



DEFENCE PROCUREMENT PROCEDURE- 2005
(CAPITAL PROCUREMENTS)

MINISTRY OF DEFENCE

JUNE 2005



FOREWORD

Defence Procurement Procedure-2002 was promulgated on 30th December 2002 as part of implementation of the report of the Group of Ministers on reforming the National Security System. This procedure dealt with capital acquisitions involving 'Buy' decisions. This was subsequently amplified in June 2003 to include 'Buy and Make' decisions involving transfer of imported technology.

The issue of greater transparency in defence procurement and cutting down on delays has been one of the thrust areas identified by the Hon'ble PM in respect of the Ministry of Defence. With these objectives in view, the Defence Procurement Procedure has been reviewed in the light of experiences gained over the last two years as well as suggestions received from the CVC and C&AG.

Some of the salient features of the new procedure are :

- Making Qualitative Requirements more broad-based so as to avoid single vendor situations.
- Open tendering for commercially off-the-shelf (COTS) items.
- Direct Offsets and Integrity Pact as part of RFP for purchases over Rs.300 crores.
- Standard Contract Terms upfront as part of RFP.
- Joint Services Qualitative Requirements for equipment common to the three Services.
- More objective evaluation criteria in line with the suggestion of the Ministry of Finance by incorporating Discounted Cash Flow and Exchange Rate Variation techniques.

As has been the practice, the **Defence Procurement Procedure-2005** will be on the **MoD website (www.mod.nic.in)** and would ensure greater awareness and openness in our defence procurement procedures and processes, and optimal utilization of funds for modernization of the Services.

(Pranab Mukherjee)

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DEFENCE PROCUREMENT PROCEDURE – 2005

General

1. As part of the implementation of the report of the Group of Ministers on reforming the National Security System, new Defence Procurement Management Structures and Systems were set up in the Ministry of Defence (MoD) vide MoD order No SA/01/104/2001 dated 10 September 2001 and No 17179/2001-Def Secy/IC/2001 dated 11 October 2001. In order to implement the provisions laid out in the new Defence Procurement Management Structures and Systems, the procedure for Defence Procurement laid down vide MoD ID No 1(1)/91/PO (Def) dated 28 February 1992 was revised. The Defence Procurement Procedure – 2002 (DPP-2002) came into effect from 30 December 2002 and was applicable for procurements flowing out of ‘Buy’ decision of Defence Acquisition Council (DAC). The scope of the same was enlarged in June 2003 to include procurements flowing out of ‘Buy and Make through Imported Transfer of Technology (TOT)’ decision. The Defence Procurement Procedure – 2002 (version June 2003), has been reviewed and modified based on experience gained in implementation. This procedure, named the Defence Procurement Procedure – 2005, is set out in the succeeding paragraphs.

Aim

2. The objective of this procedure is to ensure expeditious procurement of the approved requirements of the Armed Forces in terms of capabilities sought and time frame prescribed by optimally utilising the allocated budgetary resources. While achieving the same, it will demonstrate the highest degree of probity and public accountability, transparency in operations, free competition and impartiality. In addition, the goal of achieving self-reliance in defence equipment will be kept in mind.

Scope

3. The Defence Procurement Procedure – 2005 (DPP-2005) will cover all Capital Acquisitions, (except medical equipment) undertaken by the Ministry of Defence and Defence Services both from indigenous sources and ex-import. Defence Research and Development Organisation (DRDO), Ordnance Factory Board (OFB) and Defence Public Sector Undertakings (DPSUs) will, however, continue to follow their own procedures for procurement.

CAPITAL ACQUISITIONS

4. Capital Acquisitions are categorized as under: -

- (a) Acquisitions covered under the ‘Buy’ decision (outright purchase).
- (b) Acquisitions covered under the ‘Buy & Make’ decision (purchase followed by licensed production / indigenous development).
- (c) Acquisitions covered under the ‘Make’ decision (indigenous production and research & development).

5. This document is however restricted to the procedure for Capital Acquisitions flowing out of 'Buy' and 'Buy and Make' decisions only. The procedure for acquisitions covered under the 'Make' decisions will be promulgated separately. The procedure for Indigenous Warship Building (Shipbuilding) has been promulgated vide MoD ID No 52/Dir (Acq)/02 dated 18 March 2004 and is placed as Schedule I. Fast Track Procedure (FTP) has been promulgated vide MoD ID No 800/SS(A)/ 2001 dated 28 Sep 2001 which is applicable for urgent operational requirements.

Linkage to Acquisition Plans

6. Proposals for acquisition of capital assets flow out from the defence procurement planning process. This planning process will cover the long-term, medium-term and short-term perspectives as under: -

- (a) 15 years Long Term Perspective Plan (LTPP).
- (b) 5 years Services Capital Acquisition Plan (SCAP).
- (c) Annual Acquisition Plan (AAP).

7. Based on the Raksha Mantri's Operational Directive, Headquarters Integrated Defence Staff (HQ IDS), in consultation with the Service Headquarters (SHQs), would formulate the 15 years Long Term Integrated Perspective Plan (LTIPP) for the Defence Forces. The Five Year Defence Plans for the services would also be formulated, by HQ IDS, which would include requirements of 5 years Services Capital Acquisition Plan. The SCAP should indicate the list of equipment to be acquired, keeping in view operational exigencies and the overall requirement of funds. The planning process would be under the overall guidance of the Defence Acquisition Council. Its decisions as approved by the Raksha Mantri will flow down for implementation to the Defence Procurement Board (DPB). The DAC will categorize all schemes as BUY, BUY and MAKE and MAKE on a five year basis and accord overall Acceptance of Necessity. The AAP would be a subset of the SCAP and would also include schemes of value less than Rs 20 Crores.

Annual Acquisition Plan (AAP)

8. HQ Integrated Defence Staff will work out the annual requirement of funds for capital acquisitions taking into account the schemes listed in SCAP and those proposed for the year ahead, carryovers, operational exigencies and proposed changes in priorities recommended by the respective Service Headquarters, by 31 December of each year. The details of these requirements would be scrutinized in the Acquisition Wing and then forwarded to Defence (Finance) for budgetary projections and allocations. Based on the budgetary projections and allocations the AAP will be formulated by the respective SHQs and approved by the DPB by 15 April of the relevant Financial Year. The AAP should be based on a two years acquisition cycle and cater for adequate cushion to safeguard against surrender of funds. In case the SCAP is not finalized, the AAP would be approved by the DPB on the basis of categorization recommended by the Services Capital Acquisition Plan Categorization Higher Committee, prioritization accorded by SHQs, and allocation of resources for Capital schemes in the Defence budget.

9. The DPB may also carry out amendments in the Annual Acquisition Plan, if considered necessary, on account of national security objectives, operational urgencies, budgetary provisions or any other exigency based on recommendations made by SHQ / HQ IDS / Department of Defence / Defence (Finance). The Acquisition Wing will process all acquisition proposals incorporated in the 'Annual Acquisition Plan' under the overall guidance of the DPB.

ACQUISITION PROCESS

General

10. The acquisition process for schemes categorised as 'BUY' and 'BUY and MAKE with ToT', will involve the following functions: -

- I Services Qualitative Requirements (SQRs).
- II Acceptance of Necessity (AoN).
- III Solicitation of offers.
- IV Evaluation of Technical offers by Technical Evaluation Committee (TEC).
- V Field Evaluation.
- VI Staff Evaluation.
- VII Oversight by Technical Oversight Committee (TOC) for Acquisitions above Rs 300 Crs.
- VIII Commercial negotiations by Contract Negotiation Committee (CNC).
- IX Approval of Competent Financial Authority (CFA).
- X Award of contract / Supply Order (SO).
- XI Contract Administration and Post-Contract Management.

Services Qualitative Requirements (SQRs)

11. All Capital Acquisitions shall be based on Services Qualitative Requirements (SQRs). The SQRs should lay down the users' requirements in a comprehensive, structured and concrete manner. It should, however, be ensured that the SQRs are broad-based and realistic. The SQRs must express the users' requirements in terms of functional characteristics and its formulation must not prejudice the technical choices by being narrow and tailor made.

12. The SQRs will be drafted by the user directorate at SHQ and circulated to all concerned for obtaining their views/comments including other possible user directorates, maintenance directorate, HQ IDS, DRDO, Department of Defence Production (DDP), Director General of Quality Assurance (DGQA) / Director General of Aeronautical Quality Assurance (DGAQA), Directorate of Standardisation, Technical Managers and any other department, as deemed

necessary. These agencies will also be represented on the Staff Equipment Policy Committee (SEPC) for approving the SQRs. Records in respect of Qualitative Requirements (QRs) will be maintained by the User Service(s). In cases where commonality of equipment exists and standardisation of QRs is merited, it would be the responsibility of HQ IDS to constitute a Joint Staff Equipment Policy Committee, with representative of all members as above, from the three services, in order to formulate Joint Services Qualitative Requirements (JSQRs) for such equipment. The QRs shall be prescribed in clear-cut terms and they should not be vague or ambiguous. Prior to according approval to the SQRs, the SEPC should assess that it would result in a multi vendor situation. If a single vendor situation is likely then the reasons for formulation of such SQRs be recorded. SHQ may issue 'Requests For Information (RFIs)', where they are not certain of the specification of a system, in order to formulate realistic SQRs. However, such requests should be issued only in complex cases, which would be rare.

13. The QRs of the equipment to be procured should be of a contemporary technology widely available in the world /indigenous market. The performance parameters given in the SQR should be verifiable and classified as 'Essential Parameters'. These are defined as the minimum essential military requirements, corresponding to the task or tasks to be performed by the system. Accordingly the 'Essential' classification to a requirement must result from an in-depth critical analysis of the necessity of requirement. There would not be any Desirable Parameters in the SQRs.

14. **Waiver of SQR Parameters.** Waiver/amendment to parameters of SQR may be accorded by the SHQ concerned before issue of Request for Proposal (RFP). Thereafter no waiver of parameters would be granted.

Acceptance of Necessity

15. Approval of the DAC to the SCAP will be construed as Acceptance of Necessity. However, there may be occasions when SCAP is not approved by DAC in time, in such cases approval of Annual Acquisition Plan by DPB would be construed as Acceptance of Necessity. It should be ensured that MoD (Department of Defence) and MoD (Finance) are represented in the SCAP Categorisation Committees and the statement of cases are circulated by SHQs and HQ IDS indicating the scope of the proposal and indicative costs in the format at Appendix A. In the absence of the designated member, the authorised representative would be deemed suitably empowered to take decisions in the Categorisation Committee meetings.

Based on the Acceptance of Necessity as accorded by the DAC/ DPB, the SHQs / HQ IDS will submit a statement of case to MoD for quantity vetting. In cases which require approval of Defence Secretary or at a higher level, the Additional Secretary will hold a meeting with the representatives of HQ IDS, DDP, DRDO, SHQs and Defence Finance, as required, to ensure proper examination in a time bound manner for vetting of quantities. Thereafter such cases will be processed for approval of designated financial authority on file through Secretary (Def/Fin). In cases of schemes less than Rs 20 crores, quantity vetting would be done by the authorities within their delegated powers by carrying out examination in a similar collegiate manner.

16. For orders to be placed on OFB for Capital items included in the AAP, statement of case will be processed for quantity vetting as prescribed in Para 15 above. Thereafter, in such cases, the Acquisition Manager will seek CFA approval and place indents on OFB.

17. The statement of case for quantity vetting of common user equipment available at Director General of Supplies & Disposal (DG S&D) rate contracts, would include compliance of parameters as vetted by the Technical Managers. Thereafter, the Acquisition Manager will seek approval of CFA and place orders directly, on the DG S&D approved source of supply.

18. **Offsets.** The SCAP Categorisation Committee will also recommend the inclusion of an offset clause amounting to 30 percent of the indicative cost in the RFP where the indicative cost of the contract is Rs 300 crore or more. The committee will also suggest the name of the lead DPSU / OFB which will assist MoD in monitoring the implementation of the offset contracts during the post contractual period. The SCAP Categorisation Higher Committee may consider changes in the offset amount, if felt necessary, while making recommendation to DAC for approval.

Solicitation of Offers

19. **Single Stage Two Bid System.** Solicitation of offers will be as per 'Single Stage – Two Bid System'. It will imply that a 'Request for Proposal' would be issued soliciting the technical and commercial offers together, but in two separate sealed envelopes. This system safeguards against the possibility of the vendor increasing his commercial offer consequent to development of a single vendor situation after evaluation. At this stage, the vendor will give a written undertaking to meet the offset obligations laid down in the RFP, as part of the technical offer. This undertaking will be binding and failure to discharge it at any stage of the acquisition process will disqualify the vendor from any further participation and his offer will be treated as null and void. The vendor will under no circumstances delay the execution of the main contract on the plea of failure of Indian Industry in executing various offset contracts.

20. Once the SQRs have been finalised, the sources of procurement of the weapon system/stores shall be ascertained and short-listing of the prospective manufacturers/suppliers carried out by the SHQ. The short-listed vendors will be the Original Equipment Manufacturers (OEMs)/ Authorised Vendors/ Govt Sponsored Export Agencies (applicable in the case of countries where domestic laws do not permit direct export by OEMs). In cases involving TOT, the short-listing of the vendors would take into account their ability to transfer requisite technology for license production. The list of short-listed vendors may be supplemented by the Technical Managers in Acquisition Wing for which a databank will be maintained by them. Wherever possible, keeping the security and other relevant aspects in view, appropriate publicity may be given to the proposed procurement with a view to generate maximum competition.

21. It is well accepted that the market for state-of-the-art defence equipment and platforms is circumscribed by denial regimes. In addition, national security concerns prevent operational parameters of equipment required by defence services being made public. The procurement of defence equipment on the basis of limited tenders, therefore, becomes imperative. Such RFPs would be processed by SHQs, after due consultation with all concerned agencies including User, Procurement and Maintenance Directorates at SHQ and the Quality Assurance (QA) agency. RFPs would then be vetted by the Acquisition Manager, Finance Manager and Technical Manager in a collegiate manner, before submission to the Special Secretary / Additional Secretary (Acquisition) for approval and issue to all shortlisted vendors by Technical Manager.

However, it would be open for the Acquisition Wing in MoD to procure 'Commercially Off the Shelf' (COTS) equipment, not available on DGS&D rate contract (refer para 17), on the basis of open tenders.

22. In cases where TOT is being sought, the nominated Production Agency (PA) should vet the RFP on behalf of DDP. Inputs may be sought from DRDO on case to case basis. In case of turnkey projects, detailed scope of work involved, bill of material and time frame should also be indicated. No addition to vendors will be allowed after issue of the RFP.

23. **Request for Proposal (RFP).** The RFP will be a self-contained document that will enable vendors to make their offer after consideration of full requirements of the acquisition. A standardised RFP document is attached as Schedule II. This will be applicable for all acquisitions. It will generally consist of four parts as under: -

(a) The first part elaborates the general requirement of the equipment, the numbers required, the time frame for deliveries, the environmental parameters for functioning, conditions of usage and maintenance, requirement for training, Engineering Support Package (ESP), and warranty/guarantee conditions, etc. It specifies the prescribed procedure and last date and time for submission of offers.

(b) The second part of the RFP incorporates the SQRs describing the technical parameters of the proposed equipments in clear and unambiguous terms. In case equipment is being procured for the first time and needs to be evaluated, the RFP includes the requirement of field evaluation on a "No Cost – No Commitment" (NCNC) basis. Compliance of offers would be determined only on the parameters spelt out in the RFP.

(c) The third part of the RFP outlines the commercial aspects of the procurement, including clear statements on Payment Terms, Performance Guarantees, Guarantees against Warranty Services to be performed by the supplier. It also includes standard contract terms along with special contractual conditions, if any.

(d) The fourth part of the RFP defines the criteria for evaluation and acceptance, both in terms of technical and commercial contents. A format will be enclosed for submission along with commercial offer to facilitate preparation of Comparative Statement of Tenders (CST) and identification of Lowest (L1) vendor. Submission of incomplete format enclosed along with commercial offer will render the offer liable for rejection.

24. In cases where TOT is involved the appropriate production agency would be nominated by DDP. In such cases, the RFP would include the requirement for licence production under TOT. The RFP should spell out the requirements of TOT in range and depth of the technology required. These could cover technology for repair and overhaul, production from Completely Knocked Down (CKD) /Semi Knocked Down (SKD) kits and production from raw material and component level. Aspects to be included in the RFP in case production from SKD/ CKD / Indigenous Manufacture (IM) Kits is based is given at Schedule III.

25. Normally, TOT will be negotiated along with the first procurement. However, there may be occasions where it is not feasible to negotiate the TOT simultaneously. To cater to such

contingencies, the RFP should clearly indicate that Government reserves the right to negotiate TOT terms subsequently and that the availability of TOT would be a pre-condition for any further procurements. In such cases terms and conditions of obtaining TOT would be included in subsequent RFP.

26. The offers received should be opened on the notified date/time, by the members of a committee chaired by the Technical Manager, in the presence of the bidders or their authorised representatives, as may choose to be present. The committee will open the envelope containing the sealed technical and commercial offers. The technical offer will be opened by the committee and sent to SHQ for evaluation by a Technical Evaluation Committee (TEC) and the sealed envelope containing the commercial bid will be sent to the Acquisition Manager, unopened. Offers which do not conform to the prescribed procedure for submission of offers as laid down in para 15 of the standardised RFP (Schedule II) or which are received after the scheduled time for submission of offers, and unsolicited offers will not be entertained.

27. **Extension of Time.** Notwithstanding the above, situations may arise in which it may be appropriate to extend the time allowed for submission of offers. The extension so granted should not exceed a period of four weeks from the original date of submission of offers.

Technical Evaluation Committee (TEC)

28. A TEC will be constituted by the SHQ for evaluation of the technical bids received in response to RFPs, with reference to the QRs, under an officer from the SHQ. It will include, apart from the representatives of the user service and maintenance agency, representatives of QA. In addition, in cases where TOT is involved, TEC will also include representatives of PA and DRDO, as deemed necessary. The TEC will examine the extent of variations/ differences, if any, in the technical characteristics of the equipment offered by various vendors with reference to the QRs and prepare a 'Compliance Statement' short listing the equipment for trials/ induction into service, as applicable. While preparing the compliance statement, the TEC will ensure that the same equipment has not been offered by two or more vendors. In such an eventuality, the equipment offered by the OEM will only be accepted. The TEC may invite the vendors for technical presentations/ clarifications on technical issues.

29. A technical offer, once submitted, should not be materially changed subsequently. However, minor variations which do not affect the basic character/ profile of the offer may be acceptable. The following must be ensured:-

- (a) An opportunity for the revision of minor technical details should be accorded to all vendors in an equal measure to ensure fair play.
- (b) No extra time to be given to any vendor to upgrade his product to make it SQR compliant.
- (c) No dilution of SQR is carried out.
- (d) The original commercial quote submitted earlier must remain firm and fixed.

30. The Special Secretary / Additional Secretary (Acquisition) will formally accept the report of the TEC on recommendations of the Technical Managers. If at the TEC stage, only

one vendor is found complying to all the SQR parameters, then the RFP would be retracted on approval of the Special Secretary / Additional Secretary (Acquisition) and a fresh RFP issued by suitably reformulating the SQRs.

Field Evaluation (Trials)

31. Field Evaluations (Trials), if required, will be conducted by the User Service on the basis of Standard Operating Procedures (SOP) evolved by them. The manufacturers of the short listed equipment shall be asked to send the desired number of units of the equipment/weapon system to India for Field Evaluation. SHQ will formulate the Trial Directive and constitute the Trial Team. The trial directive must specify the fundamental points that need to be addressed for validating the 'Essential' parameters. The SQRs of the equipment would be a part of the trial directive. Parameters not mentioned in the RFP should not be considered for field evaluation. The validation of the support system and maintainability trials, integral to and complimenting the trial programme of the weapon system should be held simultaneously, wherever feasible. Representatives of DRDO, QA agency may also be part of the field evaluation, on as required basis. A representative of the Acquisition Wing may also participate in the field evaluation as an observer. The field evaluation shall be conducted by the user in all conditions where the equipment is likely to be deployed, and a detailed Field Evaluation Report shall be drawn up and sent to SHQ for preparation of Staff Evaluation. Similar action would be taken in the cases where Trial Teams are deputed abroad for evaluation purposes.

32. In certain conditions the Acquisition Wing, particularly in cases involving integration of systems or sensitive equipment, can depute a multi-disciplinary Technical Delegation abroad for evaluation and an Empowered Committee for negotiation purpose. Both could be combined as a Multi-Disciplinary Committee. The Technical Delegation should have representatives, on need basis, from the user service, DRDO, Maintenance agency, QA agency and the Technical Managers. In addition, Acquisition Manager, and Finance Manager or their representatives will be included in the Empowered Committee. Such committee would be constituted after due approval of the DPB.

33. The field evaluation will normally be conducted on NCNC basis.

34. Field Evaluation (Trial) in India, in the manner suggested earlier, may not be possible in all cases. Where field evaluation is not feasible, the possibility of conducting evaluation through computer simulation should be explored. Field evaluation/computer simulation may be dispensed with only after approval of the DPB, on recommendations at appropriate levels in the SHQ. All evaluations for confirmation/ validation of parameters should be completed and accepted prior to commencement of the CNC. In cases where subsequent confirmation / validation is merited, the same would be duly justified and recorded in the CNC minutes. Approval of CFA would be sought specifically on such issues.

Staff Evaluation

35. Based on the field evaluation carried out as described in paragraph 31 onwards, the SHQ will carry out a staff evaluation, which gives out the compliance of the demonstrated performance of the equipment vis-à-vis the SQR. The staff evaluation will analyse the field evaluation results and shortlist the equipment recommended for introduction into service. The

staff evaluation report will be approved by the Service HQ and forwarded to the Acquisition Wing for acceptance. The Technical Manager would receive the Staff Evaluation Report, and after due examination, submit the report to the Special Secretary / Additional Secretary (Acquisition) with his recommendations for acceptance or otherwise. In case no vendor meets the SQRs in the field evaluations then the case would be foreclosed on approval of Special Secretary / Additional Secretary (Acquisition) and a fresh RFP issued after reformulating the SQRs. However, waivers/ amendments to SQRs can be sought only for 'Make' projects of DRDO / OFB / DPSUs which are developmental in nature. In such cases approval of Raksha Mantri would be taken prior to acceptance of Staff Evaluation Report.

36. Acquisition Wing will ask from those vendors, whose equipment has been shortlisted, to submit detailed offset offers in a sealed envelop within six weeks. These offers shall be evaluated by the CNC prior to the opening of the commercial offers already submitted by the vendors. Commercial offers of only those vendors whose offset offers are found to be in order, will be opened.

Technical Oversight Committee (TOC)

37. TOC provides expert oversight over the technical evaluation process. Defence Secretary will constitute TOCs for selected acquisition proposals in excess of Rs 300 Crores and any other case recommended by the DPB. A TOC will comprise of 3 members, one Service Officer, one DRDO scientist and one representative of DPSU preferably not involved with that acquisition. The TOC will be tasked to see whether the trials, trial evaluations, compliance to QRs and selection of vendors were done according to prescribed procedures. The Committee will have to give its ruling, based on a majority decision, within 30 days and the absence of a response will be deemed to be acceptance. The time limit of 30 days shall not be extended on any ground. Technical Managers of the Procurement Division will provide the secretarial support to the TOC and ensure availability of all inputs from DDP /Acquisition Wing, Defence Finance and SHQ to the TOC. The Technical Manager will clarify any queries raised by the TOC. The TOC Report will be submitted to the Defence Secretary for acceptance.

Commercial Negotiation Committee (CNC)

38. The process of commercial negotiations will commence, wherever necessary, after Staff Evaluation Report has been accepted by the Special Secretary / Additional Secretary (Acquisition) and the TOC Report has been accepted by the Defence Secretary, as applicable. The standard composition of the CNC shall be as indicated at Appendix B to this procedure. Any change in the composition of the CNC may be effected with the approval of Special Secretary / Additional Secretary (Acquisition). Where considered necessary, a Service officer or any officer other than from the Acquisition Wing of the MoD may be nominated as Chairman of the CNC with the prior approval of Raksha Mantri. The concerned organisations/ agencies should ensure that their representatives in the CNC have adequate background and authority to take a decision without any need to refer back to their organisation/agency. The CNC will carry out all processes from opening of commercial bids till conclusion of contract. The sealed commercial offers of the technically accepted vendors shall be opened by the CNC at a predetermined date and time under intimation to vendors, permitting such vendors or their authorised representatives to be present. The bids of the competing firms shall be read out to all present and signed by all members of the CNC.

39. It would be desirable to negotiate the licence production contract along with the contract for the finished product. In cases where this is not feasible, the purchase contract should include a clause wherein the vendor agrees to negotiate the licence contract at a subsequent date, thus obtaining a commitment from the vendor to part with the TOT.

40. Tender evaluation will involve recording and analysing the merits of each tender. The process will start with preparation of a 'Compliance Statement' incorporating the commercial terms offered in the RFP and that sought by the vendor(s), analysis of the discordance and the impact of the same. A similar statement would be prepared in regard to deviations noticed in the delivery schedules, performance warranty, guarantee provisions, acceptance criteria, Engineering Support Package (ESP) etc. Comprehensive analysis of the commercial offer will form the basis for subsequent decisions.

41. The CNC will prepare a Comparative Statement of Tenders (CST) with a view to evaluate the technically acceptable offers and determine the lowest acceptable offer (L1 Vendor).

42. The CNC may hold internal meetings to finalise the approach to be adopted by them in conducting negotiations with the L1 Vendor and lay down a tentative timetable for the proposed negotiations. Once a preliminary view has been taken by the CNC, it will invite the representatives of the L1 vendor for financial/contractual negotiations. The CNC may require more than one round of negotiations with the L1 vendor. Negotiation would have two basic objectives namely, achieving a reasonable and economic price, and obtaining the most favourable terms of contract, as near as possible to the standard terms of contracts, for the Ministry of Defence.

43. The L1 vendor has to finalise all contracts, which are forming part of the offset. The main contract shall come into force at the moment the vendor has concluded all the offset contracts with the nominated industries up to the value specified in the RFP. The offset contracts should be concluded not later than within 60 days of entering into the main contract.

44. In cases where India enters into agreements with particular vendors / countries regarding specific contractual clauses, the terms and conditions of such agreements would supersede the corresponding standard clauses of DPP 2005. It may also transpire that India's strategic defence partnerships with certain countries may require procurement of equipment from vendors other than OEMs. Subject to these deviations, the provisions of DPP 2005 would be applicable in such contracts.

Approval of Competent Financial Authority.

45. The CNC should document the selection of vendor using a formal written recommendation report addressed to the relevant approval authority. The report must be complete in all respects and comprehensively elaborate the method of evaluation and the rationale for the selection made. All CNC members should sign the recommendation report, in the interests of probity and accountability, as evidence that they concur with the process adopted and the ultimate selection made. Any dissenting view, including the reasons for the same, should be documented.

46. For DRDO schemes, the task of the CNC would be limited to firming up the scope, identifying milestones and the likely cash outgo based on costs estimated by Additional Financial Advisor (Addl FA) DRDO.

47. The report of the CNC should include: -

- (a) A brief background to the requirement.
- (b) Composition of the CNC.
- (c) An explanation of the commercial evaluation process, selection criteria and commercial evaluation matrices, if used.
- (d) Brief description of different phases of the commercial negotiation process.
- (e) A summary of the recommendations.

48. The CNC Report along with the summary of recommendations would be processed by the Director / Acquisition Manager at their level, as applicable, for obtaining expenditure clearance and CFA approval.

Standard Contract Document

49. The standard contract document at Schedule IV indicates the general conditions of contract that would be the guideline for all acquisitions.

Post Contract Monitoring

50. While responsibility for contract administration and management would be that of the SHQ concerned, post-contract monitoring would be conducted by the Acquisition Wing. Depending on the degree of complexity of a project, the reviews will be carried out as elucidated below:-

- (a) **Simple Projects.** Projects involving one time off the shelf buys, without any design and development, shall be reviewed by the Acquisition Manager / equivalent service officer in the SHQ.
- (b) **Complex Projects.** Projects which require design, development and testing in consultation with the users, with likely TOT, and have enlarged scope in terms of basic complexities, depth of design and development, and consideration of a large number of participants would be reviewed by a steering committee headed by Special Secretary / Additional Secretary (Acq) in the MoD or Principal Staff Officer at SHQ, with members from MoD, MoD (Fin), DRDO, DDP and SHQ. In such cases, the Acquisition Wing will submit quarterly Contract Implementation Reports (CIR), to the DPB.
- (c) **Monitoring of Offset Contracts.** The DPSU / OFB nominated by the DAC will monitor the execution of various offset contracts. A periodic report containing all necessary information will be submitted to the monitoring section of the MoD in this

regard. Any slippages in the execution of offset contracts would be brought to the notice of MoD, which will take appropriate action. In case the vendor fails to meet his offset obligations in a particular year, he will attract penalties. The vendor shall be liable to pay compensation of 5% of annual unfulfilled portion of the value of the offset, which will be deducted from the amount due in the main contract. The unfulfilled offset value will be carried forward to the subsequent year.

Equipment Induction Cells (EICs)

51. EICs will be raised for major projects on a case-to-case basis in SHQ at the discretion of SHQ. The EICs will deal with the induction of major equipment and help in planning the requirement of facilities essential for the serviceability and maintainability aspect of acquisition. The EICs will help the Defence Procurement Board to move towards Life Cycle Cost Concept.

Subsequent Procurement of Already Contracted Equipment

52. In cases where there is an additional requirement of equipment/systems with an estimated value of more than Rs 20 Crores, and for which orders/contracts had already been placed in the past after following due process, the case will be put up to DPB, based on the recommendations of SHQs, who may order either fresh field evaluation or obtain technical and commercial offers or only commercial offers depending on the merits of the case. Similar decision in respect of additional requirements having an estimated value up to Rs 20 Crores may be taken by the Acquisition Wing. For equipment already inducted into service, it may be necessary to go back to the OEMs for procurement of additional equipment / major-assemblies / sub-assemblies / Special Maintenance Tools (SMT) / Special Test Equipment (STE) / maintenance/ integration of Buyer Furnished Equipment (BFE), as no other supplier would be in a position to meet this requirement. All such acquisitions would not be construed as single vendor cases requiring waiver. It must, however, be ensured that when spares etc are procured from OEMs of sub-assemblies, the assurances / warranties extended by the OEM for the main equipment retain their validity.

53. If repeat order is to be placed for equipment/system for which TOT has been obtained earlier by a DPSU/OF the procedure at Para 52 will not apply. Such repeat orders will not be treated as a 'single tender' cases and only commercial RFP will be issued. It will however be checked prior to placing further orders that the technology absorption levels agreed to while concluding TOT contract have been achieved.

54. If equipment proposed to be procured has already been procured by a sister service after following due process then such cases would be treated as repeat order. For such cases provisions of para 52 will apply.

Single Tender Situation.

55. If certain state-of-the-art equipment being manufactured by only one vendor is to be procured to get qualitative edge over our adversary then such case should be debated by the DAC after proper technology scan is carried out by HQ IDS in consultation with the DRDO.

56. Cases in which bids had been submitted by more than one bidder in a competitive manner, and the Staff Evaluation after trials shortlists only one equipment for introduction into service, would not be considered as a single tender situation, as the techno-commercial offers would have been received before trials and the commercial bids were competitive in nature. Bidders had submitted their offers in an open competition and were not aware of any single bidder getting approved after the trials.

Inter Government Agreement (IGA)

57. In certain cases a state-of-the-art equipment may be available with only one country. Such equipment may be of proven technology and may have been seen by our armed forces while participating in joint international exercises. Procurement of such equipment may be necessitated due to urgent operational requirements. Such procurements will be done based on an Inter Governmental Agreement after clearance from CFA.

58. In cases of large value acquisition and especially those requiring product support over a long period of time it may be advisable to enter into a separate Inter Government Agreement (IGA) (if not already covered under an umbrella agreement covering all cases) with the Govt of the country from which the equipment is proposed to be procured after the requisite inter ministerial consultation. Such an IGA is expected to safeguard the interests of the Govt of India and should also provide for assistance of the foreign Govt in case the contract(s) runs into an unforeseen problem.

Procedure for Procurement on Strategic Considerations

59. In certain acquisition cases, imperatives of strategic partnerships or major diplomatic, political, economic, technological or military benefits deriving from a particular procurement may be the principal factor determining the choice of a specific platform or equipment on a single vendor basis. These considerations may also dictate the selection of particular equipment offered by a vendor not necessarily the lowest bidder (L1). Decisions on all such acquisitions would be taken by the Cabinet Committee on Security (CCS) on the recommendations of the DPB.

Processing of Procurement Cases

60. In order to cut down the delays in procurement of equipment and ensure that the procurement system is more responsive to the needs of the Armed Forces, the following steps need to be taken: -

(a) Broad time frame for completion of different procurement activities, given at Appendix C should be adhered to. Major deviations from this time frame should be brought to the notice of the DPB, for necessary corrective measures.

(b) Once the statement of case is forwarded by SHQ to MoD, consolidated observations/ clarifications sought up to and including the level of JS / Acquisition Manager in the MoD and MoD (Fin) should be clarified in an across the table discussion, and minutes of the same recorded on file. All efforts should be directed towards avoiding multi-layered examination of proposals in MoD (Acquisition Wing),

and decisions should be taken by Acquisition Manager /Finance Manager /Technical Managers in a collegiate manner.

(c) A defence procurement network, electronically connecting all agencies involved in defence procurement, to build up a data base and information system, should be set up.

Deviations from DPP-2005

61. Any deviation from the prescribed procedure will be put up to Raksha Mantri through DPB for approval.

Review

62. Reviews of the procurement procedure would be undertaken by the DPB after every two years.

CONCLUSION

63. This procedure would be in supersession of the Defence Procurement Procedure – 2002 (Version Jun 2003) issued under Ministry of Defence ID No. 82/Dir (Acq)/ 02, dated 30 Jun 2003. DPP 2005 will come into effect from 01 Jul 2005. There are, however, cases, which would be under various stages of processing in accordance with provisions of DPP 2002 (version Jun 2003) at the time of commencement of DPP 2005. The processing of these cases done under the provisions of DPP 2002 (version Jun 2003) will be deemed to be valid. However, further processing of such cases with effect from 01 Jul 2005 will be done as per DPP 2005.

**FORMAT FOR STATEMENT OF CASE FOR
ACCEPTANCE OF NECESSITY (AON)**

1. Proposal and details of equipment.
2. Justification to include following where applicable:-
 - (a) Operational role and necessity.
 - (b) Quantity required.
 - (c) Whether item is scaled / not scaled. If scaled, quote authority.
 - (d) Enclose SQR / JSQR / essential capabilities.
 - (e) Whether proposal is for replacement / upgrade / new induction / WWR deficiency.
 - (f) Recommended categorization (ie 'Buy' or 'Buy & Make') with brief justification.
 - (g) Whether the system is state-of-the-art and TOT has been considered for 'Buy and Make' projects.
 - (h) Justification for procurement from a single vendor.
 - (j) Time schedule for induction.
 - (k) Commonality / interoperability, if identified.
3. Indicative cost of the proposal including provision in SCAP.

STANDARD CNC COMPOSITION
ABOVE RS 20 CRORES

1. Acquisition Manager - Chairman.
2. Technical Manager.
3. Finance Manager.
4. Advisor Cost.
5. DGQA Representative.
6. Procurement Agency Representative.
7. User Representative.
8. Representative of Contract Management Branch at SHQ.
9. Repair Agency Representative.
10. Under Secretary concerned.
11. Member Secretary to be nominated by the Chairman.

If with ToT – Add rep of DDP, DRDO and Production Agency.

STANDARD CNC COMPOSITION
BELOW RS 20 CRORES

1. Director (Procurement) - Chairman.
2. Representative Technical Manager.
3. Representative Finance Manager.
4. Deputy Director Cost.
5. DGQA Representative.
6. Procurement Representative.
7. User Representative.
8. Representative of Contract Management Branch at SHQ.
9. Repair Agency Representative.
10. Under Secretary Concerned.
11. Member Secretary to be nominated by the Chairman.

If with ToT – Add rep of DDP, DRDO and Production Agency.

- Note:
1. Approval of Additional Secretary / Special Secretary (Acquisition) to be solicited for any changes to the above.
 2. In the absence of the designated member, the authorised representative would be deemed suitably empowered to take decisions.

**BROAD TIME FRAME FOR
PROCUREMENT ACTIVITIES**

Ser No	Activity	Time (months)	Cumulative Time (months)
1.	<u>Acceptance of Necessity (AoN).</u>	1	1
2.	<u>Request for Proposals (RFP).</u>		
	(a) Simultaneous vetting by Acquisition Manager, Finance Manager and technical Manager.	½	1 ½
	(b) Approval of RFP by Additional Secretary /Special Secretary (Acquisition).	½	2
	(c) Receipt of responses.	3	5
3.	<u>Technical Evaluation Committee (TEC).</u>		
	(a) Evaluation of proposals and preparation of TEC report.	3	8
	(b) Vetting of report by Technical Manager and acceptance by Additional Secretary /Special Secretary (Acquisition).	1	9
4.	<u>Trials.</u> Field trials /DGQA/ Maintainability trials including receipt of trial report, preparation and approval of Staff evaluation at Service HQ.	6-12	15-21
5.	<u>Staff Evaluations.</u> Examination by Technical Manager and acceptance of Staff Evaluation by Additional Secretary /Special Secretary (Acquisition).	1	16-22
6.	<u>Commercial Negotiation Committee (CNC).</u>		
	(a) Opening of bids and determination of L1.	1	17-23
	(b) CNC Negotiations.	3-5	20-28
	(c) Finalisation of CNC report.	1	21-29
	(d) Internal Procedure Audit.	1	22-30
	(e) Approval of CFA – MoD/ MoF/ CCS.	1-4	23-34
	(f) Contract Signing.	1	24-35
	Total Time Taken		24-35 months (2 - 3 years including trials).

DEFENCE PROCUREMENT PROCEDURE 2005
INDIGENOUS WARSHIP BUILDING

General

1. A ship/submarine construction programme involves conceptualisation, design, validation, construction, tests and trials. This also involves technology application and transfer, selection of various equipment, development of new equipment, identification and purchase of a large number of items from various sources, and, procurement of specific weapons and sensors from indigenous and foreign suppliers.
2. Due to long gestation period there are occasions when equipment, which are still under development or those not fully evaluated, are nominated in order to ensure that the ship when ready has the latest state of the art capabilities.

Preamble

3. In accordance with the Defence Procurement Procedure 2005, Capital Acquisitions have been categorized under three main heads, namely; 'Buy', 'Buy and Make' and 'Make' decisions. Warship building is a capital and technology intensive activity that does not fall into any one of the above categories because elements of all these are present in the process of ship construction. Hence, it is necessary to define a separate procedure for acquisition of warships and Coast Guard vessels through indigenous design/construction. However, procurement of a complete ship from abroad will continue to be guided by DPP-05. Similarly, minor vessels such as yard craft, barges, harbour tugs, ferry craft and pontoons for the Services will also be procured under provisions of DPP-05. For minor vessels more than one Shipyard may be short-listed. Cases for nomination of a yard for Coast Guard ships will also be approved by the DPB based on the merits of each case.

Scope

4. This procedure will be applicable to acquisition of warships through indigenous design and construction by Defence Public Sector shipyards.

Acceptance of Necessity

5. The proposal for design and construction of the ship, either singly or as a shipbuilding project plan is to be included in the Services Capital Acquisition Plan for consideration and approval of DAC. The Statement of Case for the proposal has to be prepared and processed in line with the details given in Para 15 of DPP – 2005. This will inter alia contain outline Staff Requirements, broad category of weapons and sensors to be fitted on the ship along with the status of their indigenous development, operational exigencies, approximate cost of budgetary provisions.

Preliminary Staff Requirements

6. Naval Headquarters are to simultaneously prepare the Preliminary Staff Requirements (PSR). The PSRs are to include the– role of the ship, its dimensions, specifications of its hull,

major machinery, weapons, sensors, accommodation and manpower, endurance and fuel capacity etc.

7. The PSRs would form the basis on which the preliminary design of the ship, identification of OEMs/Vendors for specific weapons, sensors, machinery and equipment are to be carried out.

Nomination of Shipyard

8. After receipt of Acceptance of Necessity by the DAC, NHQ in consultation with DDP will carry out a capacity assessment and forward recommendations to MoD on the nomination of the shipyard for the project. This will be processed on file for the approval of the RM.

Build Specifications

9.1 Based on the PSRs, the build specifications of the ship is to be prepared by NHQ and forwarded to the Shipyard.

9.2 In cases where the design is not routed through NHQ, the nominated shipyard will prepare the build specifications based on the PSRs.

Build Strategy

10. The nominated shipyard is to propose a build strategy based on the ship specifications, yard infrastructure and resources. This would include the draft construction schedule and the procurement schedule for the major long lead items including weapons and sensors.

Budgetary Cost

11.1 The shipyard is to forward a budgetary quote for the construction of the ship on the basis of the Build Strategy. In case of ships of follow on projects, the shipyard is to forward a firm cost for the construction. The budgetary cost should be broken up to indicate the year wise requirement of funds, which may then be taken up for approval of the CCS.

11.2 The estimated cost should be carefully worked out based on the budgetary quotation given by the nominated shipyard and should include all fixed and variable cost elements such as labour cost indicating number of man-days, overheads, direct expenses, profit payable to shipyard, specially contracted works, approximate cost of raw material, all major equipment, weapons, sensors and propulsion machinery chosen, etc. The estimated cost should also take into account normal escalation in cost of various equipment and machinery as per the scheduled time of procurement, so as to arrive at an estimated completion cost. Details of such cost elements, which could not be assessed at this stage and their likely cost, should also be indicated.

11.3 Costs towards project studies, augmentation of design facilities and infrastructure at Design Directorate of Navy and creation of infrastructure in the shipyard are also to be reflected as separate items in the project.

Approval of CCS

12.1 The proposal for the design and construction of the ship is thereafter, to be taken up for the approval of the CCS.

12.2 The CCS Note should indicate the estimated cost of the project, the time schedule for completion, spread of expenditure, availability of funds, details of major weapons, sensors, propulsion machinery and other major equipment sought for fitment on the ship.

12.3 The estimated cost shall be as close to the final cost as possible. For 'Follow on Constructions' CCS approval would be sought on fixed price basis with admissible escalation.

12.4 While seeking CCS approval, the time schedule for the following activities may also be specifically indicated:-

- (a) Freezing of SRs.
- (b) Selection of weapons and sensors.
- (c) Freezing of preliminary design.
- (d) Broad ordering schedule for weapons and sensors, major equipment and propulsion machinery and also price negotiations with nominated shipyard for the entire project in case of follow-on projects.

12.5 In cases where it is not possible to estimate the likely firm cost of components, a second stage approval of the CCS is to be obtained as the cost elements are firmed up. In such cases based on the first stage approval of CCS, the work on shipbuilding can start after the first stage approval. Before seeking second stage approval of CCS, PNC with the shipyard should have been completed.

12.6 Further, in the Cabinet Note for seeking first stage approval, besides indicating the time schedule of various activities as elaborated in Para 12.4 above, the time schedule for obtaining the second stage approval should be clearly indicated. In case of projects involving concurrent development/design, this may include time frames required for project studies, design, model testing, etc.

12.7 In the second stage Cabinet approval, firm cost of all the components should be clearly indicated. This will constitute the approved project cost.

Letter of Intent (LOI)

13. On approval of the CCS Note, NHQ is to place a Letter of Intent (LOI) on the shipyard. A mobilization advance could be made available to the shipyard for undertaking preparatory

activities for commencement of production. The quantum of mobilisation advance will be decided on a case by case basis and its effect on costing will also be considered.

Preliminary Design

14. Preliminary design including hull form design, weapons/sensors/equipment fit, model tests, validation studies and other design activities are to be carried out by design directorate in consultation with the nominated shipyard. The propulsion package, weapon/sensors, hull equipment and engine equipment may be identified by the customer. At this stage the design authority may order model test and other design validation studies as well as augmentation of existing design facilities and infrastructure at Design Directorate as given in the CCS Note. On completion of preliminary design, frozen Staff Requirements are to be promulgated by Naval staff taking into account the results of the preliminary design.

Detailed Design

15. A detailed design is to be prepared on the basis of the frozen Staff Requirements during which the complete equipment fit will also be finalised. The actual construction of the ship can, however, start in parallel along with the detailed design.

Conclusion of Contract with the Shipyard

16.1 On approval of CCS, negotiations on the price and the other aspects of the contract with shipyard are to be undertaken by a Committee chaired by the Acquisition Manager (Maritime). The Committee is to include representatives from the concerned directorates of the Naval Headquarters in addition to the representatives of MoD (Fin). The contracts should be on 'Fixed Price' basis indicating inter alia permissible price escalation, exchange rate variations, labour wage variation increase in statutory levies etc. including mobilisation advance for undertaking preparatory activities for commencement of production.

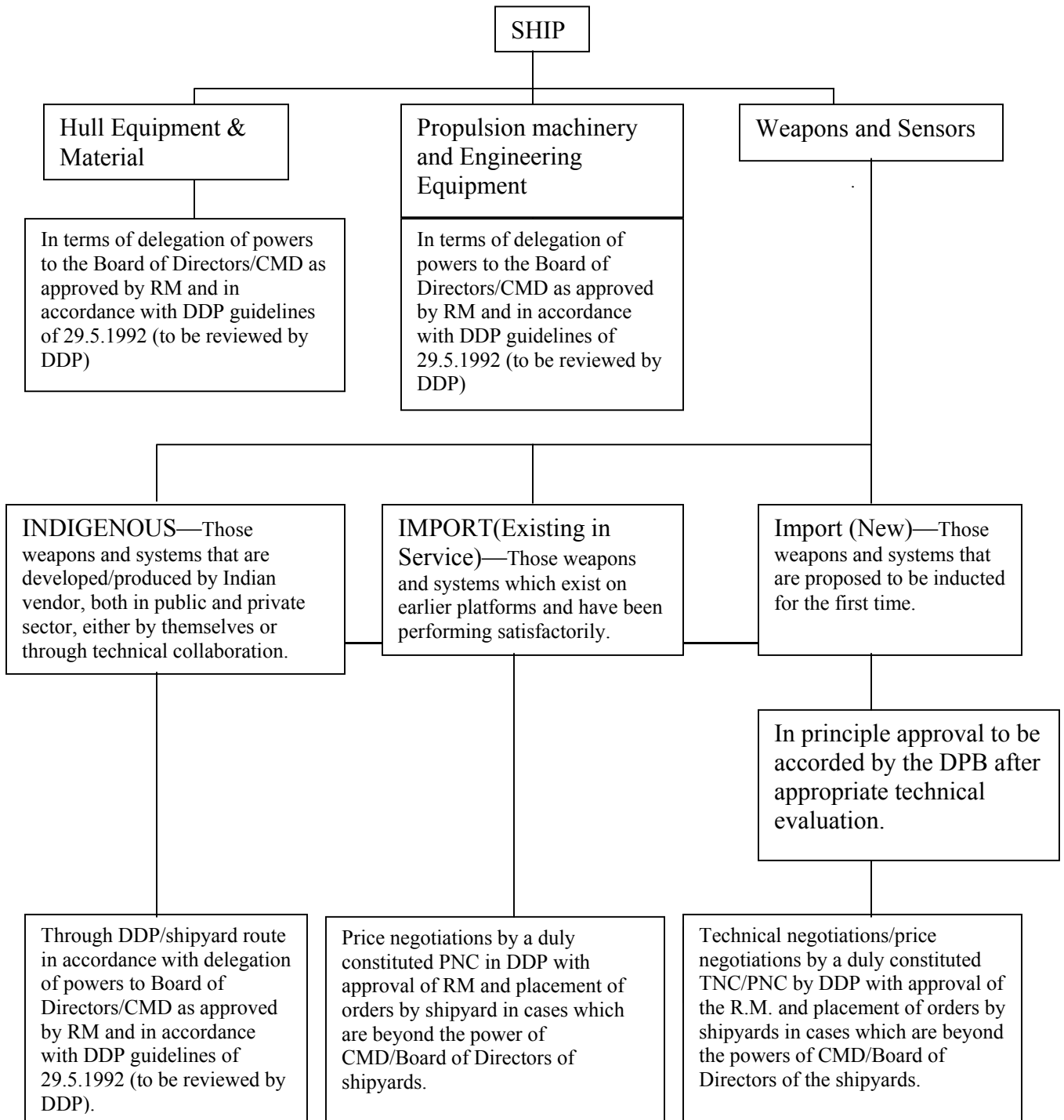
16.2 The contract should be signed within a period of 9 months from the date of CCS approval in case of construction of the first ship and within 6 months from the date of CCS approval for repeat orders. In cases where the second stage CCS approval was necessary a Supplementary Contract should be signed with similar time frame as above. In case of delay in signing of contract approval of RM is to be sought by DOD with full justification for the delay.

16.3 Amendments to contracts concluded with the shipyards will be effected after approval by Defence Secretary/R.M.

Procedure for Procurement of Ship-borne Equipment

17. The procurement of all equipment and associated fittings as well as machinery, as listed out in the contract, are to be inducted in terms of the 1992 guidelines of DDP which are to be reviewed separately by DDP. Due to the peculiar nature of the ship construction activity, different procedures have to be followed for procurement of equipment and material for the ship. These procedures have been evolved taking into account the existing shipbuilding procedure and the relevant orders issued by DDP in this connection. The procedure for procurement of different equipment is highlighted in the diagram overleaf.

Procurement of Shipborne Equipment



18.1 As brought out in the diagram, weapons and sensors are categorized in the following three groups:-

- (a) Indigenous weapons and sensors under development or existing in service.
- (b) Imported weapons and sensors existing in service and in use.
- (c) New weapons and sensors, which are to be imported from abroad including Russia.

18.2 As indicated in Para 5, while seeking approval for Acceptance of Necessity from DAC, the broad categories of weapon and sensors to be fitted in the ship will also be indicated.

18.3 All new weapons and sensors imported from abroad are to be approved by the Acquisition Wing as per the procedure outlined in DPP 2005. As these systems need to be integrated with the ship and the ordering schedule is critical to ensure their timely availability and to avoid lapse of warranties, price negotiations may be carried out by the DDP by a duly constituted PNC with approval of RM and placement of orders by the shipyard.

18.4 Procurement of weapons and sensors, which are existing in service and are in use, from foreign sources is to be carried out through the DDP/Shipyard route as per DDP guidelines in accordance with the delegation of powers to the Board of Directors/Chairman & Managing Director of the respective shipyard.

18.5 The procedure outlined at para 18.4 above is to be followed in the case of indigenous weapons and sensors as well.

Payment Terms

19.1 Whilst the payment terms for each shipbuilding project would be contracted individually, since these are dependent upon the indigenous and imported content of the equipment fit, broad suggested payment schedule that may be adopted is placed at Appendix A.

19.2 Payment terms for augmentation/modernisation of shipyard infrastructure where provided for will be separately formulated.

Monitoring of Projects

20. After placement of LOI/conclusion of contract, physical construction activity is to commence at the shipyard. All shipbuilding projects are to be monitored as follows:-

- (a) All major shipbuilding projects are to be reviewed every six months by an Apex Steering Committee under the Chairmanship of Secretary (DP) as notified by Order No.21/38/2003/MDL/D(SY) dated 24th September, 2003 (Appendix B).
- (b) CWP&A will monitor shipbuilding project on a quarterly basis.
- (c) Committee notified by MoD Order No. MF/PL/1290/RCE/1987/Dir(N)/2002 dated May 17, 2002 (Appendix C).

Approval of CCS for Revised Project Cost

21. After the project is approved by CCS as in Para 12 of this procedure, the MoD, NHQ, DDP and the shipyard will endeavour to ensure that the ship construction proceeds strictly as per the time schedule and cost approved by CCS. Since all the cost elements both fixed and variable including possible escalations on account of price, exchange rate variation, increase in statutory levies etc. are taken into consideration for estimating the project cost, there should not normally be any occasion/need for the project to slip either in time schedule or in cost. However, if due to any unavoidable circumstances, the project is going to slip in time schedule or the cost per ship as approved by CCS is likely to go up, the following procedure is to be adopted for seeking approval of the Competent Authority for the revised cost: -

(a) Increase in project cost, which arises entirely due to change in statutory levies, exchange rate variation and price escalation within the originally approved project time cycle will be submitted to RM for approval.

(b) Increase in project cost up to 10% of the approved cost estimates by CCS (after excluding the increase due to statutory levies, exchange rate variation and price escalation within the originally approved project time cycle) will also be submitted to RM for approval.

(c) Increase in project cost exceeding 10% but upto 20% of the approved cost estimated by CCS (after excluding the increase due to statutory levies, exchange rate variation and price escalation within the approved project time cycle) will be submitted to RM and FM for approval.

(d) Increase in project cost exceeding 20% of the approved cost estimated by CCS (after excluding increase due to statutory levies, exchange rate variation and price escalation within the approved project time cycle) due to reasons such as time overrun, under estimation, change in scope etc. will be submitted to CCS for approval.

(e) No expenditure can be incurred unless the revised project cost is approved by the Competent Authority as indicated above. Sub-paras (a) to (e) above are in line with the guidelines issued by Ministry of Finance vide O.M. No.1(3)/PF II/2001 dated 18.2.2002

(f) 'Statutory levies' means State and Central Taxes, including import and export duties as notified by Govt. of India and paid by the project authorities but excludes water, electricity charges and Petroleum, Oil & Lubricants (POL) price increases.

(g) In all cases where the revised project cost overrun is over 20% and is accompanied by time overrun of over 10%, while seeking approval of CCS for the revised cost estimates and time schedule, accountability aspects for such cost and time overruns should be fixed and indicated in the CCS Note. (in line with the guidelines of the Planning Commission issued vide letter No.)-14015/2/980PAMD dated 19th August, 1998).

Liquidated Damages and Incentives

22. In case of delay in completion of the project and if the delay is attributable to the shipyard, Liquidated Damages should be levied as per normal procedure. For early completion of the project before the stipulated date of completion, incentive should be paid to the shipyard at the rate of 0.5% of the cost of the ship per month of early completion subject to a maximum of 5% of the ship cost.

TERMS OF PAYMENT

1. The terms of payment may vary between each project depending upon a variety of factors such as indigenous content, necessity for building infrastructure, imports, design considerations and development of indigenous technology. However, some broad guidelines for payment terms are appended below:

STAGE-I (10% of the cost of project)

With issue of LOI and acceptance by shipbuilder.

STAGE-II (10% of the cost of one vessel)

- (a) Proof of ordering of steel
- (b) Finalisation of build specifications and GA drawings
- (c) Submission of cardinal date programme/production PERT.

STAGE-III (5% of the cost of one vessel)

- (a) Submission of drawing schedule
- (b) Submission of network of activities up to launching of vessel.
- (c) Submission of main hull structural drawings.
- (d) Order for all major pre-launch items finalized and placed (DG sets, Main engine, pre-launch valves, Stern Gear System, Gear Box, Main Switch Board, Anchor, Mooring Capstan).

STAGE-IV (5% of the cost of one vessel)

- (a) Erection of 40% hull.
- (b) Submission of equipment schedule.

STAGE-V (5% of the cost of one vessel)

- (a) Erection of 60% hull.
- (b) Completion of main engines, Gear box girders & seatings/machinery seatings as applicable to erection of 60% hull.

STAGE-VI (5% of the cost of one vessel)

- (a) Erection of 100% main hull.
- (b) All access holes to be cut and engine girder machinery seating of loose chinks in machinery compartment.
- (c) Placement of order for major equipment & system affecting conduct of basin trials.

STAGE-VII (5% of the cost of one vessel)

- (a) Placement of main engines of seatings.
- (b) Lowering of gear box.
- (c) Complete Pressure test of built in tanks.
- (d) Manufacturer/procurement of W/T doors and hatches.
- (e) Submission of network of balance activities.

STAGE-VIII (5% of the cost of one vessel)

- (a) Completion of installation of machinery, equipment and fittings with the associated system required for reaching pre launch stage such as, completion of WT Integrity test, fitment of stem gear up to OD box, A brackets, propeller shaft, rudders, caathodic protection, all under water valves/fittings and satisfactory application of approved system UW paints.
- (b) Launching of the vessel or equivalent stage of construction reached.

STAGE-IX (15% of the cost of one vessel)

- (a) Completion of Basin Trials.

STAGE-X (10% of the cost of one vessel)

- (a) Completion of inclining experiment.
- (b) Successful completion of contractor's sea trials (form part of vessel acceptance trials).

STAGE-XI (10% of the cost of one vessel)

- (a) Successful completion of final machinery trials.
- (b) Stowage of all on-board spares.
- (c) All documentation, drawings, manuals for the ship to be made available to the concerned agencies as per specifications.
- (d) Completion of first reading of D-448 and acceptance of the vessel.

STAGE-XII (15% of the cost of one vessel)

All defects/deficiencies and contractors liabilities including guarantee repairs/dry docking to be completed.

No21/38/2003/MDI/D (SY)
Govt of India
Ministry of Defence
Department of Defence Production & Supplies
New Delhi, the 24th September, 2003

OFFICE MEMORANDUM

Sub : Constitution of an Apex Steering Committee to REVIEW ON GOING PROJECTS IN Defence Shipyards.

It has been decided with the approval of Raksha Mantri to constitute an Apex Steering Committee as per the following composition

Department of Defence Production & Supplies (DDP&S)

- | | | | |
|-------|-----------------------------|---|------------------|
| (i) | Secretary (DP&S) | : | Chairperson |
| (ii) | Addl Secretary (DP&S) | : | Member |
| (iii) | Joint Secretary (Shipyards) | : | Member Secretary |

Department of Defence (DOD)

- | | | | |
|-----|--|---|--------|
| (i) | Joint secretary & Acquisition Manager (MS) | : | Member |
|-----|--|---|--------|

Ministry of Defence (Finance)

- | | | | |
|------|---|---|--------|
| (i) | Addl. FA(K) & Joint secretary (Defence PSUs) | : | Member |
| (ii) | Addl FA(T) & Joint Secretary (Navy Acquisition) | : | Member |

Navy/Shipyards

- | | | | |
|-------|-------------------------------|---|--------|
| (i) | CWP&A/NHQ/DSP | : | Member |
| (ii) | ACNS (P&P) | : | Member |
| (iii) | CMD of the concerned Shipyard | : | Member |

2. Secretary (DP) will be the Chairperson of the Steering Committee for reviewing the major projects of MDL and GRSe such as P-17 & P-15A of MDL and LST(L), P-16A and P-

25A of GRSE. Steering Committee for the projects of GSL and minor projects of all the Defence Shipyards will be chaired by Addl Secretary (DP&S).

3. The terms of reference of the Steering Committee would be as under :-
 - (i) To review the physical progress of the project with specified reference to compliance of milestones laid down for completion of various activities of ship construction.
 - (ii) To monitor the financial progress of the project to ensure that the project progresses within the financial limits sanctioned by the Govt.
 - (iii) To identify technical and administrative hold ups and give suitable directions so that the project proceeds as per the time schedule and cost approved by the Govt.
 - (iv) To review fulfillment of contractual obligations at pre determined stages.
 - (v) Any other matter requiring direction and guidance of the Steering Committee.
4. The secretarial assistance for the committee will be provided by the Shipyard Wing of DDP&S.
5. The Apex Steering Committee will meet at least once in six months.
6. This issues with the approval of Raksha Mantri.

Sd/-

(RITA MENON)

JOINT SECRETARY TO THE GOVT. OF INDIA

TO

ALL THE MEMBERS OF THE APEX STEERING COMMITTEE

MINISTRY OF DEFENCE

Subject : Mechanism to avoid time and cost overrun in the indigenous ship construction projects – regarding

1. It has been observed that the indigenous ship construction projects being implemented by the defence shipyards get inordinately delayed leading to substantive cost overrun. Apart from causing delay in the availability of the vessels to the Navy, it also necessitates seeking approval of the Cabinet Committee for the revised cost of such projects.

2. With a view to avoid time and cost overrun in the ship construction projects, it has been decided to constitute a Committee as per the following composition to monitor all such projects: -

- | | | |
|-----|---|----------|
| (a) | Joint Secretary (in charge of Capital Acquisition for the Navy) | Chairman |
| (b) | Joint Secretary (Sy), DDP&S | Member |
| (c) | Addl. FA (in Charge of capital acquisition for the Navy) | Member |
| (d) | ACWP&A/NHQ | Member |
| (e) | CMD, MDL (for projects under implementation of MDL) | Member |
| (f) | CMD, GRSE (for projects under implementation of MDL) | Member |
| (g) | CMD, GSL (for projects under implementation of GSL) | Member |

3. The Committee shall review the physical and financial progress of each ship construction project on quarterly basis.

4. The Committee shall submit a Status Report on each ship construction project to the Defence Procurement Board (DPB) on six-monthly basis. The problem areas, if any, would be specifically highlighted. A Compliance Report on the directions of the DPB will be submitted by the Committee in the subsequent meeting of the DPB.

Sd/-
(YOGENDRA NARAIN)
Defence Secretary

To : All Members of the Committee

MOD ID No. MF/PL/1290/RCE/1987/Dir(N)/2002 dated May 17, 2002

Copy to: CNS/NHQ }
 Secretary (DDP&S) } For Information
 Secretary (Def/Fin) }

(THIS RFP PROVIDES A STANDARDISED FORMAT FOR GUIDELINES. IT MAY BE VARIED DEPENDING ON USER REQUIREMENTS, TYPE/ COMPLEXITY OF EQUIPMENT/ MACHINERY/ TEST EQUIPMENT AND OPERATIONAL IMPERATIVES. SHQ MAY ALTER IT AS PER THEIR SERVICE REQUIREMENTS).

Tele: _____

File No: _____

Technical Manager (____ Systems)
Room No 306, North Hutments
Kashmir House, Rajaji Marg
New Delhi-110011

2005

To

**REQUEST FOR TECHNICAL AND COMMERCIAL PROPOSAL
FOR (GENERIC NOMENCLATURE OF EQUIPMENT)**

Dear Sir,

1. The Ministry of Defence, Government of India, intends to procure _____ (generic nomenclature of equipment and quantity). This Request for Proposal (RFP) consists of four parts as indicated below:-

(a) Part I. The first part consists of the general requirement of the equipment, the numbers required, the time frame for deliveries, the environmental parameters for functioning, conditions of usage and maintenance, requirement for training, Engineering Support Package (ESP), and warranty/guarantee conditions, etc. It includes procedure and last date and time for submission of offers.

(b) Part II. The second part of the RFP incorporates the aspects of SQRs describing the technical parameters of the proposed equipment. The operational characteristics and features that should be met by the equipment are elucidated at Appendix A. The Supplier would be required to offer the equipment for field evaluation on a "No Cost – No Commitment" basis.

(c) Part III. The third part of the RFP consists of the commercial aspects of the procurement, payment terms, performance guarantees, guarantees against warranty services to be performed by the supplier. It also includes standard contract terms along with special contractual conditions, if any.

(d) Part IV. The fourth part defines the criteria for evaluation and acceptance, both in terms of technical and commercial contents. A format has been enclosed for submission along with commercial offer to facilitate preparation of Comparative Statement of Tenders (CST) and identification of L1 vendor. Submission of incomplete format enclosed along with commercial offer will render the offer liable for rejection.

2. The Government of India invites responses to this request only from Original Equipment Manufacturers (OEM) or Authorised Vendors or Government Sponsored Export Agencies (applicable in the case of countries where domestic laws do not permit direct export by OEMs) subject to the condition that in cases where the same equipment is offered by more than one of the aforementioned parties, preference would be given to the OEM. The end user of the equipment is the Indian Armed Forces.

PART I: GENERAL REQUIREMENTS

3. Year of Production. Supplies should be of latest manufacture, conform to the current production standard and should have 100% of the defined life at the time of delivery. Deviations if any should be clearly brought out by the vendor in the Technical Proposal.

4. Delivery Schedule. *(The acceptable range of delivery schedule of the equipment must be indicated clearly in the RFP. Option for the supplier to indicate earliest delivery schedule must be given only in unavoidable cases).*

5. Warranty. The goods supplied shall carry a warranty for _____ months/ years /operational hours (not to be left blank) from the date of acceptance or from date of installation and commissioning, whichever is later. Draft Warranty Clause is given at Appendix B.

6. Offset (If applicable). The vendor has to undertake Offset contracts amounting to 30 % of the commercial proposal. The technical offer should include a compliance statement to this effect. Failure to discharge this undertaking at any stage will result in disqualification of the vendor from further participation in the evaluation process and the offer will be treated as null and void. The terms and conditions of Offset are given at Appendix H.

7. Engineering Support Package (ESP) / Annual Maintenance Contract (AMC) (if required). After the specified warranty period, the Indian technicians would be required to repair and maintain the equipment during its exploitation. To enable this process, an appropriate ESP would be required to be provided by the supplier. For this purpose, the general concept of repair and maintenance of equipment followed by the Indian Army is given at Appendix C. The information on Engineering Support Package that is required to be provided as part of Technical Offer is enclosed at Annexures I to IV to Appendix C. In case equipment is already in usage, the spare parts requirement must be specific based on the consumption pattern, rather than being based on MRLS *(If post warranty AMC is also being sought from the OEM, the level of AMC required (with spares/without spares/repair rate contract) must clearly be indicated. The details of AMC proposals must be also submitted separately by the vendor with technical aspects being included in the technical offer and commercial aspects being included in the commercial offer. The same will be taken cognisance of while deciding the L1).*

8. The customer would have the option to amend the MRLS proposed by the seller within _____ years of the expiry of the warranty period. The seller would either 'Buy Back' the spares rendered surplus or exchange them on cost to cost basis with the spares as required by the customer. The said spares would be purchased / replaced by the seller, based on the prices negotiated in the contract.

9. In Service Life/Shelf Life. The In Service Life/Shelf Life of the equipment (as applicable) shall be stipulated in the offer (*in case of shelf life the relevant storage conditions should be clearly specified*).

10. Product Support. The vendor would be bound by a condition in the contract that he is in a position to provide product support in terms of maintenance, materials and spares for a minimum period of ____ years. Even after the said mandatory period, the vendor would be bound to give at least two years notice to the Government of India prior to closing the production line so as to enable a Life Time Buy of all spares before closure of the said production line. The said aspect would also form an integral part of the contract. All upgrades and modifications carried out on the equipment during the next ----- years or during its life cycle (as per requirement) must be intimated to the SHQ.

11. Training of Crew and Maintenance Personnel. (*SHQ to give broad details of the training sought*).

12. Government Regulations. It may also be confirmed that there are no Government restrictions or limitations in the country of the supplier or countries from which sub-components are being procured and/or for the export of any part of the system being supplied.

13. Patent Rights. The vendor has to confirm that there are no infringements of any Patent Rights in accordance with the laws prevailing in their respective countries.

14. Transfer of Technology (TOT)(If applicable). The Govt of India, Ministry of Defence is desirous of license production of (generic name of equipment) under TOT. Aspects of TOT which are to be fulfilled by the vendor are given at Appendix __. Govt reserves the right to negotiate TOT terms subsequently but the availability of TOT would be a pre-condition for any further procurements. If negotiations for TOT are not held as a part of the negotiations for equipment, then subsequent and separate TOT negotiations will continue from the stage where the equipment has been selected.

(The RFP in such cases would spell out the requirements of TOT depending upon the depth of the technology which is required, and whose range could cover technology for repair and overhaul; production from CKD/SKD kits and production from raw material and components level. Aspects which are to be included in the RFP in case production from CKD/SKD/IM kits are given at Schedule III. Care should be taken to spell out the selection criteria clearly. The nominated Production Agency (PA) for the receipt of technology will be closely associated in the preparation of RFP).

15. The Technical and Commercial Proposals should be sealed separately (the envelope should clearly state this letter No and the type of equipment) and submitted together to the undersigned at the following address by ____ hours on ____ :-

As applicable {
Technical Manager (Land Systems)
Room No 306, North Hutments
Kashmir House, Rajaji Marg
New Delhi - 110011
Fax No : 23792414

16. The Technical Offer will be opened at ___ hours on _____ at the same venue as indicated at para 15 above. The vendor or his authorized representative is welcome to be present at the opening of the proposals. Necessary details may be sent a week in advance to facilitate obtaining of security clearance.

17. The Technical Offer will be evaluated by a Technical Evaluation Committee (TEC) to confirm that the equipment being offered meets the essential parameters as elaborated subsequently in this RFP at Appendix A. Thereafter, the vendor of the short listed equipment would be asked to provide the equipment (___ Nos) for trial evaluation in India at 'No Cost No Commitment' basis.

18. For an equipment to be introduced in service it is mandatory that it successfully clears all tests/trials/evaluations. The trial evaluation process comprises of the following phases. *(SHQ may amend this paragraph as required):-*

- (a) User Trials.
- (b) Technical and Environmental Evaluation.
- (c) Maintainability Evaluation Trial (MET).
- (d) EMI/EMC Evaluation.

19. Only those vendors whose equipment has been short listed, will be asked to submit Offset offers in sealed envelop within six weeks. The offset offers shall be evaluated by the CNC prior to opening of the commercial offers. Commercial offers of only those vendors whose Offset offers are found to be in order, will be opened.

20. Commercial offers will be opened only of the vendors whose equipment is short-listed, after technical trials and evaluation and who have also submitted the offset offers and these have been accepted by the CNC. In other words, the equipment would be required to be trial evaluated and found suitable prior to commencement of any commercial negotiations *(if trials are not proposed then the words 'trials and' may be deleted)*.

PART II : TECHNICAL PARAMETERS

21. Operational Characteristics and Features. The broad operational characteristics and features that are to be met by the equipment are elucidated at Appendix A.

22. Technical Offer. The Technical Offer must enable detailed understanding of the functioning and characteristics of the equipment as a whole and each sub system independently. It must include the performance parameters as listed at Appendix A and any other information pertaining to the technical specifications of the equipment considered important/ relevant by you. The technical proposal should also include maintenance schedules to achieve maximum life and expected life of each assembly/subassembly (or Line Replaceable Unit (LRU) / Shop Replaceable Unit (SRU)), storage conditions/environment condition recommended and the resultant guaranteed in-service/shelf life.

23. If there is any associated optional equipment on offer that should also be indicated separately along with the benefit that are likely to accrue by procuring such optional equipment. Should the vendor be contemplating any upgrades or modifications to the equipment being offered, the details regarding these should also be included in the Technical Proposal.

24. Technical Details.

(a) The technical details should be factual, comprehensive and include specifications of the offered system / equipment against broad requirements listed in Appendix A of RFP.

(b) Insufficient or incomplete details may lead to rejection of the offer. Mere indication of compliance may be construed as incomplete information unless system's specific technical details are available in the offer.

25. The technical offer should have a separate detachable compliance table stating specific answers to all the parameters as listed at Appendix 'A'. It is mandatory to append answers to all the parameters listed in Appendix 'A'. Four copies of the Technical Proposal should be submitted, however only one copy of the commercial proposal is required.

PART III : COMMERCIAL ASPECTS

Commercial Offer

26. Commercial offers will be opened only of the vendors whose equipment is short-listed, after technical trials and evaluation and who have also submitted the offset offers and these have been accepted by the CNC. The Commercial Offer must be firm and fixed and should be valid for at least 18 months from the date of submission of offer (*period may be amended, if required*).

27. The Commercial Offers will be opened by a committee and if supplier desires he may depute his representative, duly authorized in writing, to be present at the time of opening of the offers. Further negotiations will be made only with the lowest bidder (L1), as determined by the committee. The date, time and venue fixed for this purpose will be intimated separately after the evaluations are completed.

28. You are requested to take into consideration the Payment terms given at Appendix D while formulating the Commercial Offers.

29. To assist the supplier in formulating the Commercial Proposal and to ensure that all aspects are covered, a suggested format is given at Appendix E.

Additional Aspects

30. You are requested to confirm your willingness to provide the equipment for trial evaluation in India on "No Cost No Commitment" basis when so requested. If you consider that this is not practicable, alternative means of evaluation may be suggested. However,

Government of India reserves the right to reject your proposal if you are not willing to provide the equipment for trial evaluation in India.

31. Quality Assurance. After the contract is negotiated, you would be required to provide the Standard Acceptance Test Procedure (ATP) to the Director General of Quality Assurance (DGQA) (*or the concerned Quality Assurance agency, as applicable*) for their approval. The DGQA reserves the right to modify the ATP when necessary and the equipment supplied by you would be accepted subject to evaluation and clearance by the DGQA. You would be required to provide all test facilities at OEM premises for acceptance inspection by the DGQA team as also train the team as per sub para 1(e) at Appendix E. The details in this regard will be coordinated during the negotiation of contract.

32. Standard Clauses on Contract. The Government of India desires that all actions regarding procurement of any equipment are totally transparent and carried out as per established procedures. The supplier is required to accept our standard clauses regarding agents/agency commission, penalty for use of undue influence and Integrity Pact, access to books of accounts, arbitration and laws which would be incorporated in the contract. The text of these clauses is at Appendix F.

33. Option Clause (As applicable). The format of option clause is placed at Appendix G.

PART IV : EVALUATION AND ACCEPTANCE CRITERIA

34. Evaluation and Acceptance Process.

(a) Evaluation of Technical Proposals. The technical proposals forwarded by the firms will be evaluated by a Technical Evaluation Committee (TEC). The TEC will examine the extent of variations/differences, if any, in the technical characteristics of the equipment offered by various vendors with reference to the QRs and prepare a “Compliance Statement” shortlisting the vendors. The shortlisted vendors shall be asked to send the desired units of the equipment/weapon system to India for Field Evaluation in varying climatic, altitude and terrain conditions. A staff evaluation will be carried out, which will give out the compliance of the demonstrated performance of the equipment vis-a-vis the requirements. The compliance would be determined only on the basis of the parameters specified in the RFP. The staff evaluation will analyse the field evaluation results and shortlist the equipment recommended for introduction into service.

(b) Evaluation of Commercial Proposals. The Commercial proposals of the firms whose equipment is short-listed, after technical trials and evaluation and who have also submitted the offset offers and these have been accepted by the CNC will only be opened and a comparative statement will be prepared. Comparison of offers will also be done on the same basis. The vendor quoting lowest price (L1), as determined by Contracts Negotiation Committee (CNC), would be invited for negotiations by CNC. *DCF method would be used for evaluation of bids as given in Appendix D, where applicable.*

(c) The L1 vendor has to finalise all contracts, which are forming part of the Offset agreement. The CNC will satisfy itself that all conditions of Offset as indicated in the RFP have been met before recommending its proceedings for approval of CFA. The main contract shall come into force at the moment the vendor has concluded all the offset contracts with the nominated industries up to the value specified in the RFP. The offset contracts should be concluded not later than within 60 days of entering into the main contract. However, the vendor will under no circumstances delay the execution of the main contract on the plea of failure of Indian industry in executing various offset contracts.

(d) Contract Conclusion / Placement of Order(As applicable). The successful conclusion of CNC will be followed by contract conclusion / placement of order (As applicable).

Conditions under which this RFP is Issued

35. This RFP is being issued with no financial commitment; and the Ministry of Defence reserves the right to change or vary any part thereof at any stage. The Government of India also reserves the right to withdraw the RFP should it be so necessary at any stage.

36. Please acknowledge receipt.

Yours faithfully

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Appendix A
(Refers to Paras 1, 17, 21,
22, 24 & 25 of RFP)

OPERATIONAL CHARACTERISTICS AND FEATURES

1. *This information would be different for various equipments. As such only the guide lines for formulating this Appendix have been stated here. The information provided here flows from the SQR and must contain the following:-*

(a) *The purpose for which this equipment is needed or in broad outlines the capabilities that are needed. For example in the case of WLR:-*

"The WLR should be able to provide accurate location of enemy guns, mortars and rocket launchers (in all types of terrain) to enable own fire delivery means to engage them effectively. In addition it should also provide location of own shell burst to enable correction of fire."

(b) *Technical Parameters. All technical parameters listed in the SQR in terms of size, weight, performance, operating environment, power, torque, preservation, utility life, storage, shelf life etc, should be specified.*

(c) *Additional Features. If any, should also be explained.*

2. *Based on above guide lines, this Appendix should be formulated very carefully for each type of equipment.*

DRAFT WARRANTY CLAUSE

(To be amended as per requirement and no blanks to be left)

1. The seller warrants that the goods supplied under this contract conform to technical specifications prescribed and shall perform according to the said Technical Specifications.
2. The seller warrants for a period of --- *months/ years /operational hours* from the date of acceptance of stores by Joint Receipt Inspection Team or date of installation and commissioning whichever is later, that the goods / stores supplied under this contract and each component used in the manufacture there of shall be free from all types of defects / failures.
3. If within the period of warranty, the goods are reported by the Buyer to have failed to perform as per the specifications, the Seller shall either replace or rectify the same free of charge, maximum within 45 days of notification of such defect received by the Seller, provided that the goods are used and maintained by the Buyer as per instructions contained in the Operating Manual. Warranty of the equipment would be extended by such duration. Record of the down time would be maintained by user in log book. Spares required for warranty repairs shall be provided free of cost by Seller. The Seller also undertakes to diagnose, test, adjust, calibrate and repair / replace the goods/ equipment arising due to accidents by neglect or misuse by the operator or damage due to transportation of the goods during the warranty period, at the cost mutually agreed to between the Buyer and the Seller.
4. Seller hereby warrants that necessary service and repair back up during the warranty period of the equipment shall be provided by the seller and he will ensure that the downtime is within __ % of the warranty period.
5. In case the complete delivery of Engineering Support Package is delayed beyond the period stipulated in this contract, then the Seller undertakes that the warranty period for the goods / stores shall be extended to that extent.

REPAIR AND MAINTENANCE PHILOSOPHY

Note: (The Repair and Maintenance Philosophy is only indicative and pertains to a particular service. SHQ concerned may amend this as per their requirement. No blanks to be left).

1. The various levels of repairs are explained in succeeding paras. (However, all levels may not be applicable to all types of equipment. As such the type of repair facility required for the equipment for which the RFP is being issued should be stated clearly by modifying the succeeding paras).

Unit Repairs

2. These are repairs carried out within the unit holding this equipment with tools generally held within the unit or supplied by the manufacturer with each equipment or as per scaling of 1:10 or any other scaling recommended by the manufacturer as per population held in the unit.

3. These pertain to cleaning, lubrications, minor repairs and replacement of components and minor assemblies that can be carried out in field without any sophisticated tools or test equipment.

4. For carrying out such repairs, the manufacturer is required to provide the following:-

(a) Table of Tools and Equipment (TOTE) with each equipment including operators manual.

(b) Scaling of special tools and spares as explained at para 2 above including Maintenance manual.

Field Repairs

5. These are repairs carried out in the field by technicians specially trained for this purpose and where the required special tools and spares have to be provided. These repairs comprise replacement of major assemblies and other components beyond the scope of unit level repairs. Normally a field work shop that carries out such repairs looks after three to four units holding the said equipment.

6. The manufacturer is required to provide the following:-

(a) Quantity and specification of spares that need to be stocked for a population of _____ equipment.

- (b) Special Maintenance Tools and Test Equipment that need to be provided to each such field work shop. (The total number of such facilities would also have to be stated based on deployment pattern of the concerned equipment to carryout total costing).
- (c) All necessary technical literature.
- (d) Miscellaneous aspects, if any (viz. All necessary technical literature.).

Intermediate Repairs

7. These are extensive or special repairs carried out for a few equipment in the field to reduce the down time. (Include this only if applicable for the equipment being procured and state the action required from the manufacturer).

Base repairs

8. The Indian Army would like to avoid dependence on the manufacturer in terms of factory repair. Thus all repairs including repairs to components, subassemblies and overhaul of the complete equipment are carried out by this facility.

9. Depending on the population of the equipment, one to five such facilities may be established in India for this purpose (The actual No would have to be stated for costing).The manufacturer is required to provide the following:-

- (a) All Special Maintenance Tools, jigs, fixtures and test equipment for carrying out repairs up to component level.
- (b) Quantity and specification of spares, sub assemblies as per population expected to be maintained.
- (c) Oils and lubricants necessary for overhaul.
- (d) All necessary technical literature.
- (e) Calibration facilities for test equipment.

Manufacturers Recommended List of Spares (MRLS).

10. Based on the explanation given above, you are requested to provide MRLS to sustain the equipment for a period of ---- years for various levels of repair as per format given at Annexure I to this Appendix. You will be required to provide these both with Technical and Commercial proposals. (In case where the equipment has been in usage the spares would be sought by SHQ, on the recommended list to be furnished by the maintenance agency, based on the exploitation of the equipment, and NOT as per MRLS)

11. While with the commercial proposal, the actual costs of each component/spare will be provided, in the case of Technical Proposal these will be reflected as Low Cost/ Medium Cost/High Cost. A guideline for this purpose is as under:-

- (a) Low cost. Less than 2 % of the unit cost of the equipment/sub system.
- (b) Medium Cost. 2 to 10% of the unit cost of the equipment/sub system.

- (c) High cost. Greater than 10 % of the unit cost of equipment/subsystem.

12. If the complete equipment comprises a number of different sub systems, for eg it is coming mounted on a vehicle or is provided with a stand for mounting or is inclusive of a generator or an air conditioner or has a sight, the MRLS must be provided separately for each such sub system.

Special Maintenance Tools and Test Equipment

13. This is to be formulated in a similar manner as explained for MRLS. A suggested format is given at Annexure II to this Appendix and is to be included in both Technical and Commercial Proposals. The cost column may be left blank in the Technical Proposal.

Technical Literature

14. The details of technical literature to be supplied with the system should be listed as per the suggested format at Annexure III to this Appendix. This should be provided with both Technical and Commercial Proposals. The cost column may be left blank in the Technical Proposal.

Miscellaneous Aspects (*Applicable only when trials are required*)

15. In cases where the equipment is required to undergo trials, the equipment will also be put through Maintenance Evaluation Test. Based on this evaluation and in consultation with the supplier, the MRLS may be refined.

16. During user trials it may be brought out that the equipment is acceptable subject to carrying out certain modifications / improvements.

17. Maintainability Evaluation Trials (MET). This is carried with a view to facilitate provisioning of effective engineering support during life cycle of the equipment. This would involve stripping of the equipment and carrying out recommended tests and adjustments and establishing adequacy of maintenance tools, test equipment and technical literature. To facilitate this process the supplier is required to provide the following :-

(a) Technical Literature.

(i) User Handbook/Operators Manual in English and Hindi.

(ii) Design Specifications.

(iii) Technical Manuals.

(aa) Part I Tech description, specifications, functioning of various systems.

(ab) Part II Inspection/Maintenance tasks repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STEs).

(ac) Part III Procedure for assembly/disassembly, repair up to component level, safety precautions.

(ad) Part IV Part list with drawing reference and List of SMTs/STEs Test Bench.

(iv) Manufacturers Recommended List of Spares (MRLS).

(v) Illustrated Spare Parts List (ISPL).

(vi) Technical Manual on STE with drawing reference.

(vii) Complete Equipment Schedule.

(viii) Table of Tools & Equipment (TOTE) & carried spares.

(ix) Rotable list, norms of consumption, mandatory/ non mandatory spares list for each system.

(b) One set of Gauges

(c) One set of Special Maintenance Tools (SMTs).

(d) One set of Special Test Equipment (STEs).

(e) Servicing Schedule.

(f) Condemnation limits.

(g) Permissive repair schedule.

(h) Packing specifications /instructions.

(j) Design Specifications.

(k) Any additional information suggested by the OEM.

18. Vendors quoting lesser ESP / MRLS in terms of range and depth will have to make good the deficiency. The vendors quoting surplus items in ESP / MRLS should agree to buy back the surplus spares as per para 8 of the RFP.

19. The following may also be noted:-

(a) The requirement of training and associated equipment must be clearly specified in Part I or placed at a separate Appendix.

(b) The costs for aggregates and training must only be indicated in the commercial proposal.

(c) Sufficiency clause in terms of installation material and spares should also be included (as suggested by the SHQ).

MANUFACTURER'S RECOMMENDED LIST OF SPARES (MRLS)

EQUIPMENT: _____

Original Equipment Manufacturer (OEM): _____

Ser No	Manufac turer's Part No	Source of Supply	Nomen clature	Nos fitted in one equipment	Illustrated Spare Part List (ISPL) Reference	Unit cost	Recommended scale for 100 equipment for two years				Total Cost				Remar ks
							Unit Repair	Field Repair	Interme diate Repair	Base Repair	Unit Repai r	Field Repair	Interme diate Repair	Base Repai r	
Total Cost															

Notes: -

1. Maintenance spares/stores like lubricants, sealing compound, gases should be given separately giving source of supply.
2. Spares for component repairs should be included under the column of nodal repair & Base Repair as suggested by OEM.
3. In 'Remarks' column following information (if applicable) be given:-
 - (a) If an item has a shelf/operational life it be marked as 'G' and life indicated
 - (b) Matching set of components be indicated.
 - (c) Item which can be locally manufactured should be marked 'LM'.
 - (d) Items which can not be manufactured in India due to sophisticated design/technology may be marked as 'SI' special item.
 - (e) If a component/assembly is common to other similar equipment offered by the OEM earlier these should be marked 'CM' and name of the equipment be indicated.
4. MRLS should be drawn out of the 'Part List' of the equipment, which should be separately given as part of Technical Manual Part IV.
5. If the main equipment consists of other equipment then MRLS should be prepared for them under proper heads.

6. MRLS be prepared as per the maintenance concept of the customer (Appendix C).
7. Items provided along with the equipment as spares should also be included in MRLS.
8. Modules/ Shop Replaceable Unit (SRU)/ assemblies should be listed and their components should be included under them so as to relate each item of spare to their module / SRU / assembly.
9. Complete MRLS should be costed separately for Field, Nodal and Base repairs as it is required to be included as part of 'Total Costed Engineering Support Package' (ESP). OEM may give cost details in confidence to Price Negotiation Committee (PNC), but other details as above be provided during Maintainability Equipment Trial(MET).
10. MRLS for test equipment should also be provided on the similar format.

LIST OF SMT/STEs, JIGS, FIXTURE AND INFRASTRUCTURE

EQUIPMENT: _____
 Original Equipment Manufacturer (OEM): _____

Ser No	Manufacturer's Part No	Designation	Unit Cost	Nos Required				Brief Purpose	Remarks
				Unit Repair	Field Repair	Intermediate Repair	Base Repair		

Notes

1. Prepare separate sheet for each type of equipment.
2. Specify in remarks column whether the Special Test Equipment (STE)/Special Maintenance Tools (SMT) can be used as general purpose equipment on any other kind of equipment.
3. For Nodal Repairs/Base repairs quantity required should be for repair of 10 equipments at a time.
4. If test equipment is commercially available ex India, the source of supply be specified.
5. Test equipment for calibrating the STEs should be included in the list above.
6. Test equipments which are required to be provided by the customer should also be included in the list above.

TECHNICAL LITERATURE

EQUIPMENT: _____
 Original Equipment Manufacturer (OEM): _____

Ser No	Technical Literature	Unit Cost	Scale For 100 equipment	Total cost	Remarks
1.	User Handbook/operators Manual		100		
2.	Design Specifications				
3.	Technical Manual (a) <u>Part I.</u> Tech description, specifications, functioning of various Systems (b) <u>Part II.</u> Inspection/Maintenance tasks Repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STE)s. (c) <u>Part III.</u> Procedure assembly/disassembly, repair up to component level, safety precautions. (d) <u>Part IV</u> (i) Part list with drawing reference (ii) List of SMT/STEs with Test Bench		40 each		
4.	Manufacturer's Recommended List of Spares (MRLS)		10		

5.	Illustrated Spare Part list (ISPL)		600		
6.	Technical Manual on STE with drawing reference.		One per STE		
7.	Floppies on the above Tech literature		One Set		
8.	Any other (specify)				

Total Cost

Notes: -

1. In case any additional equipment is used their tech literature will be included.
2. Scale of Technical literature is as per Government of India, Ministry of Defence letter No PC to MF 62348/ESP/EME-LS/DS (Plg) dated 11 Jan 88.
3. If certain technical literature is being provided free of cost it should be indicated in the remarks column.

TRAINING AGGREGATES

EQUIPMENT: _____

OEM: _____

Ser No	Description of Training Aggregate	Scale for 100 Eqpt	Unit Cost	Total Cost	Remarks
1.	Complete Equipment	2			
2.	Sectionised Equipment	1			
3.	Shop Replaceable Units (SRU)/ PCB/ Modules / assemblies as under :-	One each			
	(a)				
	(b)				
	(c)				
	(d)				
4.	Computer based training package based on interactive multimedia to include	One set			
	(a) Full graphics, Animation test and sound				
	(b) Symptoms-fault correlation (expert system).				
5.	Training Aids to include	One set			
	(a) Charts				
	(b) Slides				
	(c) Training Brochures				
	(d) Training Work models				
	(e) Blow up diagram				
	(f) Video films				

6. Cost of training _____ operators and _____ technicians in
country of OEM

7. Any other

Total Cost

PAYMENT TERMS
(No blanks to be left)

Terms of Delivery and Payment

1. The delivery of goods will be based on Free on Board (FOB)/Carriage and Insurance Paid to (CIP)/ Cost, Insurance and Freight (CIF) ___/___/___/___ and consigned to _____ (Port/Air Port) with the ultimate consignee as _____.

2. Payment.

(a) Vendors may formulate their commercial offers on the assumption that a maximum of 15 % of the contract value would be receivable as advance, which would have to be supported by a Performance Bank Guarantee (PBG) of a first class Bank of international repute. The terms of payment would be governed by the provisions of Article 5 in the standard contract document at Schedule IV.

(b) The Buyer reserves the right to evaluate the offers received by adopting Discounted Cash Flow (DCF) method with a discounting rate *in consonance with the existing government borrowing rate*. DCF method would be used for evaluation of bids in the following cases: -

(i) To compare different payment terms, including advance payments and progressive stage payments to the vendors so as to bring them to a common denomination for determining lowest bidder.

(ii) To deal with cases where entering into AMC for period in excess of one year is part of the contract for evaluating for the lowest bid.

(iii) Lease – purchase options.

(iv) Detailed modalities for applying DCF technique are at Annexure I to this Appendix.

Letter of Credit

3. The Letter of Credit shall be opened 30 days prior to intended delivery and shall be valid for 90 days and shall allow payment against the presentation of the following documents to the Bank :-

(a) Original “Clean on Board”, Bill of Lading/Airway Bill (Original Copy)

- (b) Commercial Invoice (Original Copy)
- (c) Inspection Acceptance Certificate demonstrating compliance with the technical specifications of the contractor to be issued by the beneficiary.
- (d) Packing List.
- (e) Certificate of Origin duly stamped by the Seller's Chamber of Commerce.
- (f) Certificate of current manufacture.
- (g) Performance Bond /Warranty Bond.
- (h) Insurance and freight documents (in case of CIF contracts).
- (j) Landing certificate issued by Port Authority (in case of CIF contracts).

Bank Guarantee (BG) against Advance Payments

4. The SELLER is required to furnish BGs for advance remittances/performance bond/warranty bond, which are to be issued by banks of international repute and the details of the bank have to be furnished in the commercial offer. In this matter, Ministry of Defence will be advised by Parliament Street branch of State Bank of India, New Delhi as to whether to get BG from a foreign bank confirmed. The guidelines on confirmation of BG of foreign banks by Indian Banks are at Annexure II to this Appendix.

Performance Bond/ Warranty Bond

5. A Performance Bond of 5 % of value of the Contract and a separate warranty bond (as explained at Para 6 below) would be furnished by the supplier in the form of a Bank Guarantee from a first class Bank of international repute. Details of the bank are to be furnished in the commercial offer. MoD will be advised by SBI, Parliament Street in this matter. In case of indigenous vendors, the bonds are required to be furnished from a first class scheduled Indian Bank. Confirmation of the same from SBI is not required. The Performance Bond should be valid for a period until three months from the date of receipt of last consignment and should be furnished within 30 days of signing the contract.

6. Warranty Bond of 5 % value of the contract in the form of a Bank Guarantee from a first class Bank and duly confirmed by State Bank of India or Bank of Baroda or Bank of India or Canara Bank will be furnished. The said Warranty Bond shall be valid for three months beyond the warranty period agreed by the vendor.

Inspection

7. Pre dispatch inspection would be at the discretion of the customer. In addition JRI may also be carried out. If it is PDI, the vendor should intimate at least 45 days prior to the day when the equipment is to be offered for PDI to enable our QA personnel to be available for inspection. In case of JRI, the representative of the vendor may be present for inspection after the equipment reaches the concerned depot. The vendor would be informed of the date for JRI.

Liquidated Damages

8. In the event of the seller's failure to have the stores delivered by the date/dates specified in the contract, the Buyer may, at his discretion withhold any payment until the whole of the stores have been supplied, and the buyer may also deduct from the seller as agreed, liquidated damages and not by way of penalty the sum of 0.5% of the Contract price of the undelivered stores for each and every week or part of a week for which the stores have been delayed subject to a maximum of 5% of the value of delayed stores, in case the delay in delivery is acceptable to the Buyer.

Exchange Rate Variation in Contracts with Defence PSUs.

9. The guidelines on protection of Exchange Rate variation in Contracts with Defence PSU's are given at Annexure III to this Appendix.

Payment Terms for Indian Vendors

10. In case of indigenous vendors payment will be made on ___ % on proof of despatch and inspection note issued by the inspectors. Balance ___ % will be paid on receipt of stores in good condition by the ultimate consignee. A certificate to that effect will be endorsed on the copy of inspection note which shall accompany the bills submitted by the supplier. The payment will be made by HQ PCDA, New Delhi on production of following documents:-

- (a) Commercial Invoice (original copy).
- (b) Contractors Bills.
- (c) Inspection Acceptance Certificate demonstrating compliance with the technical specifications of the contractor to be issued by the beneficiary.
- (d) Packing List.
- (e) Certificate of Origin.
- (f) Warranty Certificate from the vendors.

DETAILED MODALITIES FOR APPLYING DCF TECHNIQUE

1. Net Present Value (NPV) is a variant of DCF method which is to be used for evaluation of tenders. The Net Present Value of a contract is equal to the sum of the present values of all the cash flows associated with it. The following formula is to be used for calculating NPV of a tender bid

$$NPV = \sum \frac{A_n}{(1+i)^t}$$

Where,

NPV = Net Present Value

A = Expected cash flow for the period mentioned by the subscript

i = Rate of interest or discounting factor

t = The period after which payment is done

n = Payment schedule as per the payment terms and conditions

When choosing among the various bids for the contract, the bid with the lowest NPV should be selected.

2. The application of the Net Present Value Analysis in defence procurement would involve the following 5- steps:

Step 1. Selection of the discount rate.

Step 2. Identifying the cash outflows to be considered in the analysis.

Step 3. Establishing the timing of the cash outflows.

Step 4. Calculating the net present value of each alternative.

Step 5. Selecting the offer with the least net present value.

3. Discounting rate to be used under the method is to be the Government of India's lending rate on loans given to State Governments. These rates are notified by Budget Division of Ministry of Finance annually. The latest one is Ministry of Finance OM No F. 5 (3)-PD/2004 dated 22nd July 2004 (as per which the borrowing rate is 9.5%).

4. The following clause is to be incorporated in the RFP:-

“ The Buyer reserves the right to evaluate the offers received by adopting Discounted Cash Flow (NPV) method with a discounting rate of ---%.”

5. The above clause will serve as a model and will need to be moderated according to the requirements of specific contracts and the areas where the evaluation by DCF is likely to be undertaken (e.g. AMC, or different payments terms or lease purchase options etc.). The criteria for evaluation under this method is to be clearly stated to ensure transparency.

6. Suitable Model for Structuring Cash Flows

(a) Structuring Cash Flows for Tenders/ Bids Received in the Same Currency.

- (i) The first step would be to exclude the unknown variables like escalation factors etc while determining the cash flows.
- (ii) Thereafter, the cash outflows expected as per the contract schedule from different tenders should be taken into consideration and where the cash outflows are not available from the tender documents the same should be obtained from the vendors by the CNCs.
- (iii) Once the outflows of different tenders become available, NPV of different tenders is to be calculated using the formula given above and select the one having lowest NPV.

(b) Structuring Cash Flows for Tenders/ Bids Received in Different Currency.

- (i) Where bids are received in different currencies/combination of currencies, the cash outflow may be brought to a common denomination in rupees by adopting a base exchange rate as on the day of opening of price bids. Thereafter, the procedure as described above in the case of tender bids received in the same currency should be applied to arrive at NPV. Conversion of foreign currency bids into rupee is to be done by taking into account the BC selling rate of Parliament Street Branch of State Bank of India, New Delhi on the date of the opening of price bids.
- (ii) Any standard software for example 'Excel', 'Lotus 1-2-3' or any other spreadsheet, which comes preloaded as part of a personal computer could be used for NPV analysis.

GUIDELINES ON CONFIRMATION OF BANK GUARANTEES (BG)
OF FOREIGN BANKS BY INDIAN BANKS

1. In terms of Reserve Bank of India's guidelines issued vide letter No AP (DIR Series) Circular No 15 dated 17 September, 2003, all remittances of foreign exchange beyond US\$ 100,000 are to be against BGs/stand by letter of Credit from *banks of international repute*. Accordingly, Ministry of Defence will obtain Bank Guarantees (BGs) from foreign suppliers from banks of international repute for:-
 - (a) Advances paid to them.
 - (b) Performance of contracts as Performance BGs.
 - (c) Warranty bonds to ensure warranty support of equipments supplied by the vendors.
2. To ascertain whether BGs given by foreign vendors are from banks of international repute, Ministry of Defence will be assisted by Parliament Street Branch of SBI.
3. With a view to institutionalize the procedure to be adopted for obtaining advice of State Bank of India; an 'Arrangement Letter' has been signed with SBI which covers the services that SBI will offer.
4. While CNC commences its commercial deliberations, parallelly SBI's advice on the BG will be sought. The advisory role of SBI will be put to action in the following manner:
 - (a) On receiving details of BG proposed to be submitted by the vendor, the matter is to be referred to SBI.
 - (b) SBI will render its advice within 7 days from the date of receipt of reference/details of the BG from MoD.
 - (c) SBI's advice will be as follows:-
 - (i) In case BG is from a bank of international repute and country rating is satisfactory, SBI will advise MoD to accept BG without need for confirmation of the BG by an Indian bank.
 - (ii) In case the advice of SBI is that the BG is not from a bank of international repute and / or a confirmation of a local bank is required to be obtained by MoD, the vendor will be asked by MoD to instruct its banker to

mutually settle the issue of BG with SBI who will in turn advise MoD regarding further action to be taken.

(iii) Only in case the vendor's bank is unable to settle the issue of BG with SBI, the matter will be referred back to MoD by SBI.

(iv) In such cases, as required, MoD will associate SBI officials in Contract Negotiation Committee (CNC) for settling the issue of BG with the vendors.

(v) In case at any stage SBI advises MoD to go in for confirmation/counter guarantee, MoD may follow the extant guidelines on the subject.

5. Information will be provided by SBI based on the particulars/ data available with SBI as on date of furnishing of such information. The details of information on the basis of which SBI will render its advice as indicated in the Arrangement Letter is at para 4 above.

6. The opinion/advisory services of SBI will not form the sole basis for taking a decision on confirmation of BG in cases where MoD has certain facts and information which are not available to SBI. Such facts and information will also have to be taken into account by MoD while taking a final view on the matter of confirmation of BG.

7. The information given by SBI to MoD in terms of the Arrangement Letter is for the purpose of internal use by MoD and is to be kept confidential. MoD will not disclose this information without prior consent of SBI in any manner whatsoever. Therefore, while addressing any communication to the vendor in terms of para 4 (c) (ii) above, care will have to be taken to convey only the final assessment of SBI regarding the foreign bank, without disclosing any supplementary details given by SBI.

8. All other matters regarding obtaining of advice from SBI on BG are to be governed by the Arrangement Letter.

GUIDELINES OF PROTECTION OF EXCHANGE RATE VARIATION
IN CONTRACTS WITH DEFENCE PSUS.

1. Parameters to be kept in view while formulating ERV Clause

(a) In contracts with PSUs where there is an import content, ERV clause will be provided.

(b) ERV clause will be framed according to the specific requirements of the contract. While calling for information at the RFP stage / formulation of ERV clause in the contracts, the following factors are to be taken into consideration depending upon the requirements of the individual contracts:-

(i) Year wise and major currency wise import content break up to be indicated.

(ii) Detailed time schedule for procurement of imported material and their likely costs to be furnished.

(iii) Based on information given above, the cut off date/dates within the delivery schedule for the imported material to be fixed for admissibility of ERV.

(iv) In case delivery periods for imported content are subsequently to be refixed/extended, circumstances under which ERV be permitted to be indicated.

(v) For purposes of ensuring uniformity, the base exchange rate of the Parliament Street Branch of State Bank of India, New Delhi will be adopted for each of the major foreign currencies.

(vi) ERV clause to clearly indicate that ERV is payable/ refundable depending upon movement of exchange rate with reference to exchange rate prevalent on the date of opening of the tender document.

(vii) Other issues which are peculiar to the contract.

2. Documents to be submitted for claiming ERV

(a) In order to streamline the documents to be submitted to CDA for getting ERV claims passed, PSUs will furnish the following documents:

(i) PSU's invoice for claim

(ii) Worksheet showing ERV calculation

(iii) Copies of banker's certificate / debit advice detailing foreign exchange paid and the exchange rate.

(b) The Import Orders placed on the suppliers and invoice of Suppliers of the relevant Import Orders will remain with the PSUs.

(c) The documents at Para (a) and (b) will be verified by the PSUs internal audit / practicing Chartered Accountant/Cost Accountant. A model format of the Verification Certificate to be issued by internal audit / practicing Chartered Accountant / Cost Accountant is given below :

“We have audited the enclosed FE variation claim and statement under reference Nodated ofcompany with reference to clause No Of Indent/contract No.....dt ofbased on the items and quantities consumed in respect of the item (s) under supply in the contract as per the financial/cost records maintained by the company, related suppliers invoices showing the prices in foreign currency, Banker's certificate certifying the exchange rate prevailing on the relevant date, exchange base rate specified in the relevant indent / contract and(any other documents as specified) and certify that the claim of Rs(Rupees) is within the overall limit specified in the above referred indent / contract.”

Date

(Signature of the Chartered Accountant
or

Cost Accountant or Internal Auditor)

Seal with membership no. of the certifying
Chartered Accountant / Cost Accountant

(d) The certificate of verification will be further authenticated by the Head of Finance of concerned Division of the PSU (not below the level of AGM) as under:

“it is hereby certified that documents on the basis of which ERV claim has been submitted and the basis on which Chartered/Cost Accountant has issued certificate are true and correct and the amount has not been claimed earlier.”

(e) Authenticated signatures of authorized Head of Finance of the PSU will need to be sent to CDA well in advance for their record and verification.

3. CDA, if considered necessary, may undertake a post-audit of the documents as a test check of the effective functioning of the system.

COMMERCIAL OFFER

1. The Commercial Offer should be in the following format:-

<u>Ser No</u>	<u>Items</u>	<u>Nos Required</u>	<u>Unit Cost</u>	<u>Total Cost</u>	<u>Remarks</u>
(a)	Unit cost of fully formed and/or semi knocked down and completely knocked down kits for the quantity being negotiated for.				
(b)	Cost of Transfer of Technology (where applicable).				
(c)	Cost of Manufacturers Recommended List of Spares as per the format given at Annexure 1 to Appendix B. (In case equipment is already in usage the spare parts requirement must be specific rather than being based on MRLS)				
(d)	Cost of Special Maintenance Tools and Special Test Equipment as per format given at Annexure II to Appendix C.				
(e)	Cost of recommended period of training excluding the cost of travel, boarding and lodging separately for operators and maintenance technicians and QA Representative.				
(f)	Cost of operators manual, technical literature including Illustrated Spare Parts List as per Annexure III to Appendix C, in English Language.				
(g)	Details and cost of training aids such as simulators, cut out models, films, charts etc as recommended by the supplier as per Annexure IV to Appendix C.				
(h)	The package cost of equipment/ammunition of various quantities. (Range of quantum of equipment/ammunition be specified).				

(j)	Cost of Optional Equipment.				
(k)	AMC Cost specifying No of years (where applicable)				

Note: The same may be amended by SHQ in consultation with MoD (Fin) on a case to case basis based on the requirement. It is recommended that warranty requirements, in service life and product support requirements are specified in the RFP to put all vendors on an even platform. The various heads maybe carefully examined. Any addition/ deletion/amendment which materially change the L1 may not be permissible at a later stage.

2. Following details should also be given in commercial offers:-

- (a) Payment schedule.
- (b) Delivery schedule that can be adhered to by the supplier with reference to the date of signing of contract.
- (c) Validity of quotation. The prices should be firm and fixed and be valid for 18 months from date of submission.
- (d) Nomenclature of items which will be provided with each equipment as Table of Tools and Equipment (TOTE).

STANDARD CLAUSES IN CONTRACT

LAW

1. The present Contract shall be considered and made in accordance to the laws of Republic of India.

ARBITRATION

2. All disputes or differences arising out of or in connection with the present Contract, including the ones connected with the validity of the present Contract or any part thereof, shall be settled by bilateral discussions.

3. Any dispute, disagreement or question arising out of or relating to this Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall 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, will be referred to the Arbitration Tribunal consisting of three arbitrators.

4. Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

5. The third arbitrator, who shall not be a citizen or domicile or of the country either of the parties or of any other country unacceptable to any of the parties shall be nominated of the parties within (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated by the President of International Chamber of Commerce, Paris, at request of either party but the said nomination would be after consultation with both the parties and shall preclude any citizen or domicile of any country as mentioned. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

6. The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be mutually agreed to between the parties.

7. The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

8. The decision of the majority of the arbitrator shall be final and binding on the parties to this contract.

9. Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the Seller and the Buyer.

10. In the event of a vacancy caused in the office of the arbitrators, the party 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.

11. In the event of one of the parties failing to nominate its arbitrator within 60 days as above or if any of the parties does not nominate another arbitrator within 60 days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least 30 days to request the President of the International Chamber of Commerce to nominate another arbitrator as above.

12. If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

13. 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 arbitration proceedings.

FORCE MAJEURE

14. Should any force majeure circumstances arise, each of the contracting party shall be excused for the non-fulfillment or for the delayed fulfillment of any of its contractual obligations, if the affected party within (___ days) of its occurrence informs in a written form the other party.

15. Force majeure shall mean fires, floods, natural disasters or other acts such as war, turmoil, strikes, sabotage, explosions, quarantine restriction beyond the control of either party.

PENALTY FOR USE OF UNDUE INFLUENCE

16. 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 forborne 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, 1947 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.

17. 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.

18. Further signing of an 'Integrity Pact' would be considered between government department and the bidder for schemes exceeding Rs 300 Crs. The Integrity Pact is a binding agreement between the agency and bidders for specific contracts in which the agency promises that it will not accept bribes during the procurement process and bidders promise that they will not offer bribes. Under the IP, the bidders for specific services or contracts agree with the procurement agency or office to carry out the procurement in a specified manner. The essential elements of the IP are as follows: -

(a) A pact (contract) between the Government of India (Ministry of Defence) (the authority or the "principal") and those companies submitting a tender for this specific activity (the "bidders");

(b) An undertaking by the principal that its officials will not demand or accept any bribes, gifts, etc., with appropriate disciplinary or criminal sanctions in case of violation;

(c) A statement by each bidder that it has not paid, and will not pay, any bribes;

(d) An undertaking by each bidder to disclose all payments made in connection with the contract in question to anybody (including agents and other middlemen as well as family members, etc., of officials); the disclosure would be made either at time of tender submission or upon demand of the principal, especially when a suspicion of a violation by that bidder emerges;

(e) The explicit acceptance by each bidder that the no-bribery commitment and the disclosure obligation as well as the attendant sanctions remain in force for the winning bidder until the contract has been fully executed;

(f) Undertakings on behalf of a bidding company will be made "in the name and on behalf of the company's chief executive officer";

(g) The following set of sanctions shall be enforced for any violation by a bidder of its commitments or undertakings: -

(i) Denial or loss of contract;

(ii) Forfeiture of the bid security and performance bond;

(iii) Liability for damages to the principal and the competing bidders, and

(iv) Debarment of the violator by the principal for an appropriate period of time.

(h) Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

AGENTS/ AGENCY COMMISSION

19. The seller confirms and declares to the buyer that the seller is the original manufacturer of the stores referred to in this contract and has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the contract 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, the Seller will be liable to refund that amount to the Buyer. The Seller will also be debarred from entering into any supply Contract with the Government of India for a minimum period of five years. The Buyer will also have a right to consider cancellation of the Contract 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 along with interest at the rate of 2% per annum above LIBOR rate. The Buyer will also have the right to recover any such amount from any contracts concluded earlier with the Government of India.

ACCESS TO THE BOOKS OF ACCOUNTS

20. In case it is found to the satisfaction of the Buyer that the Seller 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 Seller, on a specific request of the Buyer shall provide necessary information/inspection of the relevant financial documents/ information.

Appendix G
(Refers to Para 33 of
RFP)

OPTION CLAUSE
(No blanks to be left)

The Buyer shall have the right to place separate order on the SELLER on or before ----- (----- year from the date of this contract) limited to 50% of the main equipment, spares, facilities or services as per the cost, terms and conditions set out in this contract. The price of the system, spares etc shall remain same till ----- year from the effective date of the contract. Beyond this, cost will be escalated through application of the mutually agreed escalation formula. CNC to verify that there is no downward trend in prices of the product offered.

OFFSET SCHEDULE

1. **Scope.** The offset obligation will be discharged in any of the forms given below:-

- (a) Direct purchase of or providing market access, or creating new markets by generating export orders for products, components and services from any of the industries covered under para 2 (e) of this appendix.
- (b) Foreign Direct Investment in Indian Public Sector Undertaking for defence industrial infrastructure.

2. **Terms**

- (a) Offer of offset contracts in excess of value specified in RFP will not in anyway impact upon the commercial offer.
- (b) The main contract shall enter into force at the moment the vendor has concluded all the offset contracts with the nominated industries up to the value specified in the RFP. The offset contracts should be concluded not later than within 60 days from the day of entering into the main contract.
- (c) None of the parties shall withdraw from or terminate the offset contracts.
- (d) The laws of The Republic of India will govern all offset contracts.
- (e) The vendor shall be at liberty to negotiate and determine the offset contracts in direct consultation with any of the Defence Public Sector Undertaking /OFB or any of the industries to be identified in consultation with industry associations.
- (f) In case required, it will be the responsibility of the vendor to infuse or provide any technical /financial assistance to the selected partner, as may be required at his cost. However, the cost of the same would not form of the part of the offset offer.

(g) The vendor has to furnish an irrevocable bank guarantee equivalent to the total amount of offset contracts signed with the industry. This will be a mandatory requirement before the main contract becomes operative. As and when the obligations under the offset contract are fulfilled, the corresponding amount will be released from the bank guarantee.

3. **Schedule for Liquidation**

(a) The offset obligation shall commence from the date of signing of the contract and will be executed before the execution of the main contract.

(b) The offset contract would have to be worked out in such a manner that the vendor fulfills his obligations during the validity of the main contract.

(c) The vendor will submit a yearly schedule for implementation of offsets to the CNC. The nodal Defence Public Sector Undertaking will monitor adherence to the same.

4. **Penalties**. In case the vendor fails to meet his offset obligations in a particular year, he will attract penalties as specified below:-

(a) In the event of the non-performance of offset obligations, the value of damages shall be an equivalence of the unperformed offset obligation.

(b) The penalties will be realized as under:-

(i) Compensation of 5% of annual unfulfilled portion of the value of offset obligation will be payable, deducted from the amount due in the main contract.

(ii) The unfulfilled offset value will be carried forward for the subsequent year.

Schedule III
(Refers to Para 24)

*(THIS PAPER LAYS OUT GENERAL GUIDELINES. MAY BE AMENDED
IN CONSULTATION WITH PRODUCTION AGENCY AND OTHER AGENCIES
INVOLVED TO MAKE IT EQUIPMENT SPECIFIC)*

TRANSFER OF TECHNOLOGY (TOT)
(FOR SKD/CKD/IM KIT BASED)

1. Preamble.

- (a) ToT shall be provided to the designated production Agency(s) *(to be decided prior to issue of RFP)*. The key technologies for ToT should be identified prior to issue of RFP jointly by the designated production agency, Defence Research Development Organisation and Ministry of Defence.
- (b) Technology used shall be current, State-of-the-art as used in the contemporary systems.
- (c) The TOT shall be comprehensive, covering all aspects of design, manufacturing know-how and detailed technical information which will enable the Production Agency to manufacture, assemble, integrate, test, install and commission, use, repair, overhaul, support and maintain the licence product from SKD/CKD/IM Kit. Design data shall include the details that are needed to give design disposition during production on deviation/ concession; modify/ upgrade the licence product and substitute parts and systems of the licence product as required by the certifying agency and the production agency.
- (d) The OEM is required to provide the latest version of Configuration Control Document which will provide detailed break down of the product structure in terms of lower level subsystems/ assemblies/ sub-assemblies/ modules/ detail parts/ PVBs/ wiring diagrams etc with their latest modification status. All updates during the term of the Agreement should be provided as and when issued free of cost. Consolidated list of updates during the year should be provided during the first quarter of the subsequent year.
- (e) Vendor should submit an undertaking that he would provide and support complete TOT for phased manufacture to the buyer or his authorized Indian Organization for the System and its sub-systems, modules, assemblies and detailed parts/ components. Support will be provided for a minimum period of 20 years after the last unit is produced under the present proposal.

(f) The vendor should provide total support and facilitate ToT of the sub-systems from his sub-vendors/OEMs if desired by the buyer.

(g) *(To be included on as required basis)* Vendor should submit an undertaking not to exceed* budgetary price for the Transfer of Technology covering the following parameters:-

- (i) License fee.
- (ii) Documentation.
- (iii) Technical Assistance.
- (iv) Training.
- (v) Materials.
- (vi) Spares.
- (vii) Tooling.
- (viii) Special Tools.
- (ix) Standard Tools.
- (x) Ground Support & Test Equipment.
- (xi) Programme Management.
- (xii) Special Infrastructure facilities deemed necessary to support the operations.

*Note : Above 'not to exceed' budgetary quotes are to be provided for both Licenced production and Repair/Overhaul separately.

Vendor may note that this not to exceed budgetary price will be used for commercial evaluation. Vendor selected after technical & commercial evaluation will enter into detailed contractual negotiations on various aspects of the Transfer of Technology to the buyer or his authorized Indian organisation based on the "Not to exceed" budgetary quotes.

(h) It is likely that some of the assemblies/ sub-assemblies/ modules/ PCBs used in the realization of higher level assemblies/ sub-systems and systems are manufactured by the OEM's vendors/ sub-contractors either based on Engineering documentation provided by the OEM or developed by the OEM's vendors/ sub-contractors based on procurement specifications provided by the OEM. Further, as a result of multiplicity of technologies involved and for reasons for price competitiveness arising due to economies of scale, some of the items used in the manufacture of licensed product may be bought out by the OEM from vendors as 'fully finished' against the procurement specifications provided by him.

(j) Although, not desirable, some of the components/ process specifically developed by the OEMs for use in the manufacture of licensed product may be classified by them as 'Proprietary' and not included within the scope of TOT offered to the Production Agency.

(k) To bring in a fair comparison between the TOT offered by various OEMs as also to have a fair assessment of the depth of technology being transferred, OEMs are required to identify each item (system / sub-system / assembly / sub-assembly / module / detail parts / PCB etc) in the product structure under the following categories, as may be applicable and provide information on the relative price for each of the items in the product structure as percentage of product cost.

(i) Category -1. Items, for which complete TOT, i.e., Engineering and Manufacturing documentation to enable the Production Agency carryout fabrication, assembly and test of the item from CKD/IM Kit level as the case may be, is being provided by the OEM, may be classified under the head "CTOT".

(ii) Category -2. Items which are manufactured by the OEM's Subcontractors based on engineering documentation provided by the OEM and these Engineering Documentation are being provided by the OEM to the Production Agency, may also be classified under the head "CTOT".

(iii) Category -3.

(aa) Items in respect of which development and manufacture by the OEM has been subcontracted to its vendors/ sub-contractors based on only the procurement specifications provided by him and the OEM is not in a position to provide any additional technical information to the Production Agency except the procurement drawings/ specifications provided by him to his vendors/ sub-contractors, may be classified under the head Single Vendor "Sub-contract". For the purpose of evaluating the depth of TOT, it will be presumed that the TOT in respect of these items for indigenous manufacture is not provided. OEM shall ensure authorization to its vendors/ sub-contractors to supply items, manufactured against OEM's specifications to the Production Agency against its purchase orders.

(ab) However in such case, the OEM in collaboration with his vendor/ subcontractor, is required to provide the Production Agency, maintenance Documentation, the recommended list of

spares for repair and overhaul as may be applicable and maintenance training at the vendor's/subcontractor's premises, then such vendor items are classified under the head 'Limited TOT for maintenance support', i.e, "M-ToT".

(iv) Category – 4.

(aa) Items including catalogue/ standard items sourced by the OEM against his procurement specifications as 'Fully Finished', are classified as "Bought Out". Evidently TOT for such items for indigenous manufacture will not be available and the OEM will be able to provide only the procurement drawings/specifications, sources of supply. OEM has to ensure the availability of such items or its equivalents during the life cycle of the product. However, in respect of some of the selected items in this category, if the OEM, in collaboration with his vendor, is able to provide the Production Agency documentation for maintenance, recommended list of spares for repair and overhaul as may be applicable and maintenance training in the vendor's premises, then such items may also be classified under the head 'limited TOT for maintenance support' i.e. "M-ToT".

(ab) OEM shall ensure periodical review of obsolescence, study of the Bill of Items (BOIs) and provide a retrieval scheme for a minimum period of 20 years from the production of last unit under the present proposal.

(v) Category –5. Some of the items for which the ownership of Design and Manufacturing Documentation is available with the OEM, but the OEM is not willing to transfer the technology to the Production Agency may be classified under the head 'Proprietary' items. The list of such items shall be far and few and generally restricted to components/processes specifically developed by the OEM for the licensed product. No item in the product structure which is critical from the point of view of significant value addition or which constitutes a significant relative percentage of the product cost (say > 10%), will be acceptable under the head "Proprietary items". Further, at any stage during the life cycle of the Product, if the OEM intends to discontinue the production of Proprietary items, the complete technical documentation in respect of these items available with the OEM or his subcontractors will be passed on to the Production Agency to enable indigenous manufacture or establish alternative routes of meeting the requirement. Also, a base price for such items with an escalation formula for future supplies shall be given for slab quantities by OEM.

(l) The OEMs have to ensure that the depth of Technology being transferred shall enable the Production Agency achieve value addition commensurate with a minimum 30% of the relative cost of the licensed Product through indigenous manufacture in case of CKD kit based ToT and a minimum of 60% of the relative cost of the licensed product through indigenous manufacture in case of IM Kit based ToT (*Percentage of indigenous value addition may vary based on the product*).

(m) No single sub-system/ assembly/ sub-assembly, which constitutes more than 10% of the cost of Licensed product, shall be without TOT option to the Production Agency. In case, such a sub-system/assembly belongs to the 'bought out' category, then the OEM as a prime bidder of the licensed product shall bid in consortium with the concerned vendors with separate ToT proposal for which items included in the bid directly from the relevant vendor. The bid for supplied/ TOT in such a case shall be evaluated as an integrated composite proposal.

(n) OEM shall assist the production agency and take the lead to obtain maintenance related ToT to the maximum extent possible in respect of items covered under category 3 and 4, from his vendor/ sub-contractors.

2. Evaluation of ToT

For CKD Kit based ToT

(a) The vendor not offering the key specified technologies for TOT for categories 1 and 2 and maintenance technologies for category 3 (Single source vendor assemblies) will not be eligible for further evaluation.

(b) In the technical bid, the depth of ToT being provided will be evaluated for comparison purpose as given below:-

(i) Relative Percentage of cost of Category 1 items } (individual & composite) }	Not less than 60% after excluding the corresponding CKD kit cost
(ii) Relative Percentage of cost of Category 2 items } (individual & composite) }	resulting in value addition of not less than 30%)

(iii) Relative Percentage of cost of Category 3 items } (individual & composite) }	Not more
(iv) Relative Percentage of cost of Category 4 items } (individual & composite) }	than

25%

(v) Relative Percentage of cost of Category 5 items } Not more
(individual & composite) } than 15%

(c) Total %age of (i) to (v) should be 100%.

(d) Bids of Vendors with relative percentage of cost of items manufactured indigenously based on ToT minus CKD Kit cost being higher than the minimum specified 30% during the IM Phase will only be considered further for commercial evaluation. (*minimum specified percentage may vary based on the product*).

For IM Kit based ToT

(a) The vendor not offering the key specified technologies for TOT for categories 1 and 2 and maintenance technologies for category 3 (Single source vendor assemblies) will not be eligible for further evaluation.

(b) In the technical bid, the depth of ToT being provided will be evaluated for comparison purpose as given below:-

(i) Relative Percentage of cost of Category 1 items }
(individual & composite) } Not less than 60%

(ii) Relative Percentage of cost of Category 2 items }
(individual & composite)

(iii) Relative Percentage of cost of Category 3 items } Not more
(individual & composite) } than 25%

(iv) Relative Percentage of cost of Category 4 items }
(individual & composite)

(v) Relative Percentage of cost of Category 5 items } Not more
(individual & composite) } than 15%

(c) Total %age of (i) to (v) should be 100%.

(d) Bids of Vendors with relative percentage of cost of items manufactured indigenously based on ToT being higher than the minimum specified 60% during the IM Phase will only be considered further for commercial evaluation. (*minimum specified percentage may vary based on the product*).

3. Phased Manufacturing Programme.

(a) Based on the phased TOT absorption planned by production agency, quantity ____ will be supplied as Fully Finished during Phase-0, quantity _____ as SKD Kit during Phase-1, quantity _____ as CKD Kit during Phase-2 and

quantity _____ as IM Kit during Phase-3, as the case may be. Illustrative phase definitions are given below:-

(i) Phase-0. Shall be based on supply of Fully Assembled and tested product by the OEM.

(ii) Phase-1. Shall be based on supply of Semi Knocked Down (SKD) Kits provided by the OEM. The Semi Knocked Down Kit will consist of sub-systems, assemblies, sub-assemblies, modules etc assembled and tested by the OEM and/ or his vendors/ sub-contractors. The Production Agency will perform the final level assembly and testing of the product.

(iii) Phase-2. Shall be based on supply of Completely Knocked Down (CKD) Kits provided by the OEM in the form of unassembled Bill of Materials. CKD Kit may include certain components/ sub-assemblies Commercially available "Off The Shelf" (COTS) from multiple vendors as fully finished items. Production Agency will carry out assembly and test of individual PCBs/ Modules/ Subassemblies/ Assemblies/ Sub-systems etc from component level and then carry out final assembly and testing of the product.

(iv) Phase-3. Shall be based on supply of proprietary items (IM Kit) by the OEM. Production Agency will perform procurement of all the components/raw materials and carry out complete fabrication, assembly and testing of the product from raw-materials/component stage through various stages of manufacture. *(Phase 3 applicable only for IM Kit based ToT)*.

(b) The time frame for completion of supplies by the OEM for various phases of manufacturing is provided at Annexure 1. Conformance of the vendor to the time schedule provided in Annexure 1 will be one of the important Evaluation Criteria and the bids of OEM's not meeting the time schedules are liable to be rejected.

(c) OEM shall provide complete configuration of SKD, CKD and IM Kits, as the case may be, to the Production Agency to realize the Fully Finished Product. CKD Kits required to meet the spares requirement may be furnished separately. The OEM shall also provide estimated man-hours required for various stages of fabrication, assembly and test to realize the Licensed Product from SKD Kit during Phase-1, CKD kit during Phase-2 and IM kit during Phase-3. Based on experience in his plant supplier shall also provide "Production Mortality" of SKD/CKD/IM kit parts required for realization of final finished product.

(d) OEM shall permit the production agency to sub contract components / assemblies to sub contractors of Production Agency. TOT shall be such that the

production agency is able to procure components / sub-assemblies / test equipment directly from OEM's Sub-contractors / Vendors.

4. Itemized Price List (IPL). The OEM shall provide Itemized parts list in the Technical Bid and itemized price list (IPL) totaling to end product unit cost in Commercial Bid. Man- hours required during various phases of manufacture to realize the fully finished product shall also be provided. The prices of components, fabricated parts, standard items, bought out items, proprietary items as may be relevant shall be provided for various phases of manufacturing programme. The list shall include the source of supply of components, standard items, BOIs and the TOT shall include authorization to production agency to procure these items directly from the sources without going through OEM. *(While this information may be possible for less complex products, it may not be possible if the itemized price list is very voluminous, e.g., aircraft to be manufactured under TOT. Therefore this para of the draft procedure may have to be suitably modified on a case to case basis).*

5. Supply of Documentation .

(a) The TOT Documentation to be provided by the OEM shall be in English language and include documentation under the following heads:- *(In case of procurement from Russian or other foreign vendors, they may be asked to quote translation charges separately to enable the production agencies to decide whether to undertake the translation themselves or to seek the English version of the documentation from the vendor).*

- (i) Engineering documentation
- (ii) Software documentation and Firm ware support manual for embedded software.
- (iii) Manufacturing documentation.
- (iv) Test documentation.
- (v) Technical Manuals.
- (vi) General documentation including Company standards, National and International standards and specifications
- (vii) Additional documentation for repairs centre.
- (viii) Illustrated parts catalogue.
- (ix) Design data- stress, fatigue, performance, qualification, environmental test, life (calendar/ total/ overhaul), where applicable.
- (x) Source identification for BOIs and subcontracted items; standard parts, consumables etc.

- (xi) Spares parts lists and price catalogue for Operator (O), Intermediate (I), and Depot (D) level maintenances.
 - (xii) Recertification/ requalification test plan, series test, special category test due to change in venue of manufacture, where applicable.
 - (xiii) “Red band” units, calibration stands where applicable.
 - (xiv) Quality procedures, plans, ESS, Special tests during production other than ATP.
 - (xv) Data on reliability-FMECA, MTBF, MTBO, MTBUR, MTBR.
- (b) The details/definition of Documentation to be provided by the OEM under the above heads is enclosed at Annexure II.
- (c) The OEM is required to furnish ‘Compliance Statement’ in respect of each type of detailed documentation requirement listed at Annexure II. Non-compliance by the OEM against any of the documentation requirements depending upon its criticality will have an adverse bearing in the evaluation of ToT proposal.
- (d) The documentation to be supplied by the OEM shall be that which is used by the OEM or its sub contractors for the purpose of manufacturing, assembly and testing of the licensed product in their plant. The OEM will ensure completeness and exhaustiveness of the documentation for the purpose and work to be performed by the Production Agency for manufacturing, assembling, testing, installation and commissioning, maintenance and overhaul of the licensed product in his plant. Wherever approval of certification agency is relevant, approved documents will be provided. Certification standards as far as possible will be relevant Military (MIL) Specifications or as mutually agreed with the User’s Certification Agency.
- (e) Documentation as detailed in Annexure II to enable the Production Agency procure, manufacture, operate and maintain the SMTs, STEs, Tools, Jigs and Fixtures required for the FF/SKD/CKD/IM kits manufacturing phase, shall be provided. Wherever software is used, details of the software as per documentation listed at Annexure II including Source Code and Firmware Support Manual shall be provided.
- (f) The OEM shall also provide the data in respect of MTBF, MTBO, MTBR, and Reliability of the product being offered.
6. Product Upgrades. Technical data including relevant Documentation update in respect of any modifications/ improvements/ upgrades undertaken by the OEM in the licensed product during the entire life cycle of the product/licence Agreement shall be

provided to the Production Agency at no additional cost during the entire life- cycle of the product.

7. Training

(a) As part of TOT, Industrial Training required by the Production Agency to realize the Fully Finished Product from SKD, CKD and IM kits, as the case may be, during various manufacturing phases and for providing component level maintenance support to the Customer shall be provided by the OEM. The Industrial Training shall be in English language, comprehensive, covering all aspects of design, manufacture, software, installation and commissioning, system integration and checkout, and component level maintenance of the product down to sub-assembly, modules and PCB level. Apart from classroom training covering the critical aspects, due emphasis will be given to on-the-job training.

(b) All aspects of software are to be comprehensively covered during the software training module with a view to enable Production Agency's software engineers undergoing training to acquire skills in the use, maintenance and update of the software.

(c) Industrial Training shall be in OEM's plants, and/or in the plants of its subcontractors, associates, principals and subsidiaries as the case may be. OEM shall ensure that such training is organized at the time when OEM has the product under production in its plant or in the plant of its vendors.

(d) OEM shall provide complete details of Industrial Training programme, which will include scope, location, number of trainees and the duration for each phase of training in terms of instructor man weeks. Such Industrial Training programme shall be mutually agreed upon between OEM and Production Agency.

(e) Details of the training shall be sub divided into batches with the date of start for each batch, duration of training etc, as will be agreed upon by OEM and Production Agency subject to over all training schedule. Operation and Maintenance training for end user shall also be provided.

(f) Details of Industrial and User Training Programme recommended by the OEM shall be provided as an annexure to the technical proposal. OEM shall provide details regarding the training aids and simulators required at the production agency and at user locations. Long term training of production agencies at the design departments of OEMs shall also be included to give a complete exposure to them on design practices of OEM. This will help in design liaison support including upgrade Modifications/Troubleshooting/Concessions during the entire life cycle of the product.

8. Technical Assistance. As part of ToT, OEM shall provide requisite technical assistance to the production agency during the phased manufacturing programme of the product in India. The details of such technical assistance considered necessary by the OEM shall be provided as an annexure to the technical proposal. The total technical assistance package shall be in number of man weeks spread over number of missions. OEM shall provide question/ answer service and modification advices during the life cycle of the product at no additional cost.

9. Special Maintenance Tools (SMTs) and Special Test Equipment (STEs).

(a) OEM shall provide complete technical data of the SMTs and STEs used in the production, assembly, test and maintenance of product. This information shall also include the data for manufacture and maintenance of the SMTs and STEs. Details on manufacturing hours and cost details are to be provided.

(b) Details of special category test (recertification, production series testing) along with test rig/ test set up shall also be provided. Wherever software is used, details of the software including Source Code and Firmware Support Manual for embedded software shall be provided.

(c) OEM shall provide details of calibration and periodicity of calibration in respect of SMTs and STEs. Details of master tester and associated special facilities required for this purpose (with source of supplies) will be provided by the OEM.

10. Consumables. List of consumables required for the manufacture/maintenance of product along with cost, source details and life data shall be provided.

11. Special Technologies/ Processes. The OEM shall mention in the ToT proposal about special technologies and special coatings and treating processes along with details of plant and machinery/running cost etc vis-à-vis specific components/assemblies.

12. Product Support. OEM shall ensure that the product support including supply of spares and management of obsolescence for a minimum of 20 years from the time the last unit is produced under the present proposal, shall be available to the production agency/its customer. OEM shall also provide a proposal for transferring the complete product support to the production agency in a phased manner.

13. Commercial Proposal. The commercial proposal should be submitted in a separate sealed cover.

14. Transfer of Technology (ToT). OEM shall provide commercial offer for providing complete Know-How and documentation for the manufacturing of product

from SKD, CKD Kits and IM phase, as the case may be, Industrial Training and Technical Assistance and the required rights, licenses and authorization to manufacture, use and sell the product. For the Industrial Training and Technical Assistance phase, man week rate for providing training/ technical assistance in OEM's own plant(s) or in India may be separately provided.

15. Supplies.

(a) FF, SKD,CKD and IM Kits. OEM shall provide itemized price list for supply of FF, SKD, CKD and IM Kits, as the case may be, inclusive of the production mortality used by the OEM during manufacture of product in its plants. Itemized price break-up up to component level is to be provided at the time of signing of the Technical Collaboration Agreement (TCA).

(b) SMTs, STEs, Tools, Jigs and Fixtures. OEM shall also provide complete list with itemised prices for SMTs, STEs, Tools, Jigs and Fixtures required for the SKD, CKD and IM manufacturing phase, as the case may be. In case of Tools, Jigs & Fixtures where large quantities are involved, category-wise prices may be provided. OEM shall also provide prices for 'O' level, 'I' level and 'D' level maintenance facilities of PRODUCT by the User/ Customer.

(c) Bought Out/Outsourced/ Subcontracted Items. OEM shall provide the complete list of items, which are bought out/ outsourced/ subcontracted for use in the manufacture of PRODUCT along with itemized prices and details of the sources for procurement. Authorization for direct procurement by the production agency from these sources shall be given so that no development cost or NRE charges are incurred. In case where suggested sources decline to supply the components/materials, OEM shall take responsibility for supply of same or suggest alternate sources for the procurement of suitable equivalent components/materials during the term of the agreement.

(d) Spares. The OEM shall provide itemized price list of spares required as per three levels of maintenance of PRODUCT as follows:-

(i) 'O' level: _____ set per _____ {product} (total _____ {product} sets) at field units:

(ii) 'I' level: _____ set each for a group of _____ {product} (_____ sets for _____ {product}) at Intermediate level of maintenance; and

(iii) 'D' level: _____ set for _____ {product} at Depot level maintenance.

16. Payment Terms. OEM shall provide the terms of payment for all supplies including ToT forming part of its commercial proposal. Specimen Format for Providing Prices is at Annexure III. (needs to be formulated by the OEM for specific products based on identified milestones).

17. Delivery Schedule. OEM shall provide complete schedule for transfer of documentation, providing of Industrial Training and Technical Assistance, supply FF, SKD, CKD, and IM Kits, as the case may be, Spares, SMTs, STEs, Tools, Jigs and Fixtures to match the overall delivery requirement for manufacture and supply of FF product by the Production Agency. The Documentation for a specific phase shall be provided one month prior to the commencement of training for that phase to enable the trainees study documentation prior to the training. Specimen format for providing delivery schedule is at Annexure I.

18. Liquidated Damages. OEM shall undertake to complete its obligations in accordance with the contractual delivery schedule. For delay in delivery of FF, SKD, CKD and IM Kits, as the case may be, Spares, SMTs and STEs and delays in the implementation of PMP caused by or attributable to the OEM, the Production agency shall be entitled to claim liquidated damages.

19. Warranty.

(a) Documentation. OEM shall warrant that the documentation supplied shall be identical, complete and of equal quality as the documentation used by him in its own activities and shall be accurate and complete for manufacturing, assembling, integrating and testing of the product and shall provide updates including modifications/improvements during the life cycle of the product/tenure of the Licence Agreement.

(b) Material/Equipment/Kit Supply. Items supplied should be free from any defects arising from faulty material, design or workmanship and should be guaranteed for quality/ satisfactory performance for a period of minimum 24 calendar months from the date when the stores are delivered to Production Agency. During this warranty period, defects arising from faulty material, design or workmanship, shall be remedied by OEM at his own cost. If it becomes necessary, the OEM should replace any defective portion of the goods or replace the material/equipment as a whole without any additional cost to production Agency.

(c) All supplied software should be verified & validated by OEM for use of the designated Production Agency.

20. Infringement. OEM shall indemnify and protect at its own cost, the production agency in respect of cost/claims/legal claims/liabilities arising from third party claim with regard to the existence of any patent or intellectual & industrial property right of any such parties in India or from other countries.

21. Performance Guarantee. OEM shall guarantee the performance of the product to design specifications at the production agency/ end customer locations.

22. Validity. The proposal will be kept valid for acceptance for a minimum period of 18 months from the date of submission.
23. Technical Collaboration Agreement (TCA). The OEM shall enter into a detailed Technical Collaboration Agreement (TCA) with Production Agency incorporating mutually agreed terms and conditions.
24. Offsets. The vendor should agree to provide an offset as per the details given in the RFP.
25. Global rights. OEM shall clearly indicate the extent of global rights of sales, which they would be willing to offer to the Indian production agency.

SPECIMEN FORMAT FOR PROVIDING DELIVERY SCHEDULE

Sl. No.	Description	Qty	Month After effective date	Remarks
1	Documentation Transfer in lots for each phase*			
2	Training including Final assembly of SKD/CKD/IMs to FF for each phase			
3	Operation and maintenance course training			
4	Test equipment delivery			
5	First system FAT and Delivery			
6	Spare Parts delivery (“O” level spares)			
7	Spare Parts delivery (“I” level spares)			
8	Spare Parts delivery (“D” level spares)			
9	Test equipment delivery for SKD and CKDs			
10	SKD Kits delivery (_____ kits per month)			
11	CKD Kits delivery (_____ kits per month)			
12	IM Kits delivery (**)(_____ kits per month)			

* Documentation for each phase shall be supplied one month prior to start of training of that phase.

** Applicable for IM Kit based ToT.

DOCUMENTATION DETAILS TO BE PROVIDED BY OEM

1. Engineering Documentation.
(a) Structure Breakdown list
(b) Parts List.
(c) Part Electrical Lists.
(d) Part Drawings.
(e) Assembly drawings.
(f) Cable looking diagram including its part list, connectors and end preparation details.
(g) Configuration Control Document.
(h) Stress Reports (static /fatigue), performance reports, type test Schedule/ records, type test certificate.
(j) For Coils and Transformer: winding details, mechanical drawing, purchased parts specification, details of special processes, moulding tools etc.
(k) Drawings of castings/ forgings with material details, vendor information, heat treatment details.
(l) Details of vendor items specifically developed by the OEM for the Licensed Product.
(m) For PCB Cards: Schematics, general assembly drawings, assembly instructions, SMD location processing files including CAE/CAM files .
(n) Engineering change proposals covering details of modifications.
(o) Wiring List and details including schematics of sub-assembly/ modules/ drawers/ racks.
(p) List of components where trace-ability records are important.
(q) Details of environment tests carried out on equipment and its sub-systems.
(r) With respect to FPGAs the following details are required : ACTEL or SRAM (depending on the manufacture) design files and the complete schematic with i/o details– in the form of a timing diagram of .sim files.
(s) * Bill of materials and Ordering Specifications with Vendors addresses including OEMs specifying MIL grade details.
(t) * Details of non-MIL grade components and their screening procedures.
(u) * Full technical details of ASICS and Hybrid Micro-circuits including manufacturing documents.
(v)* Full technical details of proprietary items, if any (including manufacturing documents).
(w) *Material data sheets-chemical composition/mechanical-properties –for all metallic/non-metallic materials/consumables.
2. Software Documentation.
(As per IEE 12207/MIL-STD-498)
(a) Software Requirement Specification.
(b) Interface design document.
(c) Software change proposals.

(d) Firmware support manual for embedded software.
(e) Software environment/tools including third party procurements.
(f) Software test procedure.
(g) Software User Manual.
(h) Software installation procedure including user settings of pass words, site specific data and any customization code/ key or encryption.
(j) IV & V details (independent verification & validation).
3. Manufacturing Documentation.
(a) Details of B/FPGA programming and testing with co-ordinate detail for placement. Programming file (fuse file in the standard format), programming platform configuration – tools and associated version control document, verification document with check sum details.
(b) Process Sheets including details of special processes and finishes as may be applicable.
(c) Complete set of drawings for tooling, jigs and fixtures as may be applicable.
(d) Photographs of wiring harness/bundling level.
(e) List of shop consumables with details of specifications; source of procurements, data on shelf life.
(f) Assembly tree/sequence, assembly process sheets including assembly settings and checks, assessments to be made, matching sub assemblies, markings.
(g) Any special manufacturing facilities to be set up indicating plant and machinery, test equipment and their vendor details and cost.
(h) Estimated man-hour requirements for assembly and testing at sub-system level.
(j) Inspection stages, quality plan, details of inspection equipment, gauges with sources of supply,
(k) Calibration procedures for inspection equipment, gauges, heat treatment & process equipment (furnace/ baths).
(l) *Operation Sequence Sheets.
(m) * Programme for Production (e.g. NC Tapes/S/W as applicable).
4. Test Documentation.
(a) Factory Test specification, procedure and acceptance test specification, procedure for PCBs, modules and equipment with detailed instructions on test set up, user of test and/ or simulation equipment and software, execution of test with recording of results.
(b) Complete set of drawings for manufacture of test jigs including ATE fixtures, programmes as applicable.
(c) Complete set of drawings for special to test equipment. This will include manufacturing details as well as software documents.
(d) Special category test details (recertification, production series testing, quality assurance testing.
(e) ‘Red band’ units, calibration procedures for test rigs /equipment.

5. Technical Manuals.
(a) User handbook detailing operational use of equipment.
(b) Installation and commissioning manual
(c) Technical description of PCB, Modules, drawers, racks, etc., with details of block diagram, schematic general assembly drawing, timing details, PROM etc.
(d) Maintenance Manual covering.
(e) Permissible worn-out dimension limits, acceptance test procedure and acceptance limits of overhauled product.
(f) Repair / salvage schemes, mandatory replacement parts.
(g) Periodic maintenance.
(h) Trouble shooting and fault diagnosis manual. Testing and repair procedure for faulty PCBs up to component level and peripheral equipment received from the customer.
(j) Structural breakdown list for complete equipment.
(k) Recommended Spares List, site supply and depot stocking.
(l) The Maintenance Manual shall cover the product for which the file of drawings/ documents are given as well as all vendor items which are part of Licensed Product.
(m) Overhauling manuals including details, tests, adjustment, calibration tuning etc., for all levels of equipment.
6. General Documentation (including Standards and Specifications).
(a) Standard inspection method (inward goods in-process and final acceptance).
(b) Process standards/procedures.
(c) Workmanship standards/procedures.
(d) Quality standards/procedures including incoming inspection procedures, quality manuals.
(e) General procedures as may be applicable.
(f) Qualified Vendor Lists as may be applicable.
(g) Standard tools, jigs and fixtures as may be applicable.
(h) Company standards.
(j) ISO 9001 certification of OEM, vendors & subcontractors/ ISO 14000 certification. ISO 9001 certification of OEM, vendors & subcontractors/ ISO 14000 certification.
(k) Material/component and product standards including general fasteners and consumables.
7. Additional Documentation.
Repair center documents including details of Test Instruments, jigs, fixtures etc., for the End User.
8. Documentation shall be provided in the form of hard copy, in microfilm/microfisch and magnetic media, including that required for making copies of technical manuals as specified by the customer. Documentation shall be provided in English Language.

* Applicable for IM Kit based ToT.

Annexure III

SPECIMEN FORMATS FOR PROVIDING PRICES INFORMATION

TOT.			
	Item	Price	Remarks
1	Know-how and documentation	USD _____	Payment shall be subject to deduction of taxes in India as per Double Taxation Avoidance Agreement in accordance with the following schedule (<i>depending on the product, various stages of payments should be included without indicating the quantum of payment</i>) :- 1. Stage 1. --- 2. Stage 2. --- 3. Stage 3. --- 4. - - - -
2	Training		
	(a) Industrial Training covering all aspects for TOT at OEM's facility.	USD __ * Instructor man day / week rate	
	(i) FF Phase ___ working days/ week		Upto ___ trainees Max.
	(ii) SKD Phase ___ working days/ week		Upto ___ trainees Max.
	(iii) CKD Phase ___ working days / week		Upto ___ trainees Max.
	(iv) IM Phase ___ working days/week#		Upto ___ trainees Max.
	(v) Training on design liaison, design practices, design disposition on concessions/ deviation.		Upto ___ trainees Max.

	(b) Operational/ Field Maintenance Training					
	(i) ___ working days/ week in ___ and		Upto ___ trainees and ___ Customer trainees Max.			
	(ii) ___ working days/ week in India		Upto ___ trainees and ___ Customer trainees Max.			
3	Technical Assistance in OEM's Plant to be availed as required	USD _____ * (Man day/ week rate)	Maximum No. of man weeks _____ spread over No. of mission			
			TOTAL			

*-Minimum mandatory Training and Technical Assistance, which can be provided at no additional cost to be indicated.

Applicable for IM Kit based ToT.

COST OF FF, SKD, CKD AND IM KITS, AS THE CASE MAY BE, SPARES AND SMT/ STES.					
	Item	Unit Price in USD	Qty	Total Price in USD	Remarks
1.	_____ - System				
	(a) Fully Finished System				
	(b) SKD Kits				
	(c) CKD Kits				
	(d) IM Kits#				
2.	Spares				
	(a) `O` Level				
	(b) `I` Level				

	(c) `D` Level				
3	SMT's/ STE's*				
	(a) Test Jigs/ Software for `O` level maintenance				
	(b) Test Jigs/ Software for `I` level maintenance				
	(c) Test Jigs/ Software for `D` level maintenance				
	(d) Test Jigs and software for manufacture under TOT				
	*-Excluding Standard Test Equipment				
	TOTAL				

Itemised SKD Kit Price

Part No	Description	Qty	Price in USD

Itemised CKD Kit Price

Part No	Description	Qty	Price in USD

LIST OF SPECIAL MAINTENANCE TOOLS (SMTs) AND SPECIAL TEST EQUIPMENT (STEs).

PART NO.	DESCRIPTION	MODEL	MFR.	QTY	PRICE in USD	REMARKS
(a)	SMTs and STEs required for Maintenance					
(b)	TOT Test Equipment					

LIST OF SINGLE SOURCE VENDOR ASSEMBLIES/ COMPONENTS AND PROPRIETARY ITEMS.

Components	P/N	Price in USD	Vendor
(a)	Single Source Vendor items		
(b)	Proprietary Items		

SPARES.

(a) 'O' Level spare parts list: (set per)

No.	Item Description	Qty per set	Item Price in USD	Total price in USD
	Total			

(b) 'P' Level spare parts list: (set per)

No.	Item Description	Qty per set	Item Price in USD	Total price in USD
	Total			

(c) 'D' Level spare parts list: (set per)

No.	Item Description	Qty per set	Item Price in USD	Total price in USD
	Total			

Agreement between the Government of the Republic of India, Ministry of Defence and
(Name of the company) for (Name of Equipment)

Contract No.
(No. Of the Contract)

I

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CONTRACT NO.(_____)

DATED (_____)

PREAMBLE

This contract is made on this day, the (date) day of (Month & Year) in New Delhi, between the President of India represented by the Joint Secretary and Acquisition Manager (Land Systems), Ministry of Defence, Govt of India, South Block, New Delhi, hereinafter referred to as the Buyer (which terms unless excluded by the context, shall be deemed to include his successor in office) on one part, and M/s (name of the company with address) duly represented by-----, and incorporated under the laws of _____, having its registered office at _____(which terms unless expressly indicated by the context shall be deemed to include its successors and its assignee), hereinafter referred to as the "Seller" on the other part. WHEREAS, The BUYER agrees to buy and the SELLER agrees to sell the goods described in Annexure-I of this contract and in accordance with the terms and conditions of this CONTRACT.

AND WHEREAS the SELLER assures the BUYER that the BUYER has the full and unfettered right to have the supplies manufactured in India through a nominated agency and supply it to the BUYER,

It is hereby agreed and declared by and between the parties hereof:-

ARTICLE 1
SCOPE OF CONTRACT

The Seller undertakes to sell and deliver to the Buyer, and the Buyer undertakes to accept and pay for on the terms & conditions stipulated in this contract, the goods, quantity, unit price, and total value as specified in Annexure-I of the present contract.

ARTICLE 2
EFFECTIVE DATE

2.1 The effective date of the Contract will be the date on which the last of the following conditions is complied with:-

- (a) Performance Bond is furnished by the SELLER in requisite format as at Annexure-II to this contract;
- (b) Export Licence for supply of stores has been obtained by the SELLER and a confirmation in writing sent to the Buyer within ---- days to the BUYER.

(c) Receipt of Bank Guarantee for advance payment to be issued by SELLER

(d) Receipt of the End User Certificate from the BUYER. The BUYER shall provide the End User Certificate within 30 days of signing of the contract.

ARTICLE 3
ADVANCE BANK GUARANTEE

3.1. An Advance Guarantee Bond will be issued in the form of a bank guarantee by (.....SELLER'S BANK.....) through an internationally recognised first class bank within 30 days of the signing of the contract in favour of Government of India, Ministry of Defence to be confirmed by State Bank of India/Bank of India/Bank of Baroda/Canara Bank equal to ____% of the total value of this contract i.e. for US \$ (in words US Dollars only).

3.2. The specimen of the Advance Guarantee Bond is mentioned in Annexure-II to this contract.

3.3. The Advance Guarantee Bond shall be considered open upon receipt by the BUYER's bank.

3.4. The Advance Guarantee Bond shall be proportionately and automatically reduced until full extinction along with and prorate to the value of each delivery as evidenced by the corresponding copy of document proving delivery (Bill of Lading or Air Way Bill, as the case may be) and the invoices of goods/services supplied/provided.

ARTICLE 4
PERFORMANCE BOND

4.1. A Performance Bond will be issued in the form of a bank guarantee by (.....SELLER'S BANK.....) through an internationally recognised first class bank within 30 days of the signing of the contract in favour of Government of India, Ministry of Defence to be confirmed by State Bank of India/Bank of India/Bank of Baroda/Canara Bank equal to 5% (five percent) of the total value of this contract i.e. for US \$ (in words US Dollars only).

4.2. A specimen of the Performance Bond is at Annexure-I] to this contract.

4.3. The Performance Bond shall be considered open upon receipt by the SELLER's bank.

4.4. The Performance Bond shall remain valid up to 90 days after the JRI and acceptance of last consignment in India. (In the event the supplies will be delivered in more than one consignment, the value of the Performance Bond shall be reduced until full extinction upon the completion of the JRI and acceptance of goods/services of each consignment, as such delivery shall be certified by the acceptance certificate to be

issued by the BUYER after the JRI, in proportion to five percent (5%) of the value of the invoice. (On request of SELLER).

4.5. In case any claims or any other contract obligations are outstanding, the SELLER will extend the performance bond as asked by the BUYER till such time the SELLER settles all claims and completes all contract obligations.

4.6. The Performance Bond will be subject to encashment by the BUYER, in case, conditions regarding adherence to delivery schedule, settlement of claims and other provisions of the contract are not fulfilled by the SELLER.

ARTICLE 5
PAYMENT TERMS

5.1. The total value of the stores to be delivered according to this Contract amounts to US \$ (In words US Dollars only).

5.2. The payment will be made in free convertible US Dollars.

5.3. Advance Payment. _____% of total value of contract, that is to say USD _____, shall be paid within 30 days from date of receipt of under mentioned documents, whichever is later, through Bank Transfer:-

(a) Advance Guarantee Bond.

(b) Commercial invoice for the advance amount with contract number indication (2 original and 4 copies).

5.4. The SELLER shall notify the readiness of goods 30 days prior to delivery of each consignment showing the quantity, nomenclature, unit price and total value of the consignment.

5.5. _____% i.e. US\$ (In words US Dollars only) of the value of each consignment shall be paid by an irrevocable, Letter of Credit with validity of 90 days, opened through State Bank of India, New Delhi with (NAME OF SELLER's BANK & ACCOUNT) in favour of the SELLER. The terms and condition of the Letter of Credit shall be advised to (NAME OF SELLER's BANK & ACCOUNT) by the State Bank Of India by a cable and the period of 90 days shall be reckoned from the date on which such advise is sent.

5.6. The LCs shall be opened as follows:-

(a) First LC amounting to _____ USD.

(b) Second LC amounting to _____ USD.

(c) Third LC amounting to _____ USD.

5.7. The BUYER will open the Letter of Credit for each consignment within 45 days from the following dates whichever is later: -

- (a) Date of receipt by BUYER of SELLER's notification of the readiness of the consignment,
- (b) Date of receipt by BUYER of performance bond from the SELLER of the consignment.
- (c) Date of receipt by BUYER of warranty bond from the SELLER of the consignment.

5.8. In the event of delay in opening the Letter of Credit, the delivery date will automatically stand extended to that extent.

5.9. All expenses connected with establishment of the Letter of Credit in India will be borne by the BUYER and those outside India will be borne by the SELLER.

5.10. Where the extension of the validity of Letter of Credit is necessitated, the Bank charges for extension shall be borne by the party whose default causes such an extension.

5.11. The payment from the Letter of Credit for equipment, spares, STEs etc, ____ % of the invoice value will be made against presentation of the following documents toSELLER's BANK:-

- (a) SELLER's commercial invoice in sextuplicate, showing the number of the Contract, quantity and Denomination of the Equipment delivered and the amount.
- (b) Full set of Originals "Clean on Board" Bills of Lading/Air way bill.
- (c) Packing List, six copies.
- (d) Certificate of Origin, duly stamped by the Seller's Chamber of Commerce.
- (e) Certificate of Conformity and Acceptance test report at the Pre Despatch Inspection signed by BUYER's and the SELLER's quality Assurance Department. In case BUYER's reps do not attend the PDI, then certificate issued by the BUYER that it does not wish to attend the PDI and Inspection and acceptance certificate issued by the SELLER.
- (f) Certificate of current manufacture.
- (g) Insurance documents for 110% of the cost of consignment in case of CIF or CIP contracts.

5.12. No transshipment of goods is allowed and no part shipment is permitted.

5.13. Three copies of SELLER's Invoices, shipping documents and the specifications will be sent by courier and fax by the SELLER to the BUYER (DDG PPO, Master General of Ordnance Branch, Army Headquarters, DHQ PO, New Delhi - 110 011, India, Fax: 379 3337) within 3 days after the equipment has been shipped.

5.14. Any demurrage charges incurred by the Port Consignee due to late submission/incorrect submission of the shipping documents by the SELLER as per Article above would be borne by the SELLER.

5.15. All payments will be carried out with reference to the number of this contract.

5.16. Balance Payment. The balance payment for ___% value of each consignment shall be paid to the SELLER by Bank Transfer within 45 days of completion of Joint Receipt Inspection (JRI) and Acceptance of goods against presentation of following documents:-

- (a) Copies of invoices (three copies).
- (b) Copy of JRI and acceptance certificate issued by the BUYER.

5.17. Seller's banker address and account number: -

Account No.:
Sort code :
SWIFT Code :

ARTICLE 6 SPECIFICATION

6.1 The SELLER guarantees to meet the specifications as per Annexure-IIIA, the statement of work as per Annexure-IIIB and to incorporate the modifications to the existing design configuration to meet the specific requirement of the Indian Army as per Annexure-IV and modifications/requirements recommended after the confirmatory trials/MET, in the first off production model of (Year) to be supplied to the BUYER. All technical literature and drawing shall be amended as the modifications by the SELLER before supply to the BUYER.

6.2 The SELLER, in consultation with the BUYER, may carry out technical upgradation/alterations in the design, drawings and specifications due to change in manufacturing procedures, indigenisation or obsolescence. This will, however, not in any way adversely affect the end specifications of the equipment. 'Changes in technical details, drawings repair and maintenance techniques alongwith necessary SMTs/STEs/TJs as a result of upgradation/alterations will be provided to the buyer free of cost within () days of affecting such upgradation/alterations.'

ARTICLE 7
QUALITY

The quality of the stores delivered according to this Contract shall correspond to the technical conditions and standards valid for the deliveries of the same stores for in SELLER's Country or specifications enumerated as per Article 4 and shall also include therein modification to the stores suggested by the BUYER. Such modifications will be mutually agreed to. The SELLER confirms that the stores to be supplied under this Contract shall be new ie not manufactured before, and shall incorporate all the latest improvements and modifications thereto and spares of improved and modified equipment are backward integrated and interchangeable with same equipment supplied by the SELLER in the past if any. The SELLER shall supply an interchangeability certificate along with the changed part Nos.

ARTICLE 8
PRE DESPATCH INSPECTION (PDI)

8.1. The BUYER representatives will carry out Pre Despatch Inspection (PDI) of the Equipment in order to check their compliance with specifications in accordance with its usual standard procedures. Upon successful completion such PDI, the SELLER and BUYER will issue and sign a Certificate of Conformity as per specimen at Annexure-V. The format given is not sacrosanct and may be altered as per requirement of the equipment.

8.2. The SELLER shall intimate the BUYER and DGQA (as per address given in Para 8.7) at least 45 days before the scheduled date of PDI. The time for visa formalities by the SELLER should not be inclusive in this notice. The BUYER will send his authorised Representatives to attend the PDI.

8.3. The list of BUYER's representatives together with their particulars including name, title, date and place of birth, passport numbers including date of issue and date of expiry, address, etc. must be communicated by the BUYER at least (No of days) in advance to apply for the necessary authorisations and clearances to be granted.

8.4. The BUYER reserves the right not to attend the PDI or to request for a delay in the beginning of the PDI with a maximum of fifteen (15) days from the date fixed for such PDI in order to allow his Representatives 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 delay, then liquidated damages, if any, shall not apply. In case the BUYER has informed the SELLER within the period mentioned here-above 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 will be signed by the SELLERs QA representative alone and such documents bearing the sole signature of the SELLER's QA representative shall have the same value and effect as if they have been signed by both Parties. In case BUYER does not elect to attend the PDI, then the

BUYER shall intimate the SELLER in writing as per specimen at Annexure-VI that it does not wish to attend the PDI.

8.5. The SELLER shall provide all reasonable facilities, access and assistance to the BUYER's Representative for safety and convenience in the performance of their duties in SELLER's Country.

8.6. All costs associated with the BUYER's Representative stay in (Name of country), including travel expenses, boarding and lodging accommodation, daily expenses, shall be borne by the BUYER.

8.7. The SELLER shall provide Acceptance Test Procedure to the BUYER's DGQA within one (1) month from this Contract signature at the following address:-
DGQA ()
DHQ PO, New Delhi 110011...FAX No _____

ARTICLE 9
PACKING AND MARKING

9.1. The SELLER shall provide packing and preservation of the equipment and spares/goods contracted so as to ensure their safety against damage in the conditions of land, sea and air transportation, transshipment, storage and weather hazards during transportation, subject to proper cargo handling. The SELLER shall ensure that the stores are packed in containers, which are made sufficiently strong, and with seasoned wood. The packing cases should have hooks for lifting by crane/fork lift truck. Tags with proper marking shall be fastened to the special equipment, which cannot be packed.

9.2. The packing of the equipment and spares/goods shall conform to the requirements of specifications and standards in force in the territory of the SELLER's country.

9.3. Each spare, SMT, STE and accessory shall be packed in separate cartons. A label in English shall be pasted on the carton indicating the under mentioned details of the item contained in the carton. A tag in English with said information shall also be attached to six samples of the item. If quantity contracted is less than six then tag shall be affixed to complete quantity contracted of the item. The cartons shall then be packed in packing cases as required.

- (a) Part Number:
- (b) Nomenclature:
- (c) Contract annex number:
- (d) Annex serial number:
- (e) Quantity contracted:

9.4. One copy of the packing list in English shall be inserted in each cargo package, and the full set of the packing lists shall be placed in Case No.1 painted in a yellow colour.

9.5. The SELLER shall mark each package with indelible paint in the English language as follows:-

EXPORT

Contract No. -----

Consignee -----

Port / airport of destination -----

Ultimate consignee -----

SELLER -----

Package No. a/b -----

Gross/net weight: kg -----

Overall dimensions/volume: cm/cu m -----

The SELLER's marking,

Where: a – Serial No. of package;

b – total number of packages in this consignment.

9.6. If necessary, each package shall be marked with warning inscriptions: <Top>, "Do not turn over", category of cargo etc.

9.7. Should any special equipment be returned to the SELLER by the BUYER, the latter shall provide normal packing, which protects the equipment and spares/goods from the damage of deterioration during transportation by land, air or sea. In this case the BUYER shall finalize the marking with the SELLER.

ARTICLE 10
DELIVERY

10.1. The delivery of the goods shall be affected in accordance as per the schedule laid down in Annexure-IIIB ser 3.1.2 as per consignees mentioned hereinafter.

10.2. Port Consignee.

(a) Equipment. Commandant (COD, Delhi Cantt / Commandant Embarkation HQ, Mumbai).

(b) Ammunition. Commandant NAD Alwaye.

10.3. Ultimate Consignee.

(a) Equipment. Commandant (Name of Depot).

(b) Ammunition. Commandant (Name of Depot).

10.4. The SELLER shall intimate to the BUYER by letter or fax, six weeks in advance, the anticipated date of delivery of each consignment. The information shall consist of quantities of the goods and all other details required in connection with the shipment of the consignment. A copy of similar intimation shall also be forwarded to: -

- (a) DDG/PPO, MGO Branch, Army Headquarters, New Delhi, Fax No.91-11-23793337.
- (b) D(MC), Government of India, Ministry of Defence, South Block, New Delhi, Fax No.91-11-23011455.
- (c) ADG WE, Army Headquarters, New Delhi, Fax No.91-11-23793274.
- (d) ADG EME (ESM), Directorate General of EME, Army Headquarters, New Delhi, Fax No.91-11-23018461.
- (e) Dir OS (PP&C), OS Dte, AHQ, New Delhi – 110011.
- (f) Commandant COD ultimate Consignee Depot, Fax No.91-562-2261057.
- (g) Commandant Port Consignee, Fax No.91-11-25694739.
- (h) DGQA (), South Block, New Delhi Fax No.91-11-_____.

10.5. Invoices and other dispatch documents shall be prepared in favour of PCDA (Hqrs) G Block, New Delhi-11.

10.6. Two copies each of dispatch documents as listed in LC documents shall be forwarded by air Courier to the following addresses within 72 hours after the goods have been dispatched or earlier, if possible: -

- (a) Port Consignee.
- (b) DDG PPO, MGO Branch, Army Headquarters, New Delhi-110011.
- (c) Ultimate consignee.

10.7. The SELLER will also forward a copy of the Airway Bill and Commercial invoice by fax on the day of despatch to DDG PPO, MGO Branch, Army Headquarters, New Delhi, Fax No.91-11-23793337.

ARTICLE 11
TRANSPORTATION

TRANSPORTATION (BY SEA-FOB)

11.1. The stores shall be delivered FOB (as per INCOTERMS 2000, or latest version).

11.2. The stores shall be delivered to the BUYER by Indian Ships only. Shipping arrangements will be made by the Shipping Officer, Ministry of Surface Transport, Chartering Wing, Transport Bhavan, Parliament Street, New Delhi-110011 (Telegraphic Address: TRANSCART, NEW DELHI-1, Telex "VAHAN" In 31-61157 OR 31-61158, Phone 2371 9480, Fax 2371 8614) to whom adequate notice of not less than 8 weeks about the readiness of stores for shipment should be given by the SELLER under intimation to the BUYER for finalising the Shipping arrangements.

11.3. The date of issue of the Bill of Lading shall be considered as the date of delivery.

11.4. No part shipment of goods is permitted. Trans-shipment of goods is not permitted.

OR

TRANSPORTATION (BY AIR-FCA)

11.1. The delivery of the goods shall be FCA _____ Airport (as per INCOTERMS 2000 or latest version).

11.1.2 The dispatch of goods shall be made by air to port 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 which shall be at the BUYER's expense. Any delay in advising or delay by the freight forwarder shall be at the responsibility of the BUYER.

11.1.3. The date of issue of the Air Way Bill shall be considered as the date of delivery.

ARTICLE 12
AIRLIFT

Should the BUYER intend to airlift all or some of the stores the SELLER shall pack the stores accordingly on receipt of intimation to that effect from the BUYER. Such deliveries will be agreed upon well in advance and paid for as may be mutually agreed.

ARTICLE 13
LIQUIDATED DAMAGES

13.1. In the event of the SELLER's failure to submit the Bonds, Guarantees and Documents, supply the stores/goods and conduct trials, installation of equipment, training and MET as per schedule specified in this contract, the BUYER may, at his discretion withhold any payment until the completion of the contract. The BUYER may also deduct from the SELLER as agreed, liquidated damages to the sum of 0.5% of the contract price of the delayed/undelivered stores/services mentioned above for every

week of delay or part of a week, subject to the maximum value of the Liquidated Damages being not higher than 5% of the total value of the contract.

ARTICLE 14
JOINT RECEIPT INSPECTION (JRI) IN INDIA

14.1 The Parties agree that the Joint Receipt Inspection (JRI) of delivered goods shall be conducted out on arrival in India at location to be nominated by BUYER. JRI shall be completed within 120 days (for armt/amn)/ 90 days (for other than armt/amn) of arrival of good at Port Consignee. JRI will 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 Equipment as per specifications in this contract and as per procedures and tests laid down by Indian DGQA. Functional checking of spares shall not be done.
- (c) Check Proof and firing shall be carried out for armament and ammunition, as per procedure and tests laid down by Indian DGQA.

14.2. JRI will be carried out by the BUYER's Representative. The BUYER will invite the SELLER with a minimum fifteen (15) days prior notice to attend the JRI for the delivered goods. The SELLER reserves the right not to attend the JRI. The bio data of the SELLER's Representative will be communicated fifteen (15) days prior to the despatch of goods to the BUYER for obtaining the necessary security clearance in accordance with the rules applicable in the BUYER's country.

14.3. Upon completion of each JRI, JRI proceedings and Acceptance Certificate as per Annexure 8, will be signed by both Parties. In case the SELLER's representative is not present then the JRI proceedings and Acceptance Certificate shall be signed by the BUYER's representative only and same shall be binding on the SELLER. Copy of JRI proceedings and Acceptance Certificate shall be despatched to SELLER within 30 days of completion of JRI. In case of deficiencies in quantity and quality or defects, details of these shall be recorded in the JRI proceedings, Acceptance Certificate shall not be issued and claims raised as per Article on Claims in this contract. In case of claims, Acceptance Certificate shall be issued by BUYER's representative after all claims raised during JRI are settled.

14.4. If the BUYER does not perform the JRI as per mentioned above for reasons exclusively attributable to him, then the JRI in India shall be deemed performed and the Equipment fully accepted.

ARTICLE 15
WARRANTY

15.1. The SELLER warrants that the goods supplied under this contract conform to technical specifications prescribed and shall perform according to the said technical specifications.

15.2. The SELLER warrants for a period of _____ months from the date of acceptance of stores by Joint Receipt Inspection or date of installation and commissioning whichever is later, that the goods/stores supplied under this contract and each component used in the manufacture there of shall be free from all types of defects/failures.

15.3. If within the period of warranty, the goods are reported by the BUYER to have failed to perform as per the specifications, the Seller shall either replace or rectify the same free of charge, maximum within 45 days of notification of such defect received by the SELLER, provided that the goods are used and maintained by the BUYER as per instructions contained in the Operating Manual. Warranty of the equipment would be extended by such duration of downtime. Record of the down time would be maintained by user in logbook. Spares required for warranty repairs shall be provided free of cost by SELLER. The SELLER also undertakes to diagnose, test, adjust, calibrate and repair/replace the goods/equipment arising due to accidents by neglect or misuse by the operator or damage due to transportation of the goods during the warranty period, at the cost mutually agreed to between the BUYER and the SELLER.

15.4. SELLER hereby warrants that necessary service and repair back up during the warranty period of the equipment shall be provided by the SELLER and he will ensure that the downtime is within 20 % of the warranty period.

15.5 SELLER shall associate technical personnel of maintenance agency and QA of BUYER during warranty repair and shall also provide the details of complete defects, reasons and remedial actions for defects.

15.6. If a particular equipment/goods fails frequently and/or, the cumulative down time exceeds 20% of the warranty period, the complete equipment shall be replaced free of cost by the SELLER within a stipulated period of 45 days of receipt of the notification from the BUYER duly modified/upgraded through design improvement in all equipment supplied / yet to be supplied and ESP supplied and yet to be supplied. Warranty of the replaced equipment would start from the date of acceptance after JRI by the buyer/date of installation and commissioning.

15.7. In case the complete delivery of Engineering Support Package is delayed beyond the period stipulated in this contract, then SELLER undertakes that the warranty period for the goods/stores shall be extended to that extent.

15.8 The SELLER will guarantee the shelf life of () years under the Indian tropical condition as given below, provided it is stored in original manufacturers packing:-

(a) Minimum temperature - -40°C.

- (b) Maximum temperature - +55⁰C, plus 1140 w/m square solar radiation equivalent plus 70⁰.
- (c) Average Humidity (RH) - 65%.

15.9 For procurement of oils and lubricants the following will be included: -

- (a) The seller warrants that the special oils and lubricants required during the warranty period of the equipment shall be provided by the seller himself.
- (b) The penalty amounting to (%) of the value of the equipment shall be imposed on the seller in case the seller refuses or fails to meet the requirement of oils and lubricants during the warranty period of the equipment.
- (c) The seller shall make available the detailed specifications of all oils and lubricants required to be used in the equipment at the line of initial delivery of equipment to facilitate identification and development of indigenous equivalents to be used after the expiry of the warranty period.

ARTICLE 16
WARRANTY BOND

16.1. A Warranty Bond will be issued in the form of a bank guarantee by (.....SELLER'S BANK.....) through an internationally recognised first class bank 30 days before delivery of first consignment in favour of Government of India, Ministry of Defence to be confirmed by State Bank of India/Bank of India/Bank of Baroda/Canara Bank equal to 5% (five percent) of the total value of this contract i.e. for US \$ (in words US Dollars only).

16.2. The specimen of the Warranty Bond is at Annexure-II to this contract.

16.3. The Warranty Bond shall be considered open upon receipt by the BUYER's bank.

16.4. The Warranty Bond shall remain valid up to ----- months after the JRI and acceptance of last consignment in India. (In the event the supplies will be delivered in more than one consignment, the value of the Warranty Bond shall be reduced until full extinction two months after expiry of warranty of each consignment, in proportion to five percent (5%) of the value of the invoice of each consignment.) On request of SELLER

16.5. In case any claims or warranty obligations are outstanding, the SELLER will extend the warranty bond as asked by the BUYER till such time the SELLER settles all claims and completes all warranty obligations.

16.6. The warranty Bond will be subject to encashment by the BUYER, in case, conditions regarding warranty and settlement of claims in the contract are not fulfilled by the SELLER.

ARTICLE 17
CLAIMS

17.1 The claims may be presented either:-

- (a) On Quantity of the stores. In case it does not correspond to the quantity shown in the Packing List/Insufficiency in packing or,
- (b) On Quality of the stores. In case it does not correspond to the quality mentioned in this contract.

17.2 The quantity claims for deficiency of quantity shall be presented within 45 days of completion of JRI and acceptance of goods. The quantity claim shall be submitted to SELLER in the form at Annexure-VII (To be provided by MGO (PPO)) to this Contract.

17.3 The quality claims for defects or deficiencies in quality noticed during the JRI shall be presented within 45 days of completion of JRI and acceptance of goods. Quality claims shall be presented for defects or deficiencies in quality noticed during warranty period earliest but not later than 45 days after expiry of the guarantee period. The quality claims shall be submitted to SELLER in the form at Annexure-VII to this contract.

17.4 The description and quantity of the stores are to be furnished to the SELLER along with concrete reasons for making the claims. Copies of all the justifying documents shall be enclosed to the presented claim. The SELLER will settle the claims within 45 days from the date of the receipt of the claim at the SELLER's 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.

17.5 The SELLER shall collect the defective or rejected goods from the location nominated by the BUYER and deliver the repaired or replaced goods at the same location under SELLER's arrangement.

17.6. Claims may also be settled by deduction of cost of goods under claim from bonds submitted by the SELLER or payment of claim amount by SELLER through demand draft drawn on Indian Bank, in favour of PCDA HQ, New Delhi, payable at New Delhi.

17.7. "The quality claims will be solely raised by the BUYER and without any certification/countersigning by SELLER's representative stationed in India.

ARTICLE 18
TAXES AND DUTIES

18.1 All taxes, duties, levies and charges which are to be paid for the delivery of goods, including advance samples, shall be paid by the parties under the present contract in their respective countries.

ARTICLE 19
TERMINATION

19.1 The Buyer shall have the right to terminate this Contract in part or in full in any of the following cases :-

- (a) The delivery of the material is delayed for causes not attributable to Force Majeure for more than (__months) after the scheduled date of delivery.
- (b) The SELLER is declared bankrupt or becomes insolvent.
- (c) The delivery of material is delayed due to causes for Force Majeure by more than (__months).
- (d) The BUYER has noticed that the SELLER has utilised the services of any Indian/Foreign agent in getting this contract and paid any commission to such individual/company etc.
- (e) As per decision of Arbitration Tribunal (Article 21).

ARTICLE 20
LAW

20.1 The present Contract shall be considered and made in accordance to the laws of Republic of India. This contract shall be governed by and interpreted in accordance with the laws of the Republic of India.

ARTICLE 21
ARBITRATION

21.1. All disputes or differences arising out of or in connection with the present Contract, including the one connected with the validity of the present Contract or any part thereof, shall be settled by bilateral discussions.

21.2. Any dispute, disagreement or question arising out of or relating to this Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall 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, will be referred to the Arbitration Tribunal consisting of three arbitrators.

21.3 Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

21.4. The third arbitrator, who shall not be a citizen or domicile or of the country either of the parties or of any other country unacceptable to any of the parties shall be nominated of the parties within (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provisions of the Indian Arbitration and Conciliation Act, 1996, or by arbitration or dispute resolution institutions, such as Indian Council of Arbitration, ICADR, at request of either party but the said nomination would be after consultation with both the parties and shall preclude any citizen or domicile of any country as mentioned. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

21.5. The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be mutually agreed to between the parties.

21.6. The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

21.7. The decision of the majority of the arbitrator shall be final and binding on the parties to this contract.

21.8. Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the Seller and the Buyer, unless otherwise awarded by the Arbitration Tribunal.

21.9 In the event of a vacancy caused in the office of the arbitrators, the party 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.

21.10. In the event of one of the parties failing to nominate its arbitrator within 60 days as above or if any of the parties does not nominate another arbitrator within 60 days of the place of arbitrator failing vacant, then the other party shall be entitled after due notice of at least 30 days to request the Indian Council of Arbitration, ICADR, to nominate another arbitrator as above.

21.11. If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

21.12. 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 arbitration proceedings.

ARTICLE 22
PENALTY FOR USE OF UNDUE INFLUENCE

22.1. 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 forborne 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, 1947 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.

22.2. 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 favor 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.

ARTICLE 23 AGENTS/AGENCY COMMISSION

23.1 The SELLER confirms and declares to the BUYER that the seller is the original manufacturer of the stores referred to in this contract and has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the contract 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, the SELLER will be liable to refund that amount to the BUYER. The Seller will also be debarred from entering into any supply Contract with the Government of India for a minimum period of five years. The BUYER will also have a right to consider cancellation of the Contract 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 along with interest at the rate of 2% per annum above LIBOR rate. The BUYER will also have the right to recover any such amount from any contracts concluded earlier with the Government of India.

ARTICLE 24
FORCE MAJEURE

24.1 Should any Force Majeure circumstances arise, each of the contracting party shall be excused for the non-fulfillment or for the delayed fulfillment of any of its contractual obligations, if the affected party within (*days*) of its occurrence informs in a written form the other party.

24.2 Force Majeure shall mean fires, floods, natural disasters or other acts, that are unanticipated or unforeseeable, and not brought about at the instance of, the party claiming to be affected by such event, or which, if anticipated or foreseeable, could not be avoided or provided for, and which has caused the non-performance or delay in performance, such as war, turmoil, strikes, sabotage, explosions, quarantine restriction beyond the control of either party.

24.3 A party claiming Force Majeure shall exercise reasonable diligence to seek to overcome the Force Majeure event and to mitigate the effects thereof on the performance of its obligations under this contract.

ARTICLE 25
NON DISCLOSURE OF CONTRACT DOCUMENTS

25.1 Except with the written consent of the BUYER/SELLER, other party shall not disclose the contract or any provision, specification, plan, design, pattern, sample or information thereof to any third party.

ARTICLE 26
NOTICES

26.1 Any notice required or permitted by this contract shall be in written in English language and may be delivered personally or may be sent by FAX, TELEX, Cable or registered pre paid airmail, addressed to the last known address of the party to whom it is sent.

ARTICLE 27
TRANSFER AND SUB-LETTING

27.1 The SELLER has no right to give, bargain, sell, assign or sublet or otherwise dispose of the Contract or any part thereof, as well as to give or to let a third party take benefit or advantage of the present Contract or any part thereof.

ARTICLE 28
PATENTS AND OTHER INDUSTRIAL PROPERTY RIGHTS

28.1 The prices stated in the present Contract shall be deemed to include all amounts payable for the use of patents, copyrights, registered charges, trade marks and payments for any other industrial property rights.

28.2 The seller shall indemnify the Buyer against all claims from a third party at any time on account of the infringement of any or all the rights mentioned in the previous paragraphs, whether such claims arise in respect of manufacture or use. The SELLER shall be responsible for the completion of the supplies including spares, SMTs/STEs, technical literature and training aggregates irrespective of the fact of infringement of the supplies, irrespective of the fact of infringement of any or all the rights mentioned above.

ARTICLE 29
AMENDMENTS

29.1 No provision of this contract shall be changed or modified in any way (including this provision) either in whole or in part except by an instrument in writing made after the date of this contract and signed on behalf of both parties and which expressly states to amend this contract.

ARTICLE 30
PRODUCT SUPPORT

30.1 The SELLER agrees to provide Product Support for the stores, assemblies/subassemblies, fitment items and consumables, SMTs/STEs subcontracted from other agencies/manufacturer by the seller for a maximum period of (years) including (years) of warranty period after the delivery of (name of equipment). 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, at a time, at terms and conditions mutually agreed between the Supplier and the Indian manufacturer.

30.2 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/Indian manufacturer will be undertaken to arrive at an acceptable solution including additional cost, if any.

30.3 Any improvement/modification/up gradation being undertaken by (M/s name of company) on (name of equipment) or their sub suppliers 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.

30.4 The SELLER agrees to provide an Engineering Support Package as specified in Article 34 as modified after confirmatory MET. 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 five years as maintenance contract specified at para 30.1 above or provision of complete ESP to the BUYER viz EME which ever is later, as per terms and conditions mutually agreed between the SELLER and the BUYER.

ARTICLE 31
TRAINING

31.1 The SELLER shall provide the following training to the personnel of the BUYER free of charge :

(a) Operator Training:

(i) (Duration) at OEM'S premises for a maximum of () officers.

(ii) () days per group in India, to a maximum of () personnel in () groups of () each.

(b) Repair and Maintenance Course.

(i) Field Repair/Maint. (weeks) at OEM'S premises for (composition of the team to be specified).

(ii) Base Repair/Maint. (weeks) at OEM, premises for (composition of the team to be specified).

(c) The seller will provide training to the QA reps of the buyer for () days on various aspects of quality assurance of equipment.

(d) The syllabus of training as above will be decided within --- months of MET by the BUYER and shall meet the needs of repair and maintenance of the complete equipment, SMTs/STEs, test set up, assemblies/sub assemblies as per the existing repair concept of Indian Army as covered under Article 32.

31.2 The training for the first group of operators and users will be organised and conducted so that its termination does not go beyond (days) of the scheduled delivery of the first equipment. Training of second group of operator and users will be conducted within () months thereafter. Repair and maintenance course will be conducted within () months of signing of the contract and before expiry of warranty.

ARTICLE 32
OPTION CLAUSE/TOLERANCE CLAUSE

32.1 The BUYER shall have the right to place separate order on the SELLER on or before ----- (----- year from the date of this contract) for the main equipment, spares, facilities or services as per the cost, terms and conditions set out in this contract. The price of the system, spares etc shall remain same till ----- year from the effective date of the contract. Beyond this, cost will be escalated through application of the mutually agreed escalation formula.

ARTICLE 33
BUYER FURNISHED EQUIPMENT (BFE)

33.1 The following equipment will be provided by the BUYER at his own expense:

(a)

(b)

(NAME OF THE EQUIPMENTS TO BE PROVIDED BY THE BUYER ALONGWITH THE MAIN EQUIPMENT) This provision is in addition to the provisions set forth in Annexure III B (Statement of Work)

ARTICLE 34
ENGINEERING SUPPORT PACKAGE

34.1. Repair Philosophy. The Engineering Support Philosophy shall conform to repair philosophy as follows: -

(a) Field Repairs. Envisages diagnosis and repair assemblies / PCBs / modules (called rotables) and discreet components not forming part of these rotables.

(b) Component Level Repair. This level of repair envisages diagnosis and repairs of notables as defined at sub para (a) above.

(c) Base Overhaul. This level of repair defines stripping and rebuilding of equipment in a Base workshop.

34.2 Accompanied Accessories/User Replaceable Parts/ Expendables. Accompanied accessories/ User Replaceable Parts/ Expendables as per the list, which will be prepared by the BUYER within ---- months of completion of operator and operator trainer training. for the amount specified at Ser No --- of Annexure I. The list of items required to be supplied will be taken from Appendix-A to Annexure-IX duly incorporating Adequacy Clause (Article 34.7 below refers).

34.3. Spares. Spares requirement for carrying out maintenance and repair up to component level will be provided by the SELLER as per the list, which will be prepared by the BUYER within ---month of completion of MET, within the amount specified at Ser No --- of Annexure I. The list of spares required to be supplied will be taken from Appendix-A to Annexure-IX duly incorporating Adequacy Clause (Article 32.8 below refers).

34.4. Special Maintenance Tools, Special Test Equipments and Test Jigs (SMT/STE/TJs). SMT/STE/TJ requirement for carrying out maintenance and repair up to () level of repair will be provided by the SELLER as per the list, which will be prepared by the BUYER within ---- month of completion of MET, within the amount specified at Ser No _____ of Annexure-I. The list of equipment required to be

supplied will be taken from Appendix A to Annexure IX duly incorporating Adequacy Clause (Article 32.8 below refers).

34.5. Training. Training of operators, operator trainers, and maintenance personnel will be carried out as per details given in Appendix-B to Annexure VII at _____ in English Language. The syllabus given at Appendix-B will be refined by the SELLER in consultation with the BUYER at the time of MET. The SELLER confirms to the BUYER that the maintenance training will be imparted to the satisfaction of the BUYER and SELLER ensures that the training content and period will be extended so as to impart working proficiency up to () level repairs. All training requirements such as training aids, projection system, complete equipment with accessories /optionals, technical literature, spares, test equipment/test set up, charts etc will be catered for by the seller.

34.6. Technical Literature. The SELLER shall provide ----- sets of Technical Literature as per the format given in JSS 0251-01 (copy of JSS 0251-01 already handed over to the SELLER). Inadequacy/voids in Technical Literature identified during the Maintenance Evaluation Trials will be rectified by the SELLER at the time of delivery of Technical Literature to the satisfaction of maintenance agency of the Buyer.

34.7. Maintenance Evaluation Trials (MET). BUYER will depute within (____) months After Receipt of Order (ARO), a team of (____) personnel to SELLER's country for (duration), to conduct a maintainability evaluation (MET) for (Name of the Equipment) at SELLER's premises. SELLER will provide all necessary assistance to carryout MET. In case the MET is to be conducted in the BUYERS premises, all infrastructure should be ready by (duration to be mentioned). The team will study applicability of SMTs/STE/Test jigs, spares and adequacy of technical literature and documentation provided under this Contract. If, as a result of the above mentioned evaluation, BUYER decides to augment its spare parts or STE quantities, BUYER will then exercise the additional order through the provisions of Article 30 (Options Clause). BUYER may also adjust the quantities of spare parts SMTs/STEs/Test jigs provided that the total price of the spare parts ISMTs/STEs/Test jigs listed is not changed and provided also that the adjustment is made not later than (____ months) after the conduct of the MET evaluation in (name of the country) and before the delivery schedules of spare parts/SMTs/STEs/Test jigs stipulated in the contract.

34.8. Maintenance Evaluation Trials (MET). (Users handbook, operators manual, ISPL, check proof details, fixtures required for Acceptance Test/check proof, technical specifications, etc). Specimen of documents required is attached at Annexure-XII. The details of items and inputs required for MET are given in Appendix-C to Annexure-XI of the contract. The Seller shall allow stripping/ opening of the equipment during MET. The sellers technical representative(s) who is/are competent to clarify all the issues pertaining to maintenance and repair up to () level shall be present during the complete duration of MET. Inadequacies in items/inputs, if any, brought out during MET must be rectified and would be presented for re-evaluation by the seller along with the JRI.

34.9 Adequacy Clause. The SELLER confirms to the BUYER that the range and depth of Accompanied Accessories/ User Replaceable Parts/ Expendables, Spares and SMT/STE/TJ given in Appendix-A of Annexure-IX of this contract are complete and exhaustive for use and carrying out repairs up to () level for the equipment procured

under this contract by the BUYER. Any additional items, spares, tools and equipment up to the lowest level needed for use, maintenance and repair will be supplied by the SELLER at mutually agreed prices with in 60 days of receipt of notification from the BUYER for the period specified in Article 25 (PRODUCT SUPPORT). The SELLER also confirms to the BUYER that the overall cost of one set of complete list of spares and parts used to make one functional (Equipment ____) as per the specifications given at Annexure-III (Technical Specifications) along with accompanied accessories as per Annexure-IX as per the cost given in Appendix-A of Annexure-IX will not exceed the cost of the equipment as given in Appendix B. The SELLER also confirms that, if two different prices have been given for the same/ similar item in Appendix-A to Annexure-IX, then the lower price quoted will prevail. In case, the quoted accessories has several items viz Sampling Accessory Kit and add up price of these items is higher than the quoted price of the accessory then the price will be lowered/adjusted proportionately for the items.

35. Testimonial and signature clause: The authorised representative of the Seller should be shown to have been so authorised by the Resolution of the Board of Directors of the Company of the Seller or duly authorised by the Memorandum/Articles of Association of the Company along with supporting documents for the same.

LEGAL ADDRESSES OF THE CONTRACTING PARTIES

1. Judicial addresses of both contracting parties:

SELLER

.....
.....
.....
.....

BUYER:

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE (MC)
SOUTH BLOCK
NEW DELHI -110011
REPUBLIC OF INDIA

With Copy to:-

DDG PPO
MGO Br, AHQ
DHQ PO – 110011
New Delhi

Fax No. 011-23793337

Annexure I to Contract No. Dated

SCHEDULE OF PRICES & DELIVERIES

No	Denomination of Stores	Qty	Unit Price (US Dollars)	Total Value (US Dollars)	Remarks
1.	Direct Import				
2.	ESP				
3.	Training Package				

To Contract No.

Dated

ADVANCE GUARANTEE/PERFORMANCE
WARRANTY BOND

Ministry of Defence,
Government of India
NEW DELHI

Dear Sir,

Whereas you have entered into a contract No. _____ dated _____ (hereinafter referred to as the said Contract) with M/s _____, for supply of goods as per Annexure 1 of the said contract and whereas the Seller has undertaken to produce a bank guarantee for (%) of total Contract value amounting to _____ to secure its obligations to the President of India. We, hereby expressly, irrevocably and unreservedly undertake and guarantee as principal obligors on behalf of the Seller that, in the event that the President of India declares to us that the goods have not been supplied according to the Contractual obligations under the aforementioned contract, we will pay you, on demand and without demur, any sum up to a maximum of _____. Your written demand shall be conclusive evidence to us that such repayment is due under the terms of the said contract. We undertake to effect payment upon receipt of such written demand.

2. We shall not be discharged or released from this undertaking and guarantee by any arrangements, variations made between you and the Seller, indulgence to the Seller by you, or by any alterations in the obligations of the Seller or by any forbearance whether as to payment, time performance or otherwise.

3. In no case shall the amount of this guarantee be increased.

4. This guarantee shall remain valid for months from the date of JRI acceptance of test consignment in India or until all the store, spares and documentation have been supplied according to the contractual obligations under the said contract.

6. Unless a demand or claim under this guarantee is made on us in writing or on before the aforesaid expiry date as provided in the above referred contract or unless this guarantee is extended by us, all your rights under this guarantee shall be forfeited and we shall be discharged from the liabilities hereunder.

7. This guarantee shall be a continuing guarantee and shall not be discharged by and change in the constitution of the Bank or in the constitution of M/s _____.

To Contract No.

Dated

TECHNICAL SPECIFICATION

All Tech parameters listed in terms of size, weight, performance, operating environment, power, utility life storage shelf life etc, both in terms of essential and desirable levels as applicable to the equipment.

(The Technical parameters of the equipment being contracted also to be included)

To Contract No.

Dated

STATEMENT OF WORK (SOW)

1. General.
2. Abbreviations / Definitions.
3. Equipment, Materials And Services

The Seller shall deliver the goods and perform services as following:

- 3.1 Deliverable Items and Schedule:
 - 3.1.1 Deliverable Items:
 - 3.1.2 Delivery Schedule

Ser No	Quantity	Month (ARO)
--------	----------	-------------

3.2 Modifications to be incorporated in (Name of Equipment).

3.3 Buyer Furnished Data and Equipment.

4. Integrated Logistic Support (ILS).

4.1 The maintenance of the (Name of Equipment) shall be carried out at Field and Base Level by Buyer's personnel after receiving Maintenance Documentation, CBTs Training, Special Test Equipment (STE) and test set up and Spare Parts.

4.2 The ILS package will support the following maintenance tasks:
(All tasks to be listed)

4.2.1 Field

4.2.2 Base/Component Level.

4.3 Training & Documentation. (All details of trq to be incorporated)

4.3.1 Field Maintenance Training and Documentation.

No	Description	No of pers	Duration	Month (ARO)	Remarks
----	-------------	------------	----------	-------------	---------

4.3.2 Base Maintenance Training and Documentation.

<i>No</i>	<i>Description</i>	<i>No of pers</i>	<i>Duration</i>	<i>Month (ARO)</i>	<i>Remarks</i>
-----------	--------------------	-------------------	-----------------	--------------------	----------------

4.4 Special Test Equipment and Test Setup

4.4.1 For Field Maintenance Test Equipment.

4.4.2 For Base/Component Level Maintenance

<i>No</i>	<i>Description</i>	<i>Qty</i>	<i>Month (ARO)</i>	<i>Remarks</i>
-----------	--------------------	------------	--------------------	----------------

BUYER FURNISHED TEST EQUIPMENT

<i>No</i>	<i>Description</i>	<i>Qty</i>	<i>Month (ARO)</i>	<i>Remarks</i>
-----------	--------------------	------------	--------------------	----------------

To Contract No.

Dated

MODIFICATIONS TO BE INCORPORATED AS PER REQUIREMENTS OF INDIAN
ARMY

(To be elaborated depending on the modification existing if any with the OEM or modifications required for suiting the buyers Requirement)

CERTIFICATE OF CONFORMITY

Date :

No :

Product Name :

Product No :

Lot No :

Quantity :

Contract No :

Packaging List No :

THIS IS TO CERTIFY THAT THE ABOVE MENTIONED PRODUCT HAVE SUCCESSFULLY PASSED ALL THE ACCEPTANCE TESTS IN ACCORDANCE WITH THE RELEVANT SPECIFICATIONS AND DRAWINGS.

(_____) (_____) (_____)

(_____) (_____) (_____)

Annexure-VI

SPECIMEN

Tele:

Government of India
Ministry of Defence
Deptt of Def & Supplies
Det of Quality Assurance
(Armt)
DHQ PO, New Delhi-
110011

No

Jun 04

To,

CONTRACT NO DT FOR PROCUREMENT OF

1. Reference your fax no dated .
2. It has been decided not to depute PDI team for pre dispatch inspection of the subject store at firm's premises.
3. In view of above, you are requested to dispatch the 2nd consignment (350 nos) under your warranty/guarantee, along with your lot acceptance certificate. On receipt of the consignment in India, the equipments will be subject to acceptance inspection. Acceptance or otherwise will be accorded accordingly.

()

Copy to :-

1. MoD/D (MC).
2. MGO/PPO-4.
3. ADG/WE-4.
4. MoD/D(GS-IV).
5. ARM-9.

QUANTITY CLAIM

to the Contract No
dated

CLAIM PROTOCOL NO

Laid down
.....
For inter/tare storage

Commission, consisting of Chairman and
Members having
examined the state of the delivered equipment ascertained as follows:-

1. The equipment was delivered by M/s
against Bill of Lading No of in
the quantity of one collie with the Marking Case No
.....

2. The obtained equipment is delivered under Contract No
..... Item Srl No Cost
.....

3. The state of packing and seals on goods packages, correspondence of the
gross weight and the weight indicated in the way bills (packing lists) Nos of the collies
are to be pointed out Condition of the collie
..... Gross weight of the collie
..... Net weight of the collie

4. While unpacking the goods packages, the following discrepancy between the
shipping documents (packing lists as the packed equipment was discovered/separately
for each package
.....
.....

5. Conclusion of the commission
.....
.....

6. The following documents confirming the justification of the complaint are
attached to the report (Packing list, photos of the damaged sports and others)
.....
.....
.....

Chairman

Members

Place and date of issue

QUALITY CLAIM

to the Contract No
dated

CLAIM PROTOCOL NO

Laid down on

Concerning (Name of the claimed equipment)

Commission Members
Chairman
.....

The Commission has acquainted with the claimed equipment and made the following decision:-

1. (equipment)	Serial	No
	Production by the Made by the manufacturer		
 (date of manufacture)		
	No of running hours With guarantee period of		
	(completed)		
			(years, months)

From the beginning of operation, the product has been operating for hours.

2. Indicate operation conditions of the equipment
.....
(State type of fuel and oil used during operation of the equipment)

3. Description of the defect
(the date and circumstances under which the defect was ascertained, short description of the probable causes and probable consequences of the defect)

4. List of units (or their parts)
(defective equipment will remain in that organization store-room when it has been operating till arrival of the SELLER's instruction)

5. Conclusion of the Commission
.....
.....

(on investigation the commission decided that the claimed equipment is not serviceable and that it must be subject to repair or must be replaced with a new equipment. The kind of repair and place where the repair should be carried out are to be stated).

The following parts are required for the repair of the equipment (or its parts)
.....
.....
.....

The defect occurred within the guarantee period from the reason as follows
.....

The costs of the repair of the equipment or its parts
.....
.....

The defect occurred within the guarantee period from the reason as follows
..... The costs of the repair will be debited to (..... manufacturer/owner.....)

To settle the claim, the SELLER has to replace the equipment and dispatch the unit and other parts, indicate the parts and where the repair should be carried out (manufacturer's side), the manner of reimbursement of costs connected with the repair of the equipment, etc.

Supplementary data:

The equipment was handed over in accordance with the No on (date)
.....

The following documents are enclosed to this claim protocol to support the justification of the claim (photos, samples, results of analysis, packing sheets, etc.)

Signature of the commission members
.....
.....
.....

PRICES, QUANTITIES AND DELIVERY SCHEDULE OF EQPT

<u>No</u>	<u>Item</u>	<u>Quantity</u>	<u>Ready for Shipment</u>	<u>Unit Price USD \$</u>	<u>Total Price USD \$</u>
1.	EQPT ____ as per Appendix A along with accessories given at Note 1 below	221 Nos	As per Note 2 below		
2	Cost of Additional Accompanied Accessories, User Replaceable Parts and Expendables	As per Article 32.1	As per Note 2(d) below	As per Annexure B1	
3.	Spares and SMT /STE /TJ	As per Article 32.2 and 32.3	As per Note 2(d) below		
4.	Training as per the syllabus given at Annexure B2	4 and 24 working days for operator & maintenance personnel respectively	As per Note 3 below	-	
5.	Technical Literature	As per Note 4 below	As per Note 2(d) below	-	
			TOTAL		

Notes:

1. Description of Equipment. Equipment ____ System and the following accessories:-

<u>Part No</u>	<u>Item</u>	<u>Quantity</u>
(a)	943013 Battery	02 Nos
(b)	943700 Manual in English	01
(c)	540006 Phillips Screwdriver #1	01

2. Delivery Schedule. Delivery Schedule (to be read in conjunction with Article 5 Delivery and Transportation) to be completed as under:-

(a) First consignment of ---- Nos Equipment ____ within--- weeks from the effective date of the contract (Article 3 refers) along with contracted ESP package viz spares, SMTs/STEs/TJs and technical literature.

(b) Second consignment of --- Nos EQPT ____ within --- weeks from the effective date of the contract (Article 3 refers).

(c) Third consignment of --- EQPT ____ within ---- weeks from the effective date of the contract (Article 3 refers).

(d) Fourth and last consignment of ---- EQPT _____, and Additional Accompanied Accessories/ User Replaceable Parts/ Expendables, Spares, SMT/STE/TJ and Technical Literature within ---- weeks from the effective date of the contract (Article 3 refers) and 32.7 refers.

3. Training. Training for operators and maintenance personnel will be carried out at ----- in English Language as per the following schedule:-

	<u>Strength</u>	<u>Duration</u>	<u>Schedule</u>
(a) Operator Training	--- personnel	-- days	Along with JRI of the first consignment i,e after completion of JRI.
(b) Trainer Training	-- personnel	-- days	Along with JRI of the first consignment.
(c) Maintenance Personnel (Field level)	-- personnel	-- days	Along with JRI of the first consignment.
(d) Maintenance Personnel (Component level)	-- personnel	-- days	Within 4 weeks of the receipt of the last consignment of eqpt and additional items.

4. Technical Literature. The following technical literature in English language along with three sets of CDs containing complete technical literature, over and above being given with the equipment at Ser No 1 above, will be supplied with the last consignment duly incorporating modifications intimated by the BUYER after completion of MET: -

(a) User Hand Book / Operator Manual - -- sets.

(b) Technical Manual Part I and II - -- sets each.

Part I: To include technical description specification of the equipment and its major assemblies principle of operation, circuit diagrams, drawings, illustration ect.

Part II : To include inspection and maintenance tasks schedule, inspection standard/procedures, fault diagnosis and use of STEs.)

(c) Technical Manual Part III and IV - -- sets each.

Part III: To include procedure for disassembly/assembly of the equipment. Test procedures, specifications, repair of modules/major assemblies, component level repair of PCBs, test set-ups calibration of test eqpt/gauges and safety precautions.

Part IV : Part list with drawing reference, Illustrate Spare Part List(ISPL) and list of SMTs, STEs & Test setups .)

- (d) Complete Equipment Schedule (TOTE) -- -- Sets
(To include schedule of equipment, its accessories, fast moving spares, tools, expendables and cleaning material provided along with each equipment.)

Appendix-A to Annexure-IXCOMPLETE LIST OF ACCOMPANIED ACCESSORIES/ USER REPLACEABLE PARTS/ EXPENDABLES, SPARES AND SMTs/ STE/TJ FOR EQPT _____1. Sub-assemblies for Equipment

Sl. No	Sl. No. of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1	1	220124	Sensor NO2	S1	1			
2	2	943253	Sensor Membrane		1			
			Total				-----	

2. Accessories along with the Equipment

Sl. No.	Sl. No. of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1	4	943013	Battery cartridges		2			
			Total				-----	

3. Optional Items

Sl. No.	Sl. No. of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1	16	943021	External battery pack		1			
			Total				-----	

4. Spares

Sl. No.	Sl. No. of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1	12	943046	RS232 Cable		1			
			Total				-----	

5. Additional Items Required for Completeness of Spares, and Consumables

Sl. No.	Sl. No. of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1		943018	Audio Ear Set		1			spare
			Total					

6. List of SMT/STE/Test Jigs

Sl. No.	Sl. No. of Offer	Part No.	Nomenclature	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1		TJ 3000	Test Jig EVD	1			Component Level Checks Manufacture Supplied
			Total				

Note. The SELLER confirms for authenticity, completeness correctness of the data given in this annexure.

TRAINING

1. Operator Course. This course is designed to give the student the necessary knowledge to operate an Equipment ___ effectively. It also covers unit maintenance procedures and procedures for unit level repair and replacement of parts.

Time	Course	Description	Materials
-- hrs		This course covers the theory, operation and proper sampling techniques. It will include hands on and visual presentations.	Slide Show, User Guide
--hrs		This course allows the student to do practical exercises with an Equipment ___.	User Guide, Equipment ___ unit, Practical outline
-- hr		This time allows the student to ask any questions they have and review for the test.	User Guide, Equipment ___ unit
-- hr	Operator Test	The student takes the certification test.	User Guide, Test paper

2. Trainer Course. This course is designed to give the student an understanding of the Equipment ___ as well as first line maintenance techniques that will the student to keep the (Equipment) ___ working properly. In addition to that there will be a course on training others how to use the (Equipment) ___ by stressing the important issues using the (Equipment) ___. Following the course there will be a certification test which will then allow the student to train other users on the (Equipment) ___.

Time	Course	Description	Materials
--hrs		This course covers the theory, operation and proper sampling techniques. It will include hands on and visual presentations. It will also include first line maintenance techniques used in the field.	Slide Show, Supervisor Guide
-- hrs		This course allows the student to do practical exercises with an (Equipment) ___.	Supervisor Guide, (Equipment) ___ unit, Practical outline
-- hrs		This course cover the important issues in training other users on the (Equipment) ___.	Trainer Guide, (Equipment) ___ unit
-- hrs		This course allows the students to practice training other users on the (Equipment) ___ under supervision.	Trainer Guide, Slide Show, (Equipment) ___ unit
-- hr	Supervisor Test	The student takes the certification test.	Supervisor Guide, Test paper Trainer Guide

3. Field Repair level Maintenance Training: This course is designed to give the student an understanding of the (Equipment) ___ as well as first line maintenance techniques that will the student to keep the (Equipment) ___ working properly. Then the course will discuss the Mechanical/Automotive/Electronic/Armament portion of the (Equipment) ___. A break down of all components as well as the calibration procedure is taught. The student will then take apart and rebuild an (Equipment) ___ going over various points. Following the classes there will be a certification test which will allow the student to then do any repairs needed on the (Equipment) ___.

Time	Course	Description	Materials
-- hrs		This course covers the theory, operation and proper sampling techniques. It will include hands on and visual presentations. It will also include first line maintenance techniques used in the field.	Slide Show, Supervisor Guide
-- hrs		This course allows the student to do practical exercises with an (Equipment) ___.	Supervisor Guide, (Equipment) ___ unit, Practical outline
-- hrs		This course covers all the electronics in the (Equipment) ___. A look at all the PCBs in the unit and the procedure of analyzing samples.	Technical Guide, (Equipment) ___ unit
- hrs		This course discusses the troubleshooting techniques used for repairing an (Equipment) ___.	Technical Guide, (Equipment) ___ unit
-- hrs		This course cover the proper procedure in calibrating and (Equipment) ___.	Technical Guide, (Equipment) ___ unit

4. Component level Maintenance Training. This course is designed to train students to undertake component level repair of all assemblies, subassemblies, modules, PCBs ect.

5. Base Repair Maintenance Training. The syllabus for base repair maintenance training will be finalised during MET as per the requirement of the BUYER.

6. Technical Know How. The SELLER shall provide the complete know how on the technology used, repair and maintenance of the equipment and shall not withhold such information during the conduct of the training. Maintenance philosophy will be discussed and suggested norms for major maintenance tasks will be provided by the SELLER.

MET

1. This is carried with a view to facilitate provisioning of effective engineering support for life cycle of the equipment. This would involve stripping of the equipment and carrying out recommended tests and adjustments and establishing adequacy of maintenance spares, tools, test equipment and technical literature. To facilitate this process, the SELLER is required to provide the following in addition to one complete set of the equipment apart from the quantity being procured vide this contract. :-

(a) Technical Literature

- (i) User Handbook/Operators Manual.
 - (ii) Design Specifications.
 - (iii) Technical Manuals
 - (aa) Part- I. Technical description, specifications, functioning of various systems.
 - (ab) Part- II. Inspection/Maintenance tasks, repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs) /Special Test Equipment (STEs).
 - (ac) Part- III. Procedure assembly/disassembly, repair up to component level safety precautions.
 - (ad) Part- IV. Part list with drawing reference and list of SMTs/STEs Test Bench.
 - (iv) Manufacturers Recommended List of Spares (MRLS) with schematic references and part numbers for all the items.
 - (v) Illustrated Spare Part List (ISPL).
 - (vi) Technical Manual on SMT/STE with drawing reference.
 - (vii) Complete Equipment (TOTE) & carried spares.
- (b) One set of Gauges.
- (c) One set of complete SMTs/STEs/TJs and Test set up.
- (d) Servicing Schedule and condemnation limits.
- (e) Permissive Repair Schedule for repairs possible at various levels with available infrastructure.
- (f) Packing specification/ instructions.
- (g) Any additional information suggested by the OEM such as infrastructure/facilities/Buyer furnished items for use and maintenance/repair of equipment.

2. The vendor technical representative shall be present during complete duration of MET. On completion of MET, the SELLER can take back all the items produced for evaluation and maintenance training.

LETTER OF CREDIT

Form of Doc Credit (40A) : Irrevocable/revocable/revolving/confirming.

Doc Credit Number (20) :

Expiry (31D) :Date : 12 months after issuance of
Documentary credit.

Applicant bank (51) : -----

Beneficiary (59) : -----

Amount (32B) : Currency :
Amount :

Max Credit Amount (39B) : No Exceeding

Available with/By (41) : By payment.

Partial Shipments (43P) : Allowed/Not Allowed.

Transshipment (43T) : Not allowed/allowed.

Loading in Charge (44A) :
(Port of Loading).

For Transport to (44B) :-----
(Port of Discharge).

Shipment Period (44D) : -----

Descript of Goods (45A) : -----

Documents Required (46A) : + Signed commercial invoice in six copies.
+ Two copies of original clean on board bills of lading made out to order and endorsed in blank, showing applicant as notify party and marked: Freight payable at destination.
+ Packing list in six copies.
+ Certificate of origin issued by a chamber of commerce.
+ Lot acceptance certificate signed by the seller's and the Buyer's quality assurance representatives or alternatively the seller's quality assurance representative and armacor.

Additional Condition (46A) : + Telegraphic reimbursement is allowed.
+ This credit will automatically revolve cumulatively on an annual basis as indicated below, and will accordingly be automatically extended upon transmission of a notice to this effect by means of an authenticated telex/swift message from the beneficiary's bank to the issuing bank not later than 15 days prior to the expiry of the relevant validity period.

Stage	Amount	Validity Period

- + Maximum utilization under the credit will be
- + Confirmation charges for the letter of credit are for the beneficiaries account.
- +Late Shipment is acceptable.

Details of Charges (71B) : All charges outside India are for beneficiary account.

Presentation Period (48) : Within 21 days after shipment date.

Confirmation (49) : Confirm.

Reimbursing Bank (53) : -----Instructions

(78) : + Documents must be forwarded to us by courier in one lot.

+ We hereby engage that payments made under and in compliance with all the terms and conditions of this credit will be duly honoured by us upon presentation of the stipulated documents.

+ Paying bank may claim reimbursement telegraphically from the reimbursing bank for value 3 days after their authenticated telex/swift advice to the issuing bank of any conform drawing presented under this credit.

Advise through(57) : -----
 Send to Recd Info (72) : -----

ABBREVIATIONS

<u>Ser No</u>	<u>Abbreviation</u>	<u>Full Form</u>
1.	AAP	Annual Acquisition Plan
2.	AM	Acquisition Manager
3.	Acq	Acquisition
4.	Addl FA	Additional Financial Advisor
5.	AIP	Approval In Principle
6.	AMC	Annual Maintenance Contract
7.	AGM	Annual General Meeting
8.	AS	Additional Secretary
9.	AON	Acceptance of Necessity
10.	ATP	Acceptance Test Procedure
11.	BFE	Buyer Furnished Equipment
12.	BG	Bank Guarantee
13.	BC	Bank Commission
14.	CFA	Competent Financial Authority
15.	CAE	Computer Aided Engineering
16.	CAM	Computer Aided Machining
17.	CST	Comparative Statement
18.	CNC	Contracts Negotiation Committee
19.	CKD	Complete Knocked Down
20.	CIR	Cargo Integration Review
21.	CCS	Cabinet Committee on Security
22.	CMD	Chairman & Managing Director
23.	CWP&A	Controller of Warship Production and Acquisition
24.	CIF	Cost Insurance and Freight
25.	COD	Central Ordnance Depot
26.	CTOT	Complete Transfer of Technology
27.	CDA	Controller of Defence Account
28.	CFR	Cost and Freight
29.	CIP	Carriage and Insurance Paid to
30.	CPT	Carriage Paid to
31.	COTS	Commercial Off The Shelf
32.	DPP	Defence Procurement Procedure

<u>Ser No</u>	<u>Abbreviation</u>	<u>Full Form</u>
33.	DRDO	Defence Research and Development Organisation
34.	DPSU	Defence Public Sector Unit
35.	DPB	Defence Procurement Board
36.	DAC	Defence Acquisition Council
37.	DGQA	Director General of Quality Assurance
38.	DGAQA	Director General of Aeronautical Quality Assurance
39.	DDP&S	Department of Defence Production & Supplies
40.	DRDO	Defence Research and Development Organisation
41.	DGS&D	Director General of Supply and Disposal
42.	Dir	Director
43.	DCF	Discounted Cash Flow
44.	DD	Demand Draft
45.	DOD	Department of Defence
46.	DG	Diesel Generator
47.	ESP	Engineering Support Package
48.	EMI	Electro Magnetic Interference
49.	EMC	Electro Magnetic Compatibility
50.	EIC	Equipment Induction Cell
51.	ERV	Exchange Rate Variation
52.	EFC	Expenditure Finance Committee
53.	FOB	Free on Board
54.	FM	Financial Manager
55.	Fin	Finance
56.	FPGA	Field Programmable Gate Array
57.	FMECA	Failure Mode, Effect and Criticality Analysis
58.	GSQR	General Staff Qualitative Requirement
59.	IDS	Integrated Defence Staff
60.	IM	Indigenously Manufactured
61.	IGA	Inter Governmental Agreement
62.	ISPL	Illustrated Spare Part List

<u>Ser No</u>	<u>Abbreviation</u>	<u>Full Form</u>
63.	IP	Intellectual Property
64.	IPL	Itemized Price List
65.	JSQR	Joint Service Qualitative Requirement
66.	JRI	Joint Receipt Inspection
67.	LTPP	Long Term Perspective Plan
68.	L1	Lowest Bidder
69.	LOI	Letter of Intent
70.	LRU	Line Replaceable Unit
71.	MET	Maintainability Evaluation Trial
72.	MTBF	Mean Time Between Failure
73.	MTBO	Minimum Time Before Overhaul
74.	MTBUR	Mean Time Between Unit Replacement
75.	MTTR	Mean Time To Repair
76.	MoD	Ministry of Defence
77.	MF	Main File
78.	Mil	Military
79.	MRLS	Manufacturer Recommended List of Spares
80.	NPV	Net Present Value
81.	NHQ	Naval Headquarters
82.	OFB	Ordnance Factory Board
83.	OF	Ordnance Factory
84.	OEM	Original Equipment Manufacturer
85.	OM	Office Memorandum
86.	O, I, D Level	Operator, Intermediate, Depot Level
87.	PA	Production Agency
88.	Proc	Procurement
89.	PSO	Principal Staff Officer
90.	PROM	Programmable Read Only Memory
91.	PSR	Preliminary Staff Requirements
92.	POL	Petroleum, Oil and Lubricant
93.	QA	Quality Assurance
94.	PBG	Performance Bank Guarantee
95.	PDI	Pre Dispatch Inspection
96.	PCB	Printed Circuit Board
97.	PIB	Public Investment Board
98.	RFI	Request for Information

<u>Ser No</u>	<u>Abbreviation</u>	<u>Full Form</u>
99.	RFP	Request for Proposal
100.	RM	Raksha Mantri
101.	SCAP	Services Capital Acquisition Plan
102.	SQR	Services Qualitative Requirement
103.	SKD	Semi Knocked Down
104.	SOP	Standard Operating Procedure
105.	SMT	Special Maintenance Tool
106.	STE	Special Test Equipment
107.	SR	Short Refit
108.	SBI	State Bank of India
109.	SHQ	Service Headquarters
110.	SMD	Storage Module Device
111.	SRAM	Sideways Random Access Memory
112.	SS	Special Secretary
113.	SRU	Shop Replaceable Unit
114.	ToT	Transfer of Technology
115.	TCA	Technical Collaboration Agreement
116.	TM	Technical Manager
117.	TEC	Technical Evaluation Committee
118.	TOOC	Technical Offer Opening Committee
119.	TNC	Technical Negotiations Committee
120.	TOTE	Table of Tools and Equipment
121.	UW	Under Water
122.	USD	United States Dollars
123.	WWR	War Wastage Reserve
124.	WLR	Weapon Locating Radar
125.	WE	War Establishment