

(Ministry of Defence, India)

REQUEST FOR PROPOSAL
FOR PROCUREMENT OF TECHNOLOGY FOR MANUFACTURING
122mm ROCKET AT OFB

RFP NO:ODC-OFCH/RFP/122mm ROCKET DT. 24-12-2019

1. Indian Ordnance Factories is an industrial set-up which functions under the Department of Defence Production, Ministry of Defence, India. Indian Ordnance Factories with its headquarter OFB(Ordnance Factory Board) at Kolkata, is a conglomerate of 41 manufacturing units, which provide a broad and versatile production base with multi technology capabilities and state-of the-art manufacturing facilities. OFB supplies Tanks, Arty Guns, AD Guns, Infantry Weapons, and Ammunition from small calibre to large calibre, Clothing items etc. to Indian Armed Forces.
 2. OFB is looking for a Technology Partner pro-actively for procuring the TOT and manufacturing at OFB, which could have the potential to be supplied to Indian Armed Force and Export.
 3. The purpose of this RFP is to invite the Interested parties for selection of Technology Partner for Transfer of Technology (ToT) to manufacture "122mm ROCKET", who are having the capability of manufacturing and design.
 4. OFB has the right to verify the documents submitted and claims made in offers through physical verification at the premises of the OEM both office and factory.
 5. This RFP document consists of 4 parts and 2 annexures as indicated below:
 - Part-I: General requirements and procedure.
 - Part-II: Broad Qualitative requirement of 122 mm Rocket.
 - Part A1: Technical Specifications and Functional Requirements of 122mm Free Flight (unguided) Rocket.
 - Part A2: Technical Specifications and Functional Requirements of 122mm Guided Rocket.
 - Part B: ToT requirements.
 - Part III: Commercial and Standard clauses.
 - Part IV: Evaluation Criteria for Technical and Commercial bids.
- Annexure I: Performa for company profile.
- Annexure II: Format for RFP response & compliance statement

6. For any query related to the RFP, it is requested to send the queries to the Sr. General Manager, O.F. Chanda at the address given below **within the 20 days from the date of online publish**. To address the queries a meeting with all the interested parties will be held after **30 days from the date of online publish at OF Chanda**.
7. **The last date for receipt of responses 45 days** from the date of up-loading on e-platform **Govt of India CPPP portal** Interested companies may forward their response in sealed envelope bearing the RFP NO:ODC-OFCH/RFP/122mm ROCKET DT. 24-12-2019 to the following address by registered post/courier.

The Sr. General Manager
Ordnance Factory Chanda
Bhadravati, Chandrapur (M.S.)
India
Pin: 442501
Fax: 07175-254043/254276
Tel: 07175-254051/52
Email ID: ofch.ofb@nic.in

RFP for 122 mm Rocket

PART – I

GENERAL REQUIREMENTS & PROCEDURES

1. The RFP seeks response from **Interested parties**, who are willing to be associated with OFB through a ToT to manufacture the 122 mm Free Flight (unguided) and Guided Rockets in India in the Ordnance Factory Chanda.
2. The selection of technology partner is necessitated by the need for the following:
 - a) Manufacturing ToT
 - b) Customising/Modification of 122mm Rocket as per Customers requirement.
 - c) Maintenance ToT
 - d) Up-gradation of existing products
3. The Interested parties are those who respond against this RFP.
4. **Prospective parties** are among the interested parties who meet the technical evaluation including NC-NC trials. Commercial bids of only prospective partners will be opened for selecting for technology partner.
5. The Contract with Technology Partner shall be awarded through two stage process
 - a. Technical evaluation
 - b. Commercial evaluation
6. The Technology partner selected after evaluations as per para above will enter into separate contract agreement with OFB against the requirements of Indian Army and other Countries.
7. The response of firms will be as per annexure I & II of the RFP.
8. Procedure for selection of Technology Partner
 - i. Interested parties responding to RFP may be called for meeting on specified date and time to address any clarifications sought by interested parties.
 - ii. TEC will be done as per TEC evaluation criteria.
 - iii. Vendors qualifying TEC evaluation criteria will be called to supply 50 nos. of 122mm Free Flight Rocket and 12 Nos. of Guided Rockets, for trials.
 - iv. Trials will be conducted by OFB as per finalised trial directives. The vendors will have to bear the cost of trials and positioning of rockets at the designated place. Any damages or loss occurred during conduct of NC-NC trials attributed due to the 122mm Rockets will be borne by the vendors.
 - v. Commercial Bids will be opened of vendors who successfully completed the TEC and trials.
 - vi. Final supply order will be placed with the selected bidder (Technology Partner)

9. The contract will be for a period of 05 years.
10. The ToT shall be at least to the tune of 100% of the relative cost of the final complete ammunition.
11. OFB will arrange conduction of NC-NC trials. Prospective parties who qualify in TEC stage will arrange delivery of Rockets at their own expense at the date and place which will be intimated by OFB.
12. Final Supply Order / Contract is to be finalised with the selected bidder if confirmed requirements / target exists at the time of concluding contract.

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PART II

BROAD QUALITATIVE REQUIREMENT

Para A1: Technical Specifications and Functional Requirements of 122mm Free Flight (unguided) Rocket

OFB seeks 122 mm Free Flight (unguided) Rocket with Fuze with adequate lethality to achieve the objective of destruction with the following broad characteristics:

- a. Capability to fire from LAUNCHER BM-21 available with Indian Army or similar launchers available with other countries.
- b. Modular Design:
- c. The Rocket shall be capable of providing the desired performance across all spectrums of deployment in the Indian Terrain and climatic conditions.
- d. The Rocket shall comply with the laid down MIL standards and other international standards in vogue.
- e. Technical and performance parameters:

| Sr No | Parameter | Details |
|--|--|---------------------------------------|
| 122mm GRAD or Equivalent ROCKET | | |
| (a) | Caliber | 122 mm |
| (b) | Total length of Rkt projectile with fuze | 2815 mm (Max) |
| (c) | Total weight of Rocket with fuze | 66 Kg (Max) |
| (d) | Total Weight of warhead(Filled) | 21 Kg (Approx) |
| (e) | Maximum range | |
| | With out Brake ring | 40 km |
| | With Brake ring | 15 km |
| (f) | Minimum range with Brake ring | 08 Km |
| (g) | Operating temperature conditions | -50 ⁰ to 50 ⁰ C |
| Proximity Fuze (MIL – STD-1316 Compliant) | | |
| (h) | Filled Mass approximate | 1.000 Kg (Approx.) |
| (j) | Operating temperature conditions | -50 ⁰ to 50 ⁰ C |
| (k) | Fuze setting | ≥ 10 m. Altitude, PD |

- f. Shelf Life: Minimum 15 Years
- g. Lethality not less than in service 122 mm ER Rocket 9M521.
- h. CEP/Consistency not less than in service 122 mm ER Rocket 9M521. Consistency check will be at 32 km.

Para A2: Technical Specifications and Functional Requirements of 122mm Guided Rocket

OFB seeks 122 mm Guided Rocket with Electronic Multi Mode Fuze with adequate lethality to achieve the objective of destruction with the following broad characteristics:

- a. Capability to fire from LAUNCHER BM-21 available with Indian Army or similar launchers available with other countries.
- b. Modular Design:
- c. The Rocket shall be capable of providing the desired performance across all spectrums of deployment in the Indian Terrain and climatic conditions.
- d. The Rocket shall comply with the laid down MIL standards and other international standards in vogue.
- e. Technical and performance parameters:

| Sr No | Parameter | Details |
|---|--|---------------------------------------|
| 122mm GRAD or Equivalent ROCKET | | |
| (a) | Caliber | 122 mm |
| (b) | Total length of Rkt projectile with fuze | 3,500 mm (Max) |
| (c) | Total weight of Rocket with fuze | 87 Kg (Max) |
| (d) | Total Weight of warhead(Filled) | 21 Kg (Approx) |
| (e) | Maximum range | 40 km |
| (f) | Minimum range | 15 Km |
| (g) | Operating temperature conditions | -50 ⁰ to 50 ⁰ C |
| Electronic Fuze (MIL – STD-1316 Compliant) | | |
| (h) | Filled Mass approximate | 1.500 Kg (Approx.) |
| (j) | Operating temperature conditions | -50 ⁰ to 50 ⁰ C |
| (k) | Fuze setting | ≥ 10 m. Altitude, PD, Delay |

- f. Shelf Life: Minimum 15 Years
- g. Lethality of Fragmentation Warhead, not less than in service 122 mm ER Rocket 9M521.
- h. Penetration Warhead capability of 40 cm. thickness of reinforced concrete.
- i. CEP/Consistency not less than 10 meters based on immune GPS receiver. Consistency check will be at 20 and 32 km.
- j. Optional Improvement Accuracy by:
 - 1. Semi Active Laser Pointing
 - 2. Passive IR orientation and homing

- k. Day and night operation
- l. No need for Met data
- m. Operation under Electromagnetic Counter Measure (ECM)
- n. Reliability: $\geq 95\%$
- o. Self-destruction / Self warhead neutralization
- p. Logistic Transportation: In Package containing one Rocket or in launching pod Containing at least 18 Rockets to PINAKA launcher
- q. For BM21 or equivalent launcher mission setting will be conducted through External Mission Loader (EML)
- r. The EML will be able to initiate rocket BIT (Build in Tests) prior to the launching
- s. The EML must be capable of calculating the launcher azimuth and elevation
- t. The EML should enable salvo fire with different target coordinates to each rocket in the salvo

Para B: ToT requirements:

- a. 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 authorisation 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.
- b. In terms of design, metallurgy and performance parameters, the Rocket shall be "State of the Art", in order to remain relevant for next 25 to 30 years.
- c. **Documentation:**
 - i. 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 license 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 license product and substitute parts and systems of the license product as required by the certifying agency and the production agency.
 - ii. The vendor will provide Configuration Control Document with detailed breakdown of the product structure for sub-systems/assemblies/sub-assemblies/modules/detail parts/PCBs/wiring diagrams etc with their latest modifications. 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.
 - iii. The ToT shall include the detailed product specification, manufacturing documentation, quality control parameters, proof and acceptance criteria. The ToT shall be also including detailed purchase specification/technical documents.
 - iv. The Range table for the existing launcher of IA (BM-21) shall be provided by the Technology partner.
- d. **Proprietary Items:** 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. The details and price of such proprietary items to be specified by OEM.

e. Range and Depth of ToT:

- i. The Technology partner will provide ToT which will include the following key technologies for 122mm rocket:
 - a) Empty warhead and filling of warheads.
 - b) Explosives and Propellants.
 - c) Propellant system including ventury, nozzle, tube, rocket motor, Tail unit, rocket propellant, igniter.
 - d) Various detonators and initiators
 - e) Proximity and Electronic Fuze.
 - f) Guidance kit
- ii. ToT will cover repair and overhaul, Production from Completely Knocked Down (CKD) and Semi-Knocked Down (SKD) kits and production from raw material and component level.
- iii. The indigenous content in the IM manufacturing phase should not be less than 90%.

f. Scope of supplies by Technology partner for indigenous manufacture of 122mm Free Flight (unguided) rocket at OFB

- i. In the First Phase, OFB will procure 100 nos. of 122 mm Free Flight (unguided) rocket from selected Technology Partner and ToT charges shall be given on the final proof passed rounds. SKDs will be assembled in the presence of OEM representative.
- ii. In the Second Phase, OFB will procure 100 nos. of 122 mm Free Flight (unguided) rocket from selected Technology Partner and ToT charges shall be given on the final proof passed rounds. CKDs will be assembled in the presence of OEM representative.
- iii. Although, not desirable, any proprietary items to meet the production schedule during IM phase.

g. Scope of supplies by Technology partner for indigenous manufacture of 122mm guided rocket at OFB

- i. In the First Phase, OFB will procure 100 nos. of 122 mm guided rocket from selected Technology Partner and ToT charges shall be given on the final proof passed rounds. SKDs will be assembled in the presence of OEM representative.
- ii. In the Second Phase, OFB will procure 100 nos. of 122 mm guided rocket from selected Technology Partner and ToT charges shall be given on the final proof passed rounds. CKDs will be assembled in the presence of OEM representative.
- iii. Although, not desirable, any proprietary items to meet the production schedule during IM phase.

h. Delivery Schedule expected from technology partner:

The delivery of 122mm Rocket shall be in a staggered as given in the table below.

| Item | DP (in months) | Compliance (Yes/No) | Remarks |
|-----------------------|-----------------------|----------------------------|----------------|
| Documents for SKD | D + 2 | | |
| SKD Kit | D + 3 | | |
| Final assy of SKD kit | D + (3 to 4) | | |
| Documents for CKD | D1 + 3 | | |
| CKD Kit | D1 + 4 | | |
| Final assy of CKD kit | D1 + (4 to 6) | | |
| Documents for IM | D1 + 6 | | |

D: date of signing of ToT contract.

D1: date of receipt of SKD kit.

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PART III

Commercial and Standard clauses.

1. The RFP is issued without any financial commitment. The Buyer reserves the right to amend or modify any part of the RFP at any stage. Such amendments/ modifications to the RFP, if any, shall be duly notified similarly as the RFP. Buyer reserves the right to withdraw the RFP at any stage, should it so become necessary.
2. The usage of the term 'Bid' in the TE, unless repugnant to the context, refers to the Bids (including the documents, financial instruments, etc., required to be submitted).
3. The usage of the term 'Seller' in the TE, unless repugnant to the context, refers to the successful Bidder (s) in the TE on whom the consequent Supply Order/ Contract has been placed.
4. The usage of the term 'Contract' in the TE, unless repugnant to the context, refers to the consequent Supply Order/ Contract.
5. Effective Date of the Contract: Unless the consequent Contract specifically defines a different effective date-of-the-contract, the effective date-of-the-contract shall be the date on which the Parties to the Contract have affixed their respective signatures on the Contract or the date of Supply Order. The Contract shall come into effect on the effective date and remain valid until the completion of the obligations of the Parties under the Contract. The deliveries, supplies and performance of the services under the Contract shall commence from the effective date-of-the-contract.
6. Terms & Conditions of OFB PM 2018 for Global Tender Case will be applicable in the present case.
7. Bidders shall be solely responsible for ensuring timely submission of their sealed Bids (and their related final instruments & documents) by the specified date & time, and in the manner prescribed in the RFP.
8. All dates and times specified in this TE are in date/month/year and 24 Hrs formats, respectively.
9. In this Two Bids basis, the Bids shall comprise of two parts, namely (i) Technical Bid, and (ii) Financial/ Commercial Bid. The Technical Bid and the Financial/ Commercial Bid should be sealed by the Bidder in separate covers duly super-scribed to indicate the appropriate Bid. Both these sealed covers are to be put in a bigger cover, which should also be sealed and super-scribed as prescribed below.
10. The sealed cover of the Bids should neatly and legibly be super-scribed with the details of (a) Title of the RFP (b) RFP No. and date. Lack of this superscription may result in the Bid being declared invalid.
11. Bids cannot be modified after the Bid submission deadline. Similarly, after the Bid submission deadline, Bids cannot be withdrawn till expiry of the Bid validity.
12. During evaluation of Bids, the Buyer may, if so required, ask the Bidder (s) for clarification on the Bid submitted. The request for such clarification shall be in writing (or through e-Procurement System). The clarification furnished by the Bidder should not

result in any change in prices or substance of the Bid nor will the same be permitted. No post-bid clarification at the initiative of the Bidder will be entertained.

13. In procurements where it is necessary to physically verify the facilities & capacities of the Bidder, the Buyer may depute Capacity Verification Teams for carrying out such physical verification of facilities & capacities as per OFB Standard Operating Procedure (SOP) for Capacity Verification and Vendor Registration as available on the Ordnance Factory Board website and e-procurement portal.
14. The Buyer reserves the right to reject/cancel/scrap the Tender Enquiry or change the quantity of tendered item(s) without notifying any reason whatsoever.
15. Time being the essence of the contract, Bidders should note that the consequent Contract can be cancelled unilaterally by the Buyer in case deliveries are not received within the contracted delivery period. In this regard the provisions of the Risk & Expense clause in Part IV may be perused.
16. Extension of contracted delivery period due to reasons attributable to the Seller of the consequent Contract shall be at the sole discretion of the Buyer, with applicability of Liquidated Damages (LD) clause as mentioned.
17. Vendor must submit the draft packing lists of the total consignment along with their offer for transportation from Seller Country to Buyer Country.
18. Extension of contracted delivery period due to reasons attributable to the Seller of the consequent Contract shall be at the sole discretion of the Buyer, with applicability of Liquidated Damages (LD) clause as mentioned.
19. Clarifications of any required specifications, terms and conditions may please be obtained in advance. Delay on account of such clarification after placement of order shall be to the account of the supplier. The Vendor should clearly mention acceptance of all the terms and conditions of the tender enquiry.
20. **Applicable Laws/Jurisdiction:** All questions, disputes or differences arising out of or in connection with the contract, if concluded shall be subject to the exclusive jurisdiction of the Court within the local limits whose jurisdiction the place from which the Acceptance of Tender is issued, is situated. This contract shall be governed by and subject to and interpreted and construed in accordance with the Laws of the Republic of India, as may be in force from time to time.
21. **Price:** The rates offered shall be 'Firm & Fixed' with full and detailed breakup of various applicable cost elements like Basic Price, packing charges, freight/ transport, forwarding charges, handling charges, landing & clearing charges, installation & commissioning, training, technical assistance, etc.; and duly indicating all the applicable Taxes & Duties along with the relevant taxation rate and value for each of the applicable Tax/ Duty, till the execution of the total quantity on the order. To facilitate assessment of reasonability of price quoted, the Bidder shall indicate split-up details of the cost elements of the Basic price. No increase shall be permissible on any account after finalization of the order / till delivery of total quantity of the order. Foreign sellers will quote the prices on the FOB/FCA Port of dispatch basis, as applicable (INCOTERMS 2010). Seller should clearly mention whether the prices hold good when the full quantity of enquiry is not ordered but only a part of it. Unless otherwise mentioned, it would be assumed that the rates hold

good even when lesser quantities than those enquired of are ordered. Any increase in prices at a later date for ordering lesser quantities will not be agreed to.

22. Price Variation Clause: Invariably, Purchase Orders shall be placed on a firm price basis. In exceptional cases, where the firm insists on escalation or on price ruling at the time of despatch, the purchase order should contain a clause to this effect for admissibility. The Purchase order should clearly specify the formula for determining the quantum of escalation admissible with reference to a fixed base period and prices ruling at that period taken as a base for deciding the escalations. The base period and prices should be mutually agreed based on necessary documentary evidence. The claims shall be supported by necessary documentary evidence, as compared to the base prices for admitting the escalation claims. Price Escalation Clause needs to clearly define applicability of Escalation up to point of ordering or point of delivery. Whether the escalation to be calculated on year to year basis or point to point basis, same to be specified. Methodology of calculation of escalation is to be specified. PV formula may specify cut-off dates for material and labour, as these inputs taper off well before the scheduled delivery dates. The Price Variation formula may also provide for a ceiling on the price variations as a percentage per annum or an overall ceiling or both. If advance or stage payments have been allowed, no price variations will be admissible on such portions of the price, after the dates of such payment. No price variation will be admissible beyond the original scheduled delivery date for defaults on the part of the supplier. Price variation may be allowed beyond the original scheduled delivery date, by specific alteration of that date through an amendment to the contract in cases of Force Majeure or defaults by the purchaser. When deliveries are accepted beyond the scheduled delivery date subject to levy of liquidated damages as provided in the contract, the liquidated damages (if a percentage of the price) will be applicable on the price as varied by the operation of the Price Variation clause. Where contracts are for supply of goods, etc., imported (subject to customs duty and foreign exchange fluctuations) and/ or locally manufactured (subject to excise duty and other duties and taxes), the percentage and element of duties & taxes included in the price should be specifically stated, along with the selling rate of foreign exchange element taken into account in the calculation of the price of the imported item. The mode of calculation of variations in duties & taxes, foreign exchange rates, and the documents to be produced in support of claims for such variations should also be stipulated in the contract.

Price Variation formula will vary from Contract to Contract. However, a suggested price variation formula could be as follows:

$$P = P_o \{ (A + B(L/L_o) + C (M/M_o)) \}$$

P = Final price payable in the year of delivery

P_o = The base price at _ (year) economic conditions

L_o = Average Labour Index of the base _ (year)

M_o = Average Material Index of the base _ (year)

L = Average Labour Index Months prior to date of delivery (as applicable at Seller's country).

M = Average Material Index Months prior to date of delivery (as applicable at Seller's country).

A, B & C = Percentages corresponding to fixed elements, labour and material respectively.

Escalation cap (+/-) applicable (percentage) with the above price variation formula to be indicated.

The indices incorporated in the escalation formula should be Govt. Published/ in public domain and capable of being verified. Escalation/Revision in price shall not be admitted for the delayed supplies.

23. Packing Conditions: The stores should be properly packed for tropical storage and for transport by rail, road, sea or air so as to ensure and to protect them against loss, damage, corrosion in transit on arrival at their destination. The packing and marking of packages shall be done by and at the expense of the seller. Each package shall contain a Packing Note quoting Purchase Order number and date showing its contents in detail. Each package shall be properly marked with Purchase Order No., Consignee's name & address, gross weight, package-handling instructions etc. The package shall have adequate provision for handling during transit and at destination. The packing, shipping, storage and processing of the delivery must comply with the prevailing legislation and regulations concerning safety, the environment and working conditions. In case of Imports, items packed with raw/ solid wood packing material should be treated as per ISPM-15 (fumigation) and accompanied by Phytosanitary/ Fumigation certificate. If safety information sheets exist for a delivery or the packaging, the seller must always supply these sheets direct (at the same time). The packing shall allow for easy removal and checking of goods on receipt and comply with carrier's conditions of packing or established trade practices. If any consignment needs special handling instruction, the same shall be clearly marked with standard symbols / instructions. Hazardous material should be notified as such and their packing, transportation and other protection must conform to relevant regulations.

24. Ground Rent: If the material supplied by the vendors is rejected at the factory premises, the vendor is required to lift the rejected material within 30 days of issue of rejection I-Note. Factories have right to recover a charge for the storage space at @1% of the cost of material un-cleared, per week or part thereof, with maximum ceiling of 10% of value of the items. After lapse of 10 weeks, if it is found that firm has not taken any action for lifting of items, the goods may be confiscated and disposed off as per disposal procedure in vogue after sending a notice and giving 30 working days time to the firm. Ground rent shall be calculated from the date of expiry of the period of removal of item. No ground rent should be charged from Central/State Govt/Central PSUs. When the firm fails to pay the applicable ground rent within the prescribed period, factory is entitled to recover the ground rent due and all incidental expenses from EMD/PSD.

25. Warranty:

(a) All the Stores supplied shall be warranted against any defect in material, Workmanship, defective design, materials and non-conformance to intended performance, manufacturing defects, or dimension etc., for a period of 18 calendar months from the date they are actually put to use or 12 calendar months from the date of receipt and acceptance of supply in Buyer's place / buyer's designated place, whichever is earlier and the seller shall remedy such defects at his/her own cost or replace free of charge such stores when called upon to do so.

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

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

(d) During warrantee period any equipment or component thereof supplied by the seller, suffers due to defective material and or due to improper design and or due to defective drawing or due to faulty workmanship the seller will assume full responsibility of rectification of such defective equipment or component thereof including direct expenses related to removal and re-positioning of the replacement/repaired equipment or

component thereof and subsequent test & trial, incurred thereon without any financial implication to Buyer.

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

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

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

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

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

26. Taxes & Duties

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

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

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

d) Foreign Bidders: All taxes, duties, levies and charges which are to be paid for the delivery of goods in their respective countries, shall be paid by the foreign bidders.

(e) Customs Duty:

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

(ii) Subsequent to the reimbursement of customs duty if the Seller obtains any refund of customs duty, such refund shall immediately be remitted, in full, to the Buyer. In case of

failure to do so, the Buyer shall be fully empowered to deduct a sum equivalent to the amount of customs refunded, without any further reference to the Seller, from any of their outstanding bills against the contract or any other pending Government contract and no disputes on this account shall be raised by the Seller.

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

27. Pre-contract Integrity Pact:

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

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

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

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

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

ii) Rs.3 Cr (Additional financial guarantee), if the estimated cost procurement is above Rs.300 Cr.

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

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

v) Bidder shall furnish the said EMD/ Security Deposit through any of the following instruments:

1) Bank Draft or Pay Order in favour of the PCA(Fys) Kolkata.

2) A Confirmed Guarantee by an Indian Nationalized Bank, promising payment of the guaranteed sum to the Buyer, on demand, within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the Buyer shall be treated as conclusive proof for payment.

3) In case foreign suppliers, the Bidder may, if necessary, furnish the Bank Guarantee from a first class International Bank provided the same is confirmed/verified by the State Bank of India.

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

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

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

ix) The Buyer has nominated Shri P V Surkar, Works Manager, Ordnance Factory Chanda, Chandrapur – 442501 (Name & address to be given) as Independent Monitor (IEM) for this Pact.

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

29. Performance Security Deposit (PSD):

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

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

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

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

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

Regarding Option Clause, PSD amount may be worked out based on Option Clause quantity. PSD for Option Clause quantity may be returned after 60 days of fulfilment of all contractual obligations of the Option Clause quantity including warranty period (if any).

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

30. **Withholding tax:**

(a) BUYER would be deducting at source applicable Income Tax as per Government of India Rules applicable at the time of making payments in respect of services rendered in India. (Generally on the amounts towards services like training, technical assistance offered by the Seller and license fees). As per the Rules, Income tax has to be borne by the recipient of the Income and relevant certificate to this effect will be issued to the Seller on deduction of such amounts, if applicable.

(b) Seller should bear the applicable withholding income tax in India. Tax would be deducted at source by Buyer as per DTAA where the Seller could claim the benefit of double taxation in their country as per the bilateral agreement between the two countries. Certificate to this effect would be issued by Buyer to enable the Seller to claim the benefit under DTAA.

(c) Seller is required to indicate the PAN/TAN No. issued by Indian Income Tax Authorities and Permanent Establishment Certificate, If Applicable.

31. **Risk Purchase :**

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

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

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

a) When the item offered by the Seller repeatedly fails in the inspection and/or the Seller is not in position to either rectify the defects or offer items conforming to the contracted quality standards.

b) When the Seller fails to honour any part of the contract including failure to deliver the contracted stores/ render services in time.

c) Adulterated supplies as determined according to Prevention of Food Adulteration Act, 1954 and Rules, 1995 as amended from time to time.

d) Supplies inferior to the specified quality.

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

f) Time expired supplies.

- g) When the Seller is found to have made any false or fraudulent declaration or statement to get the contract or he is found to be indulging in unethical or unfair trade practices.
- h) Based on the decision of Arbitration Tribunal.
- i) The seller is declared bankrupt or become insolvent.

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

- i) Shall forthwith notify the same to Buyer and the Buyer shall have the right without prejudice to his other rights or remedies to terminate the unexecuted part of this Contract.
- ii) In such an event, the Buyer shall become entitled forthwith to get the refund within 30 days of all the advance payments received by the Seller and expenditure incurred as a part of its obligations under this contract.

34. **Appropriation:** Whenever under this contract any sum of money is due or recoverable from Seller or payable by the Seller, Buyer shall be entitled to recover such sum by appropriating in part or whole by deducting any sum then due or which at any time thereafter may become due to the Seller in this or any other contract entered by Buyer as a whole its Divisions and Branch Offices etc., held by him/her alone or in partnership with others. Should this sum be not sufficient to cover the full amount recoverable, the Seller shall pay to Buyer on demand the remaining balance due within 30 days of such written notice. The remaining balances due, if any, will be recovered through due process of law in case seller becomes defaulter.

35. **Arbitration:**

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

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

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

The arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the arbitrator may be nominated under the provisions of Indian Arbitration and Conciliation Act, 1996 (amended time to time) or by dispute resolution institutions like Indian Council of Arbitration and ICADR. In case, nomination of third arbitrator under Indian Arbitration and Conciliation Act, 1996 (amended time to time) or by dispute resolution institutions like ICA and ICADR are not acceptable to the SELLER, then the sole arbitrator may be nominated by the President of International Chamber of Commerce, Paris, but the said nomination would be after consultation with both the parties and shall preclude any citizen with domicile of any country as mentioned above. The Arbitration Tribunal shall have its seat in _____ in India or any suitable place in India as may be decided by the arbitrator. Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal. In the event of a vacancy caused in the office of the arbitrator, the parties which nominated such arbitrator shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator. In the event of both parties failing to nominate arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration or ICADR to nominate another arbitrator as above. The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitrator proceedings. The language(s) of the arbitration shall be English. "Except as may be required by law, neither a party nor its representatives may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of (all /both) parties." In case of technical disputes involving confidential matters, the issue shall be referred to a high level technical authority for each party, appointed for this purpose. For CPSUs/DPSUs In the event of any dispute or difference relating to the interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-Charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 (amended time to time) shall not be applicable to the disputes, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to be Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/ Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator. If the Department of Public Enterprises fails to settle the dispute, the same will be referred to the Committee constituted by the Cabinet Secretariat.

36. **Bribes:** The Seller undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contracts or forbearing to do or for having done or for borne to do any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Government. Any breach of the aforesaid undertaking by the seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the

seller) or the commission of any offers by the seller or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1988 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the seller and recover from the seller the amount of any loss arising from such cancellation. A decision of the buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the Seller. Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the seller towards any officer/employee of the buyer or to any other person in a position to influence any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/ penalty as the Buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

37. **Sub-contracting/Sub-letting with the permission of the Buyer:** Seller shall not be entitled without buyer's prior written consent to Sub-contract/Sublet to a third party all or part of the benefits or obligations of the Contract (even by way of change of ownership or control), except as expressly permitted in this Contract if any, to sub-contract any of its rights and interest under this Contract.
38. **Works & Payments during Arbitration:** Work under the Contract shall be continued by the Seller during the arbitration proceeding, unless otherwise directed in writing by the Buyer or unless the matter is such that the work cannot possibly be continued until the decision of the arbitrators is obtained, and save as those which are otherwise expressly provided in the Contract, no payment due or payable by the Buyer shall be withheld on account of such arbitration proceedings, unless it is the subject matter or one of the subject matters thereof.
39. **Fall Clause:** The price quoted shall be in no event exceed the lowest price at which you sell the stores or offer to sell stores of identical description to any person(s) / organization including the purchases by any department of the Govt. of India, the State Govt. or any statutory undertaking of the Govt. of India / State Govt., as the case may be during the period till the completion of the performance of the order placed and during currency of the order. If at any time during the said period, the Seller reduces the sales price, sells or offers to sell such stores to any person/ organization including the Buyer or any department of Central Govt. or any Dept. of State Govt., or any statutory undertaking of the Central or State Govt., as the case may be at a price lower than the price chargeable under the contract, he shall forthwith notify such reduction/sale or offer to sale to the Buyer and the price payable under the contract for the stores supplied after the date of coming into force of such reduction or sale or offer to sale shall stand correspondingly reduced with due allowance for quantities and intervening time period.
40. **Export License:** Foreign Seller making proposals should ensure availability of export license as per their Govt. regulations for export to India. Seller shall be required to obtain and maintain all Export/Import licenses and permits etc., as the case may be, required for performing supplies against this tender. Obtaining export license shall be entire responsibility of the Seller and he shall discharge this within a reasonable time. End User Certificate will be issued by the Buyer.
41. **Immunity to the Government of India:** It is expressly understood and agreed by and between Seller & buyer that buyer is entering into this contact solely on its own behalf and not on behalf any other person or entity. In particular, it is expressly understood and agreed that Government of India is not a party to this contract and has no liabilities,

obligations or right hereunder. It is expressly understood and agreed that buyer is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable laws of India and general principles contract law. Seller expressly agreed acknowledges and understand that buyer is not an agent, representative or delegate to the Government of India. It is further agreed and understood that Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the contract. Accordingly, Seller hereby expressly waives releases and foregoes any and all actions, including counterclaims, impleader claims or counter claims against the Government of India arising out of this contract and covenants as to any manner, claim cause or action or this whatsoever arising out of or under this contract.

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

43. Force Majeure:

(a) If at any time during the execution of the supply order, the performance in whole or in part by either Buyer or and by the Seller(s) is / are delayed by any reason of force majeure situations such as acts of civil war, civil commotion, sabotage, hostilities, war, fires, explosions, epidemics, natural calamities like floods, earthquakes, volcanoes, storms, acts of God & laws of respective governments or any other causes beyond the control of either parties, hereinafter referred to as "events", provided notice of the occurrence of such event/s is / are communicated by either party, to the other party within 21 days from the date of occurrence thereof, neither party shall by reason such events be entitled to terminate the contract nor shall either party have any claim for damages against the other in respect of such non performance and or delay in performance of the contract / order. Executions on either side shall be resumed as soon as practicable after such event has come to an end or ceased to exist and the decision of Buyer as to whether activities can resume or not, shall be conclusive and final. Occurrence of the events to be certified by Chamber of Commerce / Indian High Commission or Embassies / Government in that Country.

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

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

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

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

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

47. **Mode of Payment:**

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

Foreign Bidders:

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

OR

b) The payment shall be through Letter of Credit from State Bank of India/ any other Indian Public Sector Bank, as decided by the Buyer, to the Bank of the Foreign Seller. The Seller shall give a notification within a specified period of 30 days about the readiness of goods. Letter of Credit shall be opened by the Buyer within 30 days on receipt of notification of readiness of the consignment from the Seller, Performance Bank Guarantee & date of receipt of export license from the Seller of the consignment. The Letter of Credit shall be valid for ninety days from the date of its opening, on extendable basis by mutual consent of both the Seller and the Buyer. All expenses related to Letters of Credit outside India shall be borne by the foreign vendor. In case of extension of delivery period the LC extension charges shall be borne by the Seller, if the extension is due to reasons attributable to the Seller.

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

“The Dy. Controller of Finance & Accounts, Ordnance Factory Chanda, Chandrapur – 442501 (Maharashtra)”.

49. **Document to be submitted for Effecting Payments:** The Seller submit the requisite documents to the Paying Authority to enable effecting the payment.

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

- i) Ink-signed copy of Sellers Bill/ Commercial Invoice/ Contingent Bill
- ii) Inspection Note (and User Acceptance, if applicable)

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

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

- i) Clean on Board Airway Bill/ Bill of Lading
- ii) Original Invoice
- iii) Packing List
- iv) Certificate of Quality and current manufacture from OEM
- v) Performance Bond/ Warranty Certificate
- vi) Dangerous Cargo certificate, if applicable
- vii) Insurance policy for 110% of the CIF/ CIP contract
- viii) Certificate of Conformity & Acceptance Test at PDI signed by both Buyer & Seller representative. In case Buyer 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.
- ix) Certificate of Origin, duly stamped by the Seller's Chamber of Commerce.
- x) Fumigation Certificate, if any
- xi) Any other document/ certificate provided for in the Supply Order/ Contract

50. **Transportation:** Standard transportation instructions are as follows:

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

- ii) Port of Loading and name of Country:
- iii) ETA at Port of Discharge:
- iv) Number of Packages and Weight:
- v) Nomenclature and details of major equipment:
- vi) Special instructions, if any, to be provided by the Buyer: Shipment by Non-Pakistani Vessel which are neither touching Pakistani Port nor Sailing under Pakistani Flag and are not manned by Pakistani crew.

OR

b) **FOB/ FAS (Port of Shipment):** The stores may be shipped through Indian Ships in case of FOB/ FAS contracts. Notice about the readiness of Cargo for shipment shall be given by the supplier from time to time at least eight weeks in advance for finalizing the shipping arrangement, through Fax and courier, to Factory concerned. Within 3 (three) weeks of receipt of the advance notice, as above, the Factory Concerned will advise the supplier, through Fax and courier when, and on board what vessels, these goods, or such part thereof, are to be delivered. If the advice for shipping arrangement is not furnished to the Seller within 3 (three) weeks as aforesaid or if the vessel arranged is scheduled to arrive at the specified port of loading later than 15 (fifteen) days of the date of readiness of cargo, as aforesaid, the Seller may arrange for such transport on alternative carriers with the prior written consent of the Buyer. Where the Seller is required under the contract to deliver the goods on FOB/ FAS basis, and to arrange on behalf and at the expense of the Buyer, for ocean transportation on Indian flag vessels or vessels of conference lines in which India is a member country, the Seller may arrange for such transportation on alternate carriers if the specified Indian flag vessels or conference vessels are not available to transport the goods within the time period(s) specified in the contract, with the prior written consent of the Buyer. Should the goods or any part thereof be not delivered on the nominated vessel (except in case where prior written consent of the Buyer was obtained), the Seller will be liable for all payments and expenses that the Buyer may incur, or be put to, by reason of such non-delivery including dead and extra freight, demurrage of vessels and any other charges, whatsoever incurred by the Buyer. The date of issue of the Bill of Lading shall be considered as the date of delivery. No part shipment or Trans-shipment of goods would be permitted. In case it becomes inevitable to do so, the Seller shall not arrange part-shipments/ trans-shipment without the express/prior written consent of the Buyer. The Seller may contact Factory concerned.

OR

c) **FCA (Airport):** The dispatch of goods shall be made by air to the port of the consignee. The Buyer shall advise full details of its freight forwarder to the Seller no later than 60 days prior to the delivery of the first consignment otherwise the Seller may nominate the freight forwarder at the Buyers expense. Delays in advising or delays by the Buyers freight forwarders shall not be the responsibility of the Seller. The date of issue of the Air Way Bill shall be the considered as the date of delivery.

51. **Air lift:** 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.

52. **Exchange Rate Variation (ERV) :** ERV is applicable only in contracts involving substantial import content(s) and having a long delivery period (exceeding one year from the date of contract). The bidder should indicate the import content(s) and the currency (currencies) used for calculating the value of import content(s) in their total quoted price, which (i.e. the total quoted price) will be in Indian Rupees. The bidder should also indicate the Base Exchange Rate for each such foreign currency used for converting the FE content into Indian Rupees and the extent of foreign exchange rate variation risk they

are willing to bear. To work out the variation due to changes (if any) in the exchange rate(s), the base date for this purpose will be the last date of submission of commercial bid. The variation may be allowed between the above base date and the date of remittance to the foreign principal/ mid-point of manufacture of the foreign component/..... (Purchaser shall decide an appropriate date). The applicable exchange rates as above will be according to the TT selling rates of exchange of SBI, Parliament Street Branch, New Delhi/RBI on the dates in question. No variation in price in this regard will be allowed if the variation in the rate of exchange remains within the limit of plus/minus 2.5 percent. Any increase or decrease in the customs duty by reason of the variation in the rate of exchange in terms of the contract will be to the buyer's account. In case delivery period is extended due to default of the vendor, any increase in exchange rate will not be admissible and exchange rate on the last date of original DP shall be considered. In case there is decrease in exchange rate during extended DP, lower exchange rate will be considered. The following documents would need to be submitted by Seller in support of the claim on account of ERV:

- (i) A bill of ERV claim enclosing working sheet
- (ii) Banker's Certificate/ debit advice detailing FE paid, date of remittance and exchange rate
- (iii) Copies of import order placed on supplier
- (iv) Invoice of supplier for the relevant import order.

MODEL ECS MANDATE FORMAT

Customer's option to receive payments through e-Payment (ECS/ EFT/ DIRECT CREDIT/ RTGS/ NEFT/

Other payment mechanism as approved by RBI.)

Credit Clearing Mechanism

1. Customer's Name

2. Particulars of Bank Account –

a. Bank name

b. Branch name

c. Address

d. Telephone numbers

e. IFS code

f. 9 Digit code number of Bank and Branch appearing on MICR cheque issued by Bank

g. Account Type (S.B. Account / Current Account or Cash)

h. Ledger number

i. Ledger Folio number

j. Account number as appearing on Cheque Book

3. Please attach a blank cancelled cheque, or, photocopy of a cheque or front page of your savings bank passbook issued by your bank for verification of the above particulars.

4. Date of Effect "I, hereby, declare that the particulars given above are correct and complete. If the transaction is delayed or not effected at all for reasons of incomplete or incorrect information, I would not hold the user institution responsible. I have read the option invitation letter and agree to discharge the responsibility expected of me as a participant under scheme."

(.....)

Signature of Customer

Date :

Certified that the particulars furnished above are correct as per our records.

Bank's Stamp : (.....)

Date:

Signature of the Authorized Official from the Bank

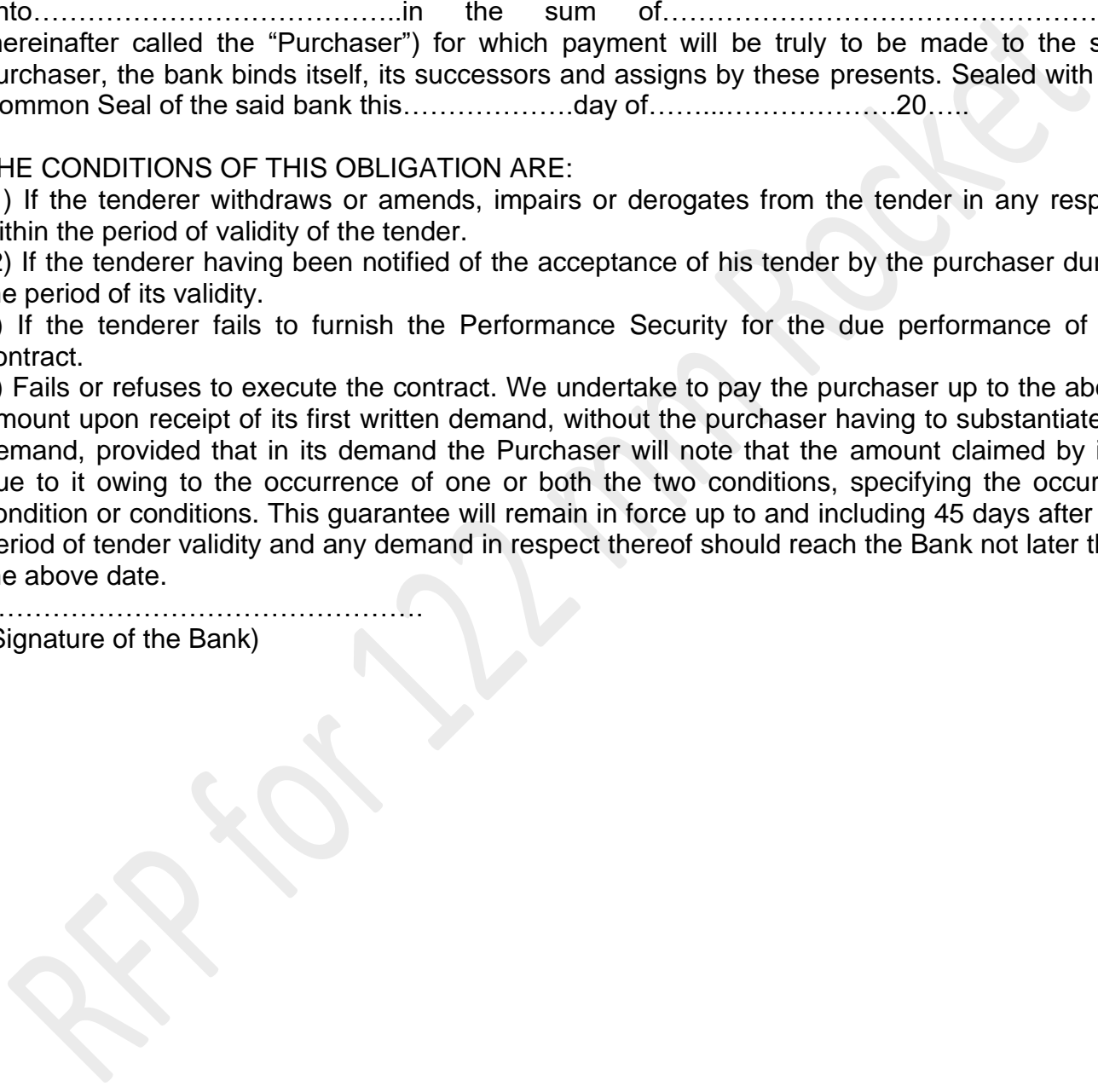
BANK GUARANTEE FORMAT FOR FURNISHING EMD

Whereas..... (hereinafter called the “tenderer”) has submitted their offer datedfor the supply of..... (hereinafter called the “tender” know all men by these presents that we..... of.....having our registered office at..... (hereinafter called the “bank” are bound unto.....in the sum of..... (hereinafter called the “Purchaser”) for which payment will be truly to be made to the said purchaser, the bank binds itself, its successors and assigns by these presents. Sealed with the Common Seal of the said bank this.....day of.....20.....

THE CONDITIONS OF THIS OBLIGATION ARE:

- (1) If the tenderer withdraws or amends, impairs or derogates from the tender in any respect within the period of validity of the tender.
- (2) If the tenderer having been notified of the acceptance of his tender by the purchaser during the period of its validity.
 - a) If the tenderer fails to furnish the Performance Security for the due performance of the contract.
 - b) Fails or refuses to execute the contract. We undertake to pay the purchaser up to the above amount upon receipt of its first written demand, without the purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both the two conditions, specifying the occurred condition or conditions. This guarantee will remain in force up to and including 45 days after the period of tender validity and any demand in respect thereof should reach the Bank not later than the above date.

.....
(Signature of the Bank)



PERFORMANCE BANK GUARANTEE FORMAT

From:
Bank _____
To,
The PCA(Fys),
Kolkata

Dear Sir,

Whereas you have entered into a contract No. _____ dated _____ (hereinafter referred to as the said Contract) with M/s _____, hereinafter referred to as the "seller" for supply of goods as per Part-II of the said contract to the said seller 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 the _____ bank 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, all and any sum up to a maximum of _____ Rupees _____ only. 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 12 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.

5. 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.

6. 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 _____

CERTIFICATE OF CONFORMITY FORMAT

Date :

No :

Product Name :

Product No :

Lot No :

Quantity :

Contract No :

Packaging List No :

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

RFP for 122 mm Rocket

QUANTITY CLAIM FORMAT

Quantity Claim to the Contract Nodated.....

Claim Protocol number

Laid down

For inter/tare storage Commission, consisting of Chairmanand 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 number..... Item Sr.
Number 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 the 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 FORMAT

Quality Claim to the Contract Nodated.....

Claim Protocol number

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. Serial No(equipment)
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)
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).
6. The following parts are required for the repair of the equipment (or its parts)
7. The defect occurred within the guarantee period from the reason as follows
.....
8. The costs of the repair of the equipment or its parts
9. The defect occurred within the guarantee period from the reason as follows.....
The costs of the repair will be debited to (..... manufacturer/owner.....)
10. To settle the claim, the Seller has to replace the equipment and dispatch the unit and other parts, 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

.....
.....

PRE-CONTRACT INTEGRITY PACT
(for cases valuing above Rs. 5 Cr and up to 100 Cr)

General

1. Whereas the PRESIDENT OF INDIA, represented by _____, hereinafter referred to as the Buyer and the first party, proposes to procure (Name of the Store/ Equipment), hereinafter referred to as Defence Stores, and M/s _____, represented by, Mr / Mrs _____, Chief Executive Officer (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignees), hereinafter referred to as the Bidder/Seller and the second party, is willing to offer/has offered the stores.

2. Whereas the Bidder is a private company/public company/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the Buyer is a Departmental Organisation under Ministry of Defence, Government of India performing its functions on behalf of the President of India.

Objectives

3. Now, therefore, the Buyer and the Bidder agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

3.1 Enabling the Buyer to obtain the desired defence stores at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

3.2 Enabling bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Buyer will commit to prevent corruption, in any form, by their officials by following transparent procedures.

Commitments of the Buyer

4. The Buyer Commits itself to the following:-

4.1 The Buyer undertakes that no official of the Buyer, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the Contract.

4.2 The Buyer will, during the pre-contract stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.

4.3 All the officials of the Buyer will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

5. In case of any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Buyer with full and verifiable facts and the same is prima facie found to be correct by the Buyer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Buyer and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Buyer the proceedings under the contract would not be stalled.

Commitments of Bidders

6. The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:-

6.1 The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.

6.2 The Bidder further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer or otherwise in procuring the Contract or forbearing to do or having done 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 Contractor any other Contract with the Government.

6.3 The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

6.4 The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

6.5 The Bidder further confirms and declares to the Buyer that the Bidder is the original Manufacturer/ integrator / authorised government sponsored export entity of the defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Buyer or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

6.6 The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the Buyer or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.

6.7 The Bidder shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Buyer as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.

6.8 The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.

6.9 The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

7. Previous Transgression

7.1 The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India, that could justify bidder's exclusion from the tender process.

7.2 If the Bidder makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

8. Earnest Money/Security Deposit

8.1. All procurement cases above Rs. 5 Cr and up to Rs. 100 Cr, Integrity Pact is required to be executed without any additional Financial Guarantee. The EMD/SD/PBG required to be submitted by the vendor as prescribed in the respective Procurement Manual shall only act as the financial guarantee for the IP.

8.2. The validity of the IP will be the validity of the EMD/SD/PBG or the complete conclusion of contractual obligations to complete satisfaction of both the bidder and the buyer, whichever is later. In case there are more than one bidder, the Earnest Money/Security Deposit shall be refunded by the buyer to those bidder(s) whose bid does not qualify (do not qualify) after the stages of TEC/ TPC, as constituted by the Buyer, immediately after a recommendation is made by the TEC/TPC on bid(s) after an evaluation.

8.3 In the case of successful bidder a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

8.4 The provisions regarding Sanctions for Violation in Integrity Pact include forfeiture of Performance Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

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

9. Company Code of Conduct

9.1 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.

10. Sanctions for Violation

10.1 Any breach of the aforesaid provisions by the Bidder or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Buyer to take all or any one of the following actions, wherever required:-

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

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

(iii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.

(iv) To recover all sums already paid by the Buyer, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India (or Base Rate of State Bank of India in the absence of Prime Lending Rate) and in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from the Buyer in connection with any other contract for any other defence stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.

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

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

(vii) To ban the Bidder from entering into any bid from the Government of India for a minimum period of five years and not more than ten years at the discretion of the Buyer.

(viii) To recover all sums paid in violation of this Pact by Bidder(s) to any middleman or agent or broker with a view to securing the contract.

(ix) If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is closely related to any of the officers of the Buyer, or alternatively, if any close relative of an officer of the Buyer has financial interest/stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filing of tender. Any failure to disclose the interest involved shall entitle the Buyer to rescind the contract without payment of any compensation to the Bidder. The term 'close relative' for this purpose would mean spouse whether residing with the Government servant or not, but not include a spouse separated from the Government servant by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer

in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law; any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.

(x) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Buyer, and if he does so, the Buyer shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.

(xi) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Buyer with the Bidder, the same shall not be opened.

10.2 The decision of the Buyer to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder shall be final and binding on the Bidder, however, the Bidder can approach the monitor(s) appointed for the purposes of this Pact.

11. Fall Clause

11.1 The Bidder undertakes that he has not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India and if it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry/Department of the Government of India at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the Bidder to the Buyer, if the contract has already been concluded.

11.2 The Bidder shall strive to accord the most favoured customer treatment to the Buyer in respect of all matters pertaining to the present case.

12. Independent Monitors

12.1 The Buyer has appointed Independent Monitor(s) for this Pact in consultation with the Central Vigilance Commission (Names and Addresses of the Monitors to be given) : Shri P V Surkar, Works Manager, Ordnance Factory Chanda, Chandrapur – 442501.

12.2 As soon as the Monitor notices, or believes to notice, a violation of this Pact, he will so inform the DGOF and Chairman/ Ordnance Factory Board, Ayudh Bhavan, 10A, S. K. Bose Road, Kolkata – 700 001.

13. Examination of Books of Accounts

In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Buyer or its agencies shall be entitled to examine the Books of Accounts of the Bidder and the Bidder shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.

14. Law and Place of Jurisdiction

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Buyer i.e. the nearest location from the seat of the Buyer of a High Court or a Bench of High Court.

15. Other Legal Actions

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

16. Validity

16.1 The validity of this Integrity Pact shall be from date of its signing and will remain valid upto the validity of the PBG or the complete conclusion of contractual obligations to complete satisfaction of both the Buyer and the Bidder/Seller, whichever is later.

16.2 Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

17. The Parties hereby sign this Integrity Pact at _____ on _____

BUYER

BIDDER

()
Designation:
Ordnance Factory Chanda

()
Chief Executive Officer
Name of Firm: _____

Witness

Witness

1. _____

1. _____

2. _____

2. _____

RFP for 122 mm Pocket

PART IV

Evaluation Criteria for Technical and Commercial bids

1. Vendors will submit the response to this RFP as per Annexure I & II.
2. **Evaluation of Bids:**
 - a. The bids of only 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 OEM) 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.
 - b. The company should not have been debarred, banned, suspended or blacklisted by the Ministry of Defence, India at the time of opening date of Bid.

3. Technical Evaluation criterion(TEC):

The bidders complying to following conditions of offering technology for manufacturing 122mm Rockets in ordnance factories will only be considered for conducting field firing trials:

- a. The ToT for manufacturing and the product being offered is as per part-II of RFP.
- b. The bidder if selected as Technology Partner is willing for:
 - i. Customisation if required of 122 mm rockets for firing on launchers available with Indian Army and Development activity for other countries as per the end user requirements.
 - ii. Engage with OFB for Up-gradation of 122mm Rocket.
 - iii. Assist OFB for formulating the response to users against their demand.
 - iv. The interested parties are willing to offer Manufacturing and Maintenance ToT.
 - v. The company must confirm that if selected for ToT with OFB for manufacture of 122 mm Rocket for Launcher BM-21(GRAD), it will not enter into any agreement with any other Indian company for 122 mm Rocket.
 - vi. The company should give their willingness to provide technical support to OFB including supply of product/production documentation, technological documents, deputation of technical specialists to OFB premises and any other support required to establish and maintain indigenous production as per specified quality standards.
 - vii. The company has to confirm that there are no Government restrictions or limitations in the country of the Company or any other for entering into business with OFB in India.
 - viii. The company has to confirm that there are no infringements of any patent Rights in accordance with the laws prevailing while executing the contract.
 - ix. The ToT shall include the confirmation of product support of the items /spares.
 - x. The ToT shall include the product upgrade within the life cycle of the product.

- xi. There shall be no cap on the quantity, indenter and years of manufacturing. There shall be no restriction on export and should be as per the prevailing rules and regulations of both the countries.
- xii. Final Supply Order / Contract is to be finalised with the selected bidder if confirmed requirements / target exists at the time of concluding contract
- xiii. The contract will be for a period of 05 years.
- xiv. TOT shall be considered complete only if both product and production documents are provided.
- xv. The ToT shall be free of cost. State of the Art and latest.
- xvi. The payment of ToT charges in place of Upfront ToT fees shall be done as percentage of Final issue price against the actual quantity issued to the end customer of OFB.
- xvii. Company shall confirm that OFB shall be free to supply the Rocket to Indian Armed Forces and other internal security agencies of India, besides Indian Army & Export.
- xviii. The Interested parties should be willing to supply **50 numbers of 122 mm Free Flight (unguided) Rockets and 12 numbers of 122 mm Guided Rockets for NC-NC (No Cost –No Commitment) trials**, if short listed as Prospective parties.
- xix. The Technology partner will provide ToT which will include the following key technologies for 122mm rocket
 - a) Empty warhead and filling of warheads.
 - b) Explosives and Propellants.
 - c) Propellant system including ventury, nozzle, tube, rocket motor, Tail unit, rocket propellant, igniter.
 - d) Various detonators and initiators
 - e) Proximity and Electronic Fuze.
 - f) Guidance kit
- xx. Party has to confirm that they have requisite export license from their Government and authorization from the manufacturing plant to export military / non-military goods to India.

c. TEC Qualifying criterion for Range & Depth of technology:

The respondents will be asked to provide a list of all the assemblies and their value in terms of percentage of the total system. Against each system, the respondents will have to indicate whether technology for the assemblies would be provided or not. This will also include details of proprietary content. In order to assess the depth of technology, all the assemblies/sub-assemblies for which technology is being offered, will be divided into following categories:

Category A: Complete technology is provided i.e. product documents / specifications as well as production process documents. For such sub-assemblies of major assembly, full weightage will be given.

Category B: Only product document is provided and no production / process documents are provided for sub-assemblies of major assembly. Only 50% weightage for such assemblies / sub-assemblies will be given.

Category C: Proprietary and Ex-import Items. Only 10% weightage will be given for such assemblies / sub-assemblies.

| Sl. No. | Name of Major assembly | Percentage value of major assembly as total Rocket Cost | % value of Sub-assemblies of Major assembly (column b) in Category A. | % value of Sub-assemblies of Major assembly (column b) in Category B. | % value of Sub-assemblies of Major assembly (column b) in Category C. | Weightage | Final percentage after weightage |
|---------------------------------|---------------------------|---|---|---|---|----------------------------------|----------------------------------|
| (a) | (b) | (b) | (d) | (e) | (f) | (g) = 1 x(d) + 0.5x(e) + 0.1x(f) | (h)=(g) x (c) / 100 |
| | | | (d)+(e)+(f)=1 | | | | |
| 1. | Warhead | | | | | | |
| 2. | Rocket population section | | | | | | |
| 3. | Stabiliser & Nozzle assy | | | | | | |
| 4. | Fuze assy | | | | | | |
| Total technology offered | | | | | | | Sum: $\sum H$ |

$\sum H$ should be more than 90% for qualifying in the TEC before field trials.

4. Commercial bid format :

| | | Remarks |
|--|----------|---|
| Targeted cost of each round of ammunition(A) | A | |
| % of ToT charges of (A) | X | For % of ToT charges, the tentative requirement will be 15000 nos. for 5 years. |

- a. The commercial bid should be valid till placement of contract.
- b. The price of SKD & CKD will be fixed for a period of 5 years from the date of contract.

5. Commercial Evaluation criterion after TEC and field firing trials the commercial bid will be opened and evaluated

- a. The sole basis of determining L1 offer will be as follow:
Targeted cost of each round of ammunition(A) + ToT charges [(X)%of (A)].
- b. 'A' will be the cost for FOB: Port of Shipment & CIF Indian Port basis.

c. Sample calculation for determining L1 offer as follow:

| Offers | Targeted cost of each round(in INR) (a) | ToT charges (in INR) (b) | Cost for determining L1 (a) + (b) | Ranking Status |
|---------------|--|---------------------------------|--|-----------------------|
| Offer 1 | 110000 | 3300 (3%) | 1,13,300 | L3 |
| Offer 2 | 112000 | 1120 (1%) | 1,13,120 | L2 |
| Offer 3 | 110000 | 1100(1%) | 1,11,100 | L1 |
| Offer 4 | 11500 | 2300(2%) | 1,17,300 | L4 |

RFP for 122 mm Rocket

INFORMATION PROFORMA : Company profile

1. **Name of the Vendor / Company / Firm**

(Company profile, in brief, to be attached)

2. **Type (Tick the relevant category)**

a. Original Equipment Manufacturer (OEM) Yes / No

b. Government sponsored Export Agency Yes / No
(Details of registration to be provided)

c. Authorized Vendor of OEM Yes / No
(attach details)

d. Others (give specific details) _____

3. **Contact Details**

Postal Address: _____

City: _____ Province: _____ Country: _____

Pin / Zip Code: _____ Tele: _____ Fax: _____

_____ URL / WebSite: _____

4. **Local Branch/Liaison Office/Authorised Representatives, in India (if any).**

Name & Address: _____

City: _____ Province: _____

_____ Pincode: _____ Tel : _____

_____ Fax: _____

5. **Financial Details.**

(a) Annual turnover (for last 3 years): _____ USD

(b) Number of Employees in firm _____.

(c) Details of manufacturing infrastructure available _____.

(d) Earlier contracts with Indian Ministry of Defence/Government agencies:

| Agency | Contract Number | Equipment | Quantity | Cost |
|--------|-----------------|-----------|----------|------|
| | | | | |
| | | | | |

6. **Certification by Quality Assurance Organisation (If Applicable)**

| Name of Agency | Certification | Applicable from (date & year) | Valid till (date & year) |
|----------------|---------------|----------------------------------|-----------------------------|
| | | | |
| | | | |

7. **Equipment / Product Profile**

(a) Description (attach technical literature): _____

(b) Whether OEM or Integrator: _____

(c) Status (in service/Design development stage): _____

(h) Any _____ collaboration / joint venture / co production / authorized dealer with Indian Industry (give details):

Name & Address: _____ Tel : _____ Fax: _____

8. Any other relevant information. _____

9. **Declaration.** It is certified that the above information is true and any changes will be intimated at the earliest.

(Authorised Signatory)

FORMAT FOR RFP RESPONSE & COMPLIANCE STATEMENT

All the respondents are requested to indicate compliance to the technical requirements against each parameter in the table given below-

1. Sealed Technical bid to include

- a. Para wise Compliance to every paragraph of Part I
 - b. Para wise Compliance to every paragraph of Part II
 - c. Para wise Compliance to every paragraph of Part III
 - d. Para wise Compliance to every paragraph of Part IV
 - e. Compliance to delivery schedule
 - f. Maturity of 122 Rocket ToT being offered
 - g. Status of development
 - h. Nos of IP held by party for 122mm Rocket
 - i. If delivered in respective defence forces, along with details.
 - j. If successfully delivered to other countries, along with details.
- k. Essential Documents to be submitted along with RFP response:
- i. Detailed Technic Specification of Product being offered as per Part-II of RFP, including details of
 - a) Operational parameters achieved
 - b) Range claimed
 - c) Accuracy
 - d) Consistency and dispersion Claimed
 - e) Consistency at 80% of maximum range i.e. 32km
 - f) Operational temperature claimed
 - g) Shelf Life claimed.
 - h) Terminal effects claimed: Lethality and Mean Area ofEffect) etc.
 - i) Reliability
 - j) Weight of Rocket
 - k) Type of Warhead & detailed specifications
 - l) Rocket Motor Parameters
 - m) Fuze Details
 - ii. Environment test certificates of rocket.
 - iii. Environment test certificates of Fuze as per MIL stds.
 - iv. Safety certificates for conducting field firing trials.
 - v. Certificate of conformance for visual and dimensional inspection of store and its components.
 - vi. The respondents will be asked to provide a list of all the assemblies and their value in terms of percentage of the total system