shipment shall be given by the supplier from time to time at least eight weeks in advance for finalizing the shipping arrangement, through Fax and courier, to Factory concerned. Within 3 (three) weeks of receipt of the advance notice, as above, the Factory Concerned will advise the supplier, through Fax and courier when, and on board what vessels, these goods, or such part thereof, are to be delivered. If the advice for shipping arrangement is not furnished to the Seller within 3 (three) weeks as aforesaid or if the vessel arranged is scheduled to arrive at the specified port of loading later than 15 (fifteen) days of the date of readiness of cargo, as aforesaid, the Seller may arrange for such transport on alternative carriers with the prior written consent of the Buyer. Where the Seller is required under the contract to deliver the goods on FOB/ FAS basis, and to arrange on behalf and at the expense of the Buyer, for ocean transportation on Indian flag vessels or vessels of conference lines in which India is a member country, the Seller may arrange for such transportation on alternate carriers if the specified Indian flag vessels or conference vessels are not available to transport the goods within the time period(s) specified
in the contract, with the prior written consent of the Buyer. Should the goods or any part thereof be not delivered on the nominated vessel (except in case where prior written consent of the Buyer was obtained), the Seller will be liable for all payments and expenses that the Buyer may incur, or be put to, by reason of such non-delivery including dead and extra freight, demurrage of vessels and any other charges, whatsoever incurred by the Buyer. The date of issue of the Bill of Lading shall be considered as the date of delivery. No part shipment or Trans-shipment of goods would be permitted. In case it becomes inevitable to do so, the Seller shall not arrange part-shipments/ trans-shipment without the express/prior written consent of the Buyer. The Seller may contact Factory concerned.
OR
c) FCA (Airport): The dispatch of goods shall be made by air to the port of the consignee. The Buyer shall advise full details of its freight forwarder to the Seller no later than 60 days prior to the delivery of the first consignment otherwise the Seller may nominate the freight forwarder at the Buyers expense. Delays in advising or delays by the Buyers freight forwarders shall not be the responsibility of the Seller. The date of issue of the Air Way Bill shall be the considered as the date of delivery.

4.14 Air lift: Should the Buyer intend to airlift all or some of the stores, the Seller shall pack the Stores accordingly on receipt of an intimation to that effect from the Buyer. Such deliveries will be agreed upon well in advance and paid for as may be mutually agreed.

4.15 Quality: The quality of the stores offered shall strictly comply with the technical parameters contained in the Technical Specifications & its related standards and shall be new & of current manufacture. The mode of Inspection may be Buyers Inspection/ Joint Inspection/ Self certification.
The inspection of the stores may be Pre-dispatch Inspection (and/ or) Joint Receipt Inspection/Buyers Receipt Inspection to check their compliance with the Technical Specification.
4.16 Pre-Dispatch Inspection (PDI): The Buyer will send his authorized representative(s) to attend the PDI. The Seller shall intimate the Buyer at least 45 days before the scheduled date of PDI. The time required for completing visa formalities by the Seller should not be included in this notice. The list of Buyers Representatives along with their details like, Name, title, date & place of birth, passport number (including date of issue & expiry), address, etc., shall be communicated to the Seller, by the Buyer, reasonably in advance of the PDI date. Upon successful completion of such PDI, the Seller and Buyer will issue a Certificate of Conformity in the specified format enclosed in annexure.

The Buyer reserves the right not to attend the PDI or to request for postponement of the beginning of the PDI in order to allow his representative(s) to attend such tests, in which cases he shall inform in writing the Seller within 15 days before the date of the beginning of the PDI. Should the Buyer request for such postponement, liquidated damages, if any, shall not apply for such period of postponement. In case the Buyer informs the Seller within the period mentioned hereinabove that he cannot attend the PDI or in case the Buyer does not come at the postponed date requested by him for performance of the PDI as mentioned above, the Seller shall be entitled to carry out said tests alone as scheduled. The Certificate of Conformity and the Acceptance Test Report shall be signed by the Sellers Quality Assurance Representative alone, which will have the same value as if they were signed by both the Parties. In case Buyer does not elect to attend the PDI, the same shall be intimated to the Seller in writing.
The Seller shall provide all reasonable facilities, access and assistance to the Buyers Representatives for safety and convenience in performance of their duties in the Sellers country. All costs associated with the stay of the Buyers PDI Representative (s) in the country of PDI, including travel expenses, boarding & lodging, accommodation, daily expenses shall be borne by the Buyer.

4.17 Joint Receipt Inspection (JRI): Not Applicable to this Tender

The Joint Receipt Inspection (JRI) of delivered goods shall be conducted jointly by the Buyers Representative (s) and the Sellers Representative (s), on arrival in India, at the location to be nominated by the Buyer. JRI shall be completed within _____ days of arrival of good at the Consignee Port. The JRI shall consist of:

a) Quantitative checking to verify that the quantities of the delivered goods correspond to the quantities defined in this contract and the invoices.

b) Complete functional checking of the stores as per specifications in the contract and as per procedures and tests laid down by Buyer.

c) Check proof and firing, if required.
d) Any other checks (to be specified)
The Buyer shall give the Seller a prior notice of at least fifteen (15) days for attending the JRI. The bio-data of the Sellers Representatives shall be communicated at least fifteen (15) days prior to the dispatch of goods to the Buyer for obtaining necessary security clearance, etc. Upon completion of each JRI, the JRI proceedings and Acceptance Certificate shall be jointly signed by the Buyers Representative (s) and the Sellers Representative (s). In case the Seller does not depute his Representative for JRI on the scheduled date, then the Buyer Representative (s) shall carryout the Inspection alone and the same shall have the effect of the regular JRI and shall be fully binding on the Seller. Copy of the JRI proceedings and Acceptance Certificate shall be dispatched to the Seller within 30 days of completion of the JRI. In case of deficiencies in quantity and (or) quality or defects, details of these shall be recorded in the JRI proceedings, however, Acceptance Certificate shall not be issued. Further, necessary claims shall be raised by the Buyer as per the Article on Claims in the contract.

4.18 Claims: Claims may be presented either on (a) quantity of the stores, where the quantity does not correspond to the quantity shown in the Packing List/Insufficiency in packing, or (b) quality of the stores, where quality does not correspond to the quality mentioned in the contract. The time frame for raising claims shall be as follows:

a) Quantitative Discrepancy: Within ninety days from the date of delivery of the consignment in case of delivery by Air or road and within one hundred and twenty days from date of delivery in case of delivery by Sea.

b) Qualitative Discrepancy: The warranty should remain valid for twelve months after the goods or any portion thereof, as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen months after the date of shipment from the place of loading, whichever period concludes earlier.

c) Quality Claims on account of Defects or Deficiencies in JRI: The quality claims for defects or deficiencies in quality noticed during the JRI/PDI shall be presented within forty five days of completion of JRI/PDI and acceptance of goods. Quality claims shall be presented for defects or deficiencies in quality noticed during warranty period earliest but not later than forty five days after expiry of the guarantee period. The quantity and quality claims should be submitted to the seller in the prescribed format enclosed in annexures. The Seller shall settle the claims within 45 days from the date of receipt of the claim at the Sellers Office, subject to acceptance of the claim by the Seller. In case no response is received during this period the claim will be deemed to have been accepted. The Seller shall collect the defective or rejected goods from the location nominated by the Buyer and deliver the repaired or replacement goods at the same location under the Sellers
arrangement. Claims may also be settled by reduction of cost of goods under claim from bonds submitted by the Seller or payment of claim amount by Seller through demand draft drawn on an Indian Bank, in favour of Paying Authority.

4.19 Market Exploration: If the Buyer intents to explore the Market prior to finalisation of the requirement, then the Buyer may through a separate Expression of Interest explore the Market for the current availability and trends.

4.20 Buy-Back Offer:
In case the Buyer desires to trade the existing old goods while purchasing new ones, the details of the old goods to be traded and other relevant details in this regard shall be indicated hereunder, whereupon the Bidders may formulate and submit their tenders accordingly. Bidders can also inspect the old goods to be traded through this TE. Buyer, however, reserves the right to trade or not to trade the old goods while purchasing the new ones, therefore, Bidders are required to frame their bids covering both the options, i.e. with buy-back and without buy-back. Handling charges and transportation expenses to take out the old items will be on account of the successful Bidder. Factory may fix reserve price for the items to be offered for the buyback well before the TE opening. In case, the firm quoted the buy back price below than the reserve price then buyback offer of the firm may not be considered. In the rankings the buy back price may not be considered. Details for the buy-back are:

a) Details of Items for buy-back: (make/model, specifications, year of production/ purchase, period of warranty/ AMC, etc)

b) Place for inspection of old items: (address, telephone, fax, e-mail, contact personnel, etc)
c) Handing over details: (date & time, place, mode of handing-over, etc.)
d) Timings for Inspection: All weekdays between …….. hours to …….. Hours
e) Last date for inspection: 1 day before the last date of submission of bids
4.21 Exchange Rate Variation (ERV) :
ERV is applicable only in contracts involving substantial import content(s) and having a long delivery period (exceeding one year from the date of contract). The bidder should indicate the import content(s) and the currency (currencies) used for calculating the value of import content(s) in their total quoted price, which (i.e. the total quoted price) will be in Indian Rupees. The bidder should also indicate the Base Exchange Rate for each such foreign currency used for converting the FE content into Indian Rupees and the extent of foreign exchange rate variation risk they are willing to bear. To work out the variation due to changes (if any) in the exchange rate(s), the base date for this purpose will be the last date of submission of commercial bid. The variation may be allowed between the above base date and the date of remittance to the foreign principal/ mid-point of manufacture of the foreign component/….. (Purchaser shall decide an appropriate date). The applicable exchange rates as above will be according to the TT selling rates of exchange of SBI, Parliament Street Branch, New Delhi/RBI on the dates in question. No variation in price in this regard will be allowed if the variation in the rate of exchange remains within the limit of plus/minus 2.5 percent. Any increase or decrease in the customs duty by reason of the variation in the rate of exchange in terms of the
contract will be to the buyer's account. In case delivery period is extended due to default of the vendor, any increase in exchange rate will not be admissible and exchange rate on the last date of original DP shall be considered. In case there is decrease in exchange rate during extended DP, lower exchange rate will be considered. The following documents would need to be submitted by Seller in support of the claim on account of ERV:

(i) A bill of ERV claim enclosing working sheet
(ii) Banker's Certificate/ debit advice detailing FE paid, date of remittance and exchange rate

(iii) Copies of import order placed on supplier
(iv) Invoice of supplier for the relevant import order.
4.22 Public Procurement (Preference to Make in India) Policy: Provisions contained in Public Procurement (Preference to Make in India), Order 2017 issued by DIPP, Ministry of Commerce & Industries vide letter No. P-45021/2/2017-B.E-II dated 15-06-2017 along with MoD I.D No. 59011/8/2015-D(HAL-II) dated 19-07-2017 and subsequent amendment issued by DIPP dated 28.05.2018 shall be followed. No such restrictive clauses should be mentioned in terms and conditions of tender enquiries including matter like turnover, production capability and financial strength for the bidders that would be advantageous to the foreign manufactured goods at the cost of domestically manufactured goods. The minimum local content shall ordinarily be 50%. The Requirement of Purchase Preference under PPP-MII, Order 2017 is as follows:-
(a) If the estimated value of procurement is Rs. 50 lakhs or less for which sufficient local capacity and local competition available, only local suppliers shall be eligible to participate.
(b) In the procurement of goods more than Rs. 50 lakhs and which are divisible in nature, following procedure shall be followed:-

i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract for full quantity will be awarded to L1.

ii. If L1 bid is not from a local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the local suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the local suppliers quoted price falling within the margin (20%) of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher local supplier within the margin of purchase preference shall be invited to match the L1 price for the remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still uncovered on local suppliers, then such balance quantity may also be ordered on the L1 bidder.

(c) In the procurement of goods more than Rs. 50 lakhs and which not divisible in nature, following procedure shall be followed:-

i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a local supplier, the contract will be awarded to L1.

ii. If L1 is not from a local supplier, the lowest bidder among the local suppliers, will be invited to match the L1 price subject to local suppliers quoted price falling within the margin (20%) of purchase preference and the contract shall be awarded to such local supplier subject to matching the L1 price.

iii. In case such lowest eligible local supplier fails to match the L1 price, the local supplier with the next higher bid within the margin of preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.

4.23 Public Procurement Policy for MSEs Order, 2012 :
Any order issued by Central Government in relation to Micro, Small or other sections of Industries relevant to procurement shall be followed by Factories / Units. One such Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 is in force w.e.f 01.04.2012 and should be strictly adhered to. The Public Procurement Policy shall apply to Micro and Small Enterprises (MSEs) registered with District Industries Centres or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small and Medium Enterprises (MSME).
Declaration of Udyog
Aadhaar Memorandum(UAM) number by the MSME vendors on CPPP/OFB e-procurement portal should be made. The MSE bidders who fail to submit UAM number will not be able to avail the benefits available to MSEs as contained in Public Procurement Policy for MSEs Order, 2012 for tenders invited electronically through CPPP/OFB e-procurement portal as follows:-

(a) Tender set free of cost
(b) Exemption from the payment of Earnest Money (EMD)
(c) In tender, participating MSEs quoting price within price band of L1+15% shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSE(s) shall be allowed to supply up to 20% of the total tendered value.

(d) 358 items are also reserved for exclusive procurement from MSEs.
4.24 Safeguard while Taking Support from Private Companies in RFP Cases – Conflict of Interest Clause:
Any company and or their group/associate company who are participating in the < Details of the RFP Proposal issued by the Service HQrs >* will not be eligible to participate in this Tender Enquiry. An undertaking to the effect that the firm or its group associate is not participating in < Details of the RFP Proposal issued by the Service HQrs > * is to be provided by the firm. At any stage during the period of the contract, if the aforesaid undertaking is found to be false the BUYER (OFs/OFB) to take all or any one or more of the following actions, wherever required:-

(i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue

(ii) The Earnest Money Deposit/Performance Security Deposit/Performance Bond shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall not be required to assign any reason therefore.

(iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
(iv) To recover all sums already paid by the Buyer (OFs/OFB), and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India (or Base Rate of State Bank of India in the absence of Prime Lending Rate), while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from the Buyer (OFs/OFB) in connection with any other contract for any other defence stores, such outstanding payment could also be utilized to recover the aforesaid sum of interest.

(v) To encash the advance bank guarantee and performance-bank-warranty bond, if furnished by the Bidder, in order to recover the payments, already made to by the Buyer (OFs/OFB), along with interest.

(vi) To cancel all or any other Contracts with the Bidder.

(vii) To ban the Bidder from entering into any bid from the OFB organization and/or MoD and/or other Ministries/Departments of Government of India for a minimum period of five years and not more than ten years at the discretion of the Buyer (OFs/OFB) as per Procedure for Penal Action in OFs/Units of OFB under the Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities in vogue (or amended time to time).

[*Details of such RFP/TE No & Date; Details of item/service being procured' Details of the procurement agency of Service HQrs]

PART V – EVALUATION CRITERIA & PRICE BID FORMAT

5.1. Evaluation Criteria: The broad guidelines for evaluation of Bids will be as follows:

a) Only Bids that fulfill all the eligibility & qualifying requirements of the TE, both technically and commercially, shall be considered for evaluation.

b) In Two-Bid system, the Technical Bids shall be evaluated with reference to the technical requirements of the stores/ service prescribed in the TE. The Buyer may obtain technical clarifications during the evaluation of the Technical Bids. Further, if considered necessary during the course of Technical evaluation, the Buyer may invite the vendors who meet the essential parameters for technical presentation/ clarification.

c) The Price Bids of only the technically complaint Bidders shall be opened.

d) The Lowest Bid (L1) will be decided, from out of the Technically & Commercially compliant Bids, based on the lowest price quoted. Consideration of Taxes & Duties in evaluation process shall be as follows:

i) When competition is only among Indian Suppliers, the F.O.R Prices at destination (Consignee's premises) shall be the basis for ranking of the quotations.

ii) If the competition is amongst foreign suppliers, the basis for comparison shall only be the landed price at the destination (designated port).

iii) When the competition is amongst indigenous and foreign suppliers, the basic cost (CIF) quoted by the foreign suppliers shall be the basis for comparison with the basic cost offered by the indigenous suppliers, after offloading the GST & Excise Duty (if applicable). Therefore, to enable evaluation of the Bid, it is important for foreign Bidders to ensure that they duly quote, both on, CIF as well as FOB basis. Similarly, it is important for the Indian Bidders to duly indicate the GST & Excise Duty (if applicable) in their quote as separate elements.

e) The quotes of foreign suppliers in foreign currency shall be brought to a common denomination in Indian Rupees by adopting the exchange rate as BC Selling Rate of the Parliament Street Branch of State Bank of India, New Delhi/RBI on the date of the closing of Bids.

f) If there is any discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the total price will be corrected accordingly. If there is a discrepancy between words and figures, the amount in words will prevail for calculation of price.

g) The Buyer reserves the right to evaluate the offers received by using Discounted Cash Flow (DCF) method. If this method is applied the discounting rate shall be the lending rate of the Government of India on loans given to the State Government as notified annually by the Budget Division of Ministry of Finance. The DCF may be applied for converting differing Payment Terms of Bidders to a common basis and thereby determine L1 status.

h) The Lowest Acceptable Bid will be considered for placement of contract/ Supply Order, after complete clarifications and price negotiations, if so necessary. The Buyer also reserves the right to award contracts to different Bidders for being lowest in particular items. The Buyer further reserves the right to apportion the quantity, if it is convinced that Lowest Bidder will not be able to supply the full tendered quantity in stipulated time.

i) Any other criteria as applicable to suit a particular case.

5.2. Price Bid Format: The Price Bid Format is enclosed as annexure. Bidders are required to quote as per the format duly providing complete details.

P.ROJALI
DY.GENERAL MANAGER
For General Manager/MPF
For and behalf of the President of India.