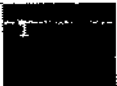




**PROCUREMENT
MANUAL - 2021
(STORES & SERVICES)
ARMoured VEHICLES
NIGAM LIMITED**

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PROCUREMENT MANUAL
(STORES & SERVICES)-2021
(Version.1)

A vision for an



AATMA-NIRBHAR
BHARAT

Armoured Vehicles Nigam Limited (AVNL), Chennai-600054
Department of Defence Production, Ministry of Defence
Govt of India

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Foreword

- 1) AVNL Procurement Manual is a manual for procurement of stores & services for production in AVNL.
- 2) AVNL Factories have the responsibility of ensuring timely supply of military hardware to Defence Forces and other customers. The significance of availability of right material at right time and at right price, therefore, cannot be undermined. Considering the production requirement of AVNL Factories, it is always desirable to have separate exclusive Procurement Manual for the AVNL Units including factories for stores and services procurement cases especially for Made-to-Order (MTO) items which are ensuring expeditious processing of stores procurement proposals, facilitating faster decision making and consequently timely availability of input materials.
- 3) The provisions in AVNL Procurement Manual 2021 are within the ambit of DPM 2009 (or amended from time to time), GFR 2017 (or amended from time to time) as also other policies / guidelines / instructions issued by MoD, DIPP, MoF, MoMSME, CVC and ATN on CAG observations keeping in view the specific requirements of production and to ensure timely availability of input materials for continuity of production in AVNL Factories, maintaining transparency and probity in procurement.
- 4) AVNL Procurement Manual 2021 is more user and vendor friendly and has covered latest provisions and initiatives of the Government of India like Public Procurement (Preference to Make in India) Order 2017, Ease of Doing Business, level playing field with indigenous vendors, GeM, Start-ups among other things. The applicability of all these provisions will further boost and enhance the Defence Manufacturing eco system especially with MSMEs.
- 5) The AVNL Procurement Manual 2021 has been finalized and approved by Board of AVNL vide AVNL Board Meeting No.05/ 2021-22 held on 27 January 2022.

Avadi, Chennai-600 054.

(Sanjeev Kishore)
CMD / AVNL

Date:

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Preamble

“In the new world it is not the big fish which eats the small fish; it’s the fast fish which eats the slow fish”

-Klaus Schwab, founder and chairman of World Economic Forum

The AVNL Procurement Manual (Stores & Service)-2021 is aimed at: imbibing the best possible supply-chain-management practices being followed across defence industries, harnessing the potential of well established Indian Defence Eco-system to offer ‘Womb’ to ‘Tomb’ solution to its customer. The manual does address important aspects of the industry such as: hand-holding in developing the complex defence platforms/systems/sub-systems, offering level playing field to eligible and potential vendors and, most importantly, ensuring commercial viability of the whole procurement cycle. Nevertheless, the provisions made in this procurement manual are within the ambit of DAP-2020 (amended form time to time) and GFR 2017 (amended form time to time) and derive its ethos and spirit from the principles of highest standards of transparency, fairness, competition, integrity and public accountability. And therefore, it offers a balance between complex procurement procedure and ensuring input store of the highest standard of quality at right cost; though decision making pertaining to this class of purchase always remains distinctive and complex.

While forging the AVNL procurement manual, the core spirit of the supply-chain-management, that is to say, sourcing the right material, within the reasonable time, at right cost, has traveled along adamantine. And for that raison d’être, this manual is not only coherent with laid down fundamental principles of public procurement, but also offers, pari-passu, an impetus to the clarion call of an ‘*Atmanirbhar Bharat*’, as envisaged by the Govt of India.

Needless to mention that the Defence manufacturing is unique and complex due to fast changing cutting-edge technologies. It demands major thrust in Research and Development, creation of intellectual capital, and substantial investment in defence production facilities within the country. A smooth, efficient and well defined procurement procedure, duly encapsulate in the form of a procurement manual, is the indispensable written document of any organization to shape its future.

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Philosophy

"Dare to be free, dare to go as far as your thought leads, and dare to carry that out in your life."

-Swami Vivekananda

The Procurement Manual of an organization is a sacrosanct document which not only lays down the fundamental principle of procurement but also, to a large extent, synergies the defence eco-system mandatory for its existence. It broadly deals with the objectives and functions of purchase department and essentially lists out the procedure to be followed for procurement of stores and services. The core philosophy of this procurement manual is not exceptional either. Owing to above, the procurement manual is prepared:

1. Duly aligning its principle with GFR-2017 & DAP-2020.
2. Encompassing the CVC guidelines issued from time to time.
3. Adhering the regulations and directives issued by various Ministries of Central and State Governments.
4. Adhering to policies, guidelines, instructions issued by MoD, DIPP, MoF, MoMSME, CAG.
5. And, directives issued by any other statutory bodies that have a bearing on the procurement process.
6. This manual covers latest provisions and initiatives of Govt of India like public procurement (Preference to Make-in-India) order 2017, Ease-of-Doing-Business, level playing field with indigenous vendor, GeM, Start-Up, so on and so forth.

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7. Any instance of variance with GFR 2017 & DAP-2020 (amended from time to time) is noticed, the matter should be referred to AVNL for clarification. However, the ongoing procurement may not be stopped pending receipt of such clarification, if there is an operational urgency and the associated delay is likely to have adverse implications on the nation's interest.

8. Since the stores procurement of AVNL shall be governed by the provisions made in this manual, all associated SOPs, guidelines, instructions, orders, must be coherent with its fundamental principles.

9. All existing SOPs, guidelines, instructions, orders, shall be updated accordingly.

10. No modifications /amendments will be made to the AVNL Procurement Manual-2021 without prior approval of AVNL.

11. However, changes in policies issued by MoD/MoF and suitably communicated by AVNL - Chennai necessitating amendments in the manual may be implemented immediately.

12. Any amendment issued shall be attached to the associated chapter/chapters by assigning the page numbers: the last page number of the chapter with suffix (.) followed by numbers in roman.

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Draft & Approval

“Freedom is not worth having if it does not include the freedom to make mistakes.”

-Mahatma Gandhi

A. Constitution of Draft Committee: The Armoured Vehicles Nigam Limited (AVNL) through a written document (No: AVNL/CMD/001/PROCEDURE MANUALS, Date: 02.09.2021) appointed a draft committee to draft a Procurement Manual for Store & Services procurement which shall be applicable to newly created Defence Public Sector Unit- AVNL. The Drafting Committee has two members:

- i. Alok Prasad-Chairman
- ii. Anurag Kumar Sharma-Member

B. Draft Review: On 30.09.2021, the Member Drafting Committee (Anurag Kumar Sharma) submitted the very first draft to the Chairman (Alok Prasad) and AVNL for review and seasoned input, if any.

C. Enactment: The procurement manual of AVNL came into force with effect from 01.04.2022.

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I. INTRODUCTION

1. Challenges: Ensuring the right input material at right time is an inevitable requirement of a defence manufacturing unit for its survival of the fittest. The AVNL, being one of such prominent establishments of the country, has to perform this inescapable activity with utmost preciseness and in a transparent manner. The challenges in material procurement are as follows:

1. Stringent specifications of majority input materials: not applicable in commercial settings and are available only as Made-to-Order.
2. Inconsistent demand: both in terms of quantity and periodicity.
3. Stringent qualifying criterion: mostly governed by JSS, GOST and Military (MIL) standards.
4. Diverse product range with common procurement procedure.
5. Requirement of customized production line for specific input requirement.
6. And therefore, it is imperative that material purchase be made following systematic, efficient and cost effective way, in compliance with laid down procedure in this Procurement Manual, while ensuring timely positioning of the material.

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2. Objective: The principle of procurement function is to ensure efficiency, economy, transparency and competition wherever it is non-proprietary, non-licensor procurement and non-customer nominated source/equipment. The purchase procedure outlined in this manual aims to fulfill the following objectives:

- i. To ensure uninterrupted/timely flow of materials, equipment & services of goods of required quality to meet and support production plans and other requirements of internal and external customers.
- ii. To procure competitively and wisely authorize supplies to desired specifications from approved / reliable sources at the available reasonable prices within the time schedule to support production plans and other requirements.
- iii. To ensure that fair open and uniform purchase practices are followed to develop healthy and long term relationship with suppliers and to foster the commercial and technological interest of AVNL in the local, national and international market.
- iv. To ensure timely formulation and commitment of purchase budget, including foreign exchange requirements, if any.
- v. To serve as information center on materials knowledge prices, sources of supply, specifications etc. to all other departments.
- vi. To ensure that investment made on inventory is at an optimum level and continuously strive for reduction in material costs, Capital costs and Overhead expenses.
- vii. Develop sources of supply to maintain competition and sustained supplies.
- viii. Training of purchase personnel in the latest techniques of Materials Management.

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- ix. To keep management appraised of the likely shortfalls in purchase performance by introducing appropriate reporting systems with a view to seek management's intervention in time.
- x. To adhere to commercial procedures & maintain cannons of financial propriety to safeguard economic, legal and other interests of AVNL. Commercial procedures cover the Purchase Manual as well as guidelines issued by way of Materials Management Circulars/ CVC guidelines/ MoD instructions etc. from time to time.
- xi. Maintain and improve the quality of materials procured. Lay emphasis on Quality Management.

3. Purchase Functions : Purchase Department is responsible for the following functions:

- i. Creation of a comprehensive and regularly updated directory of selected reliable vendors and exchange the same with other Divisions/Units to expand sources of supply.
- ii. Maintenance of vendor evaluation and rating records.
- iii. Carry out market surveys with a view to establishing/developing new reliable and better sources of supply and keep updated with information on latest products /developments.
- iv. Analyzing bids/offers for decision-making by the Competent Authority.
- v. Arranging negotiations with Vendors, when necessary.
- vi. Issue of Purchase Orders in time.

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- vii.** Follow-up of Purchase Orders till the arrival of materials and acceptance at destination and to ensure after sales service during warranty and post-warranty periods.

- viii.** To finalize the required rate contracts/Long Term Agreements for regular stock items.

- ix.** To work out periodically procurement lead time for various categories of items from international and local markets and advise the same to user departments so that they take timely action in initiating purchase requests.

- x.** Maintaining a library of product catalogs and manufacturers/distributor's price lists etc.

- xi.** Maintaining up to date information regarding sales tax, excise and custom duty-rates etc.

- xii.** Entering into service contracts in line with the DoFP.

- xiii.** Entering into Transit Insurance agreements for goods in transit.

- xiv.** Finalization of Commercial Terms & Condition and operation of licence agreements in coordination with project/production engineering.

- xv.** To ensure that objectives of purchase are realized.

- xvi.** To be alert about and responsive to the changes in production programme and change in requirements of material.

- xvii.** Ensure timely payments to suppliers.

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4. Terminology (used interchangeably): Following terms have been used interchangeably.

- i. The Head of Unit, Unit Head: Sr GM/GM (presently)
- ii. Stores and Goods
- iii. AVNL- All matters related to Armoured Vehicles Nigam Limited (irrespective of powers vested therein as per DoFP)
- iv. The term referred AVNL in the manual implies the Armoured Vehicles Nigam Limited, Head Office Located at HVF Road, Bhaktavatsalapuram Avadi, Chennai- 600054.

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II. CLASSIFICATION OF GOODS & SERVICES

1. Introduction: For efficient implementation of purchase manual and guidelines (issued from time to time), it's imperative that the relevant classification of materials is properly understood, so that appropriate purchase procedure may be adopted for the purchases in question. This chapter contains the general rules applicable to AVNL & its associated units regarding procurement of goods & services required for use in the public service. Detailed instructions/SOPs relating to procurement of goods may be issued by the procuring units/departments broadly in conformity with the general guidelines contained in this Chapter. The broad definitions of terms goods & services (consulting & non-consulting) are given for better understanding the subject of procurement.

2. Goods: The term 'goods' used in this chapter includes all articles, material, commodity, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, industrial plant, vehicles, medicines, railway rolling stock, assemblies, sub-assemblies, accessories, a group of machineries comprising of an integrated production process or such other category of goods or intangible products like software, technology transfer, licenses, patents or other intellectual properties purchased or otherwise acquired for the use of Government but excludes books, publications, periodicals, etc. for a library. The term 'goods' also includes works and services which are incidental or consequential to the supply of such goods, such as, transportation, insurance, installation, commissioning, training and maintenance [GFR-2017, Rule-143].

3. Non-Consulting Services: Services (non-consulting) means any subject matter of procurement (which as distinguished from 'Consultancy Services'), involve physical, measurable deliverables/outcomes, where performance standards can be clearly identified and consistently applied, other than goods or works, except those incidental or consequential to the service, and includes maintenance, hiring of vehicle, outsourcing of building facilities management, security, photocopier service, janitor,

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office errand services, drilling, aerial photography, satellite imagery, mapping etc [GFR-2017, Rule-197].

4. Consulting Services: "Consulting Service" means any subject matter of procurement (which as distinguished from 'Non- Consultancy Services' involves primarily non-physical project-specific, intellectual and procedural processes where outcomes/deliverables would vary from one consultant to another), other than goods or works, except those incidental or consequential to the service, and includes professional, intellectual, training and advisory services or any other service classified or declared as such by a procuring entity but does not include direct engagement of a retired Government servant. Note: These Services typically involve providing expert or strategic advice e.g., management consultants, policy consultants, communications consultants, Advisory and project related Consulting Services which include, feasibility studies, project management, engineering services, finance, accounting and taxation services, training and development etc [GFR-2017, Rule-177].

5. Works: Works means all new constructions, site preparation, additions and alterations to existing works, special repairs to newly purchased or previously abandoned buildings or structures, including re-modelling or replacement. Minor works mean works which add capital value to existing assets but do not create new assets. Repair works means works undertaken to maintain building and fixtures. Works will also include services or goods incidental or consequential to the original or repair works [GFR-2017, Rule-130].

6. Capital Equipment: Capital equipment consists of machine, plant, office, equipment, workshop/office furniture, vehicles etc. The requirements of capital items for the unit are sanctioned by the competent financial authority (CFA) as per the delegation of financial power. The procurement of Machine/Plant/Vehicle & 'work' and capital equipment does not fall under the category of 'stores & services' procurement and is to be purchased as per the AVNL Procurement Manual (P&M).

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7. Scope of Manual: This manual deals with procurement of goods (stores) and services as classified in subsequent paragraphs of this chapter.

8. Direct Project Material/ Production Material: Direct Project Materials or Production Materials are those which form part of the end product and are either directly consumed in production/ Overhaul or are required for supply against contracts/ orders. These are raw materials, consumables, components, spares and accessories, castings and forgings etc., which go into the manufacture/repair/overhaul of end products. The bulk of the production materials in the defence industry is required to be purchased only from approved/established sources. Such stores are required to be covered by certificate or any other document as prescribed by Quality, bearing the signature of an approved inspection authority. The requirement of production material is linked with production programme of the unit and Material Purchase Requests are to be raised by Material Planning/Control Department.

9. Overhead Materials/Indirect Materials: All other types of materials which are not directly used in production but are required for the production process or functioning of the organization are classified as overhead/indirect materials. Such materials fall under two main categories:

9.1 Stock Items: These are regular consumption items where stock levels are maintained and procurement initiated based on re-order levels. Such items are required to be stocked for issue as and when required. The demand of such stock items shall be generated by the Material Planning (MP) Section.

9.2 Non-stock Items: Demand for such specific items is raised by the user departments/section in the form of Material Purchase Requisition (MPR). In such cases approved MPR to be provided by Indenting Department to Purchase Department for procurement. Such materials will generally be issued to respective users immediately upon receipt against the demand note.

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10. Tool, Gauges & Measuring Instruments : The material purchase request for these items shall originate from Tool Planning Department/production shop. This category of items includes hand tools, standard/special cutting tools, measuring gauges & instruments, jigs, fixtures, grinding wheels and honing stones. Quality and volume of production largely depends on timely supply of accurate tools and precision gauges. It is therefore necessary that purchase of such tools, gauges & instruments are restricted to only reliable sources which should be approved after visiting the manufacturers, facilities and surveying their processes and quality assurance methods, financial soundness and commercial standing.

11. Maintenance Spares Including Vehicle Spares: The supply of Maintenance spares is vital to keep the capital equipment/plant in serviceable condition. At the time of selecting plant and equipment, special care shall be taken to study in detail the after-sales services offered by the Supplier and Plant Maintenance Department shall undertake VED analysis in order to restrict purchases only to inescapable insurance items. Commonly available spares of general nature, like belts, bearings, lamp filaments etc. shall not be purchased in bulk and attempts shall be made to establish local reliable sources and where possible rate contracts shall also be finalized so that plant maintenance can avail of these facilities directly avoiding delay. Material Purchase Requests for these items shall be raised by Plant Maintenance Department.

12. Civil Engineering Requirements: Generally, the civil work is executed through the civil contract. However, civil items of emergent nature may be purchased by the Civil department directly by raising the demand. Material Purchase Requests for items of Civil Works like steel, Cement, Pipes, Sand, Bricks, Sanitary items etc. will be raised by Civil maintenance and approved by competent authority for provisioning.

13. Welfare Items: Human Resource (HR) Department shall raise Material Purchase Requisition for welfare items such as uniforms, personal utility items and requirement for running the canteen services etc. and approved by the competent authority for provisioning as delegated financial power. Generally non-provisioning/non-receipt of welfare items in time can create industrial unrest. Therefore, their timely

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availability even on short notice needs to be ensured. Welfare items of emergent nature may be purchased by HR department directly through Cash-Purchase as given/Local Purchase Committee through Spot tendering. Local Purchase committee will have representatives of HR, Material Management (MM) and Finance.

14. Medicines and Hospital Requirements: The Chief Medical Officer/Appointed Committee authorized by him/her shall assess the requirements of Hospital related items including medicines and other pharmaceutical items, based on projected consumption, stocks available and shelf life. The sources and mode of procurement (including proprietary) shall be indicated by the authorized officer/committee. Officer nominated by Chief Medical Officer shall raise MPRs for the requirements so assessed and approved by the competent authority for provisioning. Committee to maintain a directory of approved suppliers and periodically review and update. In order to control inventory and to ensure prompt supply of correct medicine, the ordering and receipt shall be handled in close association with the Chief Medical Officer who will nominate a Medical Officer for the same. The requirements of first aid centre located at various divisions/sections to be procured by purchase department of the unit in consultation with Medical and Safety section. The Purchase Department, in co-ordination with the Chief Medical Officer, shall carry out market survey and enter into rate contracts (if possible) with manufacturers/authorized dealers for supply of medicines at the Hospital/Government controlled bulk rates. For emergent requirements of medicines needed infrequently or in small quantities, local reliable dealers shall be appointed. In order to meet the day to day requirement of Medical & Health Department/Hospital including the requirement of inpatient, if considered appropriate, rate contract(s) may be explored as an option with sources that are in the local vicinity offering the best discount from MRP at the same time ensuring the maximum available shelf life.

15. Commercially-off-the-Shelf (COTS): Stores under this category are available commercially and have application in fields other than defence. These stores are easily available in the market. Standard Procurement Procedures of the Government of India can be applied while procuring COTS items. Both direct and indirect items may fall under the category of COTS.

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16. Made-to-Order (MTO): Stores under this class do not have commercial applications. They are made specifically for the defence application, against specified drawings of AVNL units/collaborators/design agency or JSS/ other defence specification. MTO items, therefore, have limited sources and are difficult to procure. Consequently, for timely & reliable positioning of MTO items for production, special procurement procedures are necessary without compromising on transparency, competition or fair treatment of vendors.

17. Services: “Services” will mean any subject matter of procurement other than “Goods” or “Works” and include all Outsourced services such as Hiring & Maintenance of Transport, Canteen, Repair/AMC/Calibration of Machinery /Equipment/Computer including Medical & Office equipment, Repair of furniture, Operation & Maintenance Contracts, Performance Base Maintenance, Repair/Overhaul of Vehicle/System/Sub-systems, engagement of agency for recruitment of personnel, Freight Forwarder, IT implementation/support, Printing, Publication, Laundry, Binder or any other activities not covered under the “Works”. For “Services” purchase procedure stipulated in this manual will apply. After award of the contract by the Purchase Department, the monitoring of the execution/completion of the contract along with required certification and other technical and statutory compliance shall be the responsibility of the Indenting/User Department.

18. Office Equipment & IT Related Stores: All office related equipments including: office furniture, Personal Computers, Printer, office and antivirus software, and related accessories fall under the scope of this manual and can be purchased as per provisions made in this manual, subject to the availability of fund under the specific heads (Furniture & IT).

1.1 Approval for MPRs: MPRs raised by various groups as identified above has to be coordinated by Finance and approved by CFA for provisioning as per Delegation of Financial Power (DoFP).

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III. SALIENT FEATURES OF PROCUREMENT

Procurement of store by AVNL and its associated units falls under the category of Public Procurement and accordingly be done in a transparent manner to bring competition, fairness and which eliminates arbitrariness in the system. Accordingly, certain features of procurement have been derived:

- i. The tender document should be comprehensive, unambiguous, and relevant to the objective of the purchase. The right and commonly used technical and industrial parlance need to be used.
- ii. The specifications of the required goods should be framed giving adequate details. The specifications must be broad-based and meet the essential requirements, without including superfluous or non-essential features, which may result in unwarranted expenditure.
- iii. The tender document should clearly mention the eligibility criteria such as minimum level of production experience, past performance, technical capability, manufacturing facilities, financial position, ownership or any legal restriction, etc. that need to be made by the bidders.
- iv. Eligibility criteria should conform to extant Government policies (which includes the provisions of this Manual) and be judiciously chosen so as not to stifle competition amongst potential suppliers.
- v. All aspects pertaining to tender preparations, submission, deadlines, acceptance, evaluation, ranking and conclusion of contract should be unambiguously and explicitly detailed.
- vi. Offers should be invited following a fair, transparent and reasonable procedure. Tender enquiries (and subsequent amendments etc., if any) shall be given wide

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publicity, including display at the AVNL official website and mirrored at the Central Public Procurement Portal (CPP Portal).

vii. Sufficient time should be allowed to the bidders to prepare and submit their tenders. Suitable provisions should be kept in the tender document allowing the bidders a reasonable opportunity to enquire about the tender conditions, tendering process, and/ or rejection of its tender and the settlement of disputes, if any, emanating from the resultant contract.

viii. Bidders must not be permitted to alter or modify their tender responses after the expiry of their deadlines for submission; such modified bids will be summarily rejected.

ix. Tenders should be evaluated only as per the evaluation details provided in the tender documents. No new condition, which was not incorporated in the tender document, should be brought into consideration while evaluating the tenders.

x. Negotiations with the bidders must be avoided. However, under some circumstances, where price negotiations are considered unavoidable, they may be resorted to only with the lowest evaluated responsive bidder, with the approval of the CFA only after duly recording reasons for such action.

xi. At every stage of procurement, the procuring authority must place on record, in precise terms, the considerations which weighed with it while taking the procurement decision.

xii. The name of the successful bidder to whom the contract is awarded should be appropriately notified for the information of general public, through the AVNL and Central Public Procurement Portal. Wherever display in website is prescribed in this manual, it shall also imply mirroring at the Central Public Procurement Portal (*CPP Portal*).

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1. e-Procurement: Except purchases through Cash-Purchase, Local Purchase Committee (LPC), all purchases to be done through e-procurement system available at GeM, CPP / DDP DoO e-procurement portal or any other e-procurement portal approved by AVNL, strictly adhering to guideline and directives issued by MoD from time to time. The e-procurement system adopted should support all modes of tendering like OTE, LTE, GTE, and STE.

There may be instances where considering the type of product (or services)/procurement, e-procurement may not be the appropriate procurement process, in such cases manual tendering process may be followed with the prior approval of Director/Operation, AVNL, duly recording the reasons for the same.

2. Consideration for Purchase Quantity: Purchase quantities in excess of requirement are not permitted. A demand should not be split into small quantities for the purpose of avoiding the necessity of taking approval of the higher authority required for sanctioning the purchase of the original demand.

3. Timely Procurement: To reduce delays, the time-frame stipulated for each stage of procurement should be adhered to. The contract should be concluded within the original validity of the tenders. Extension of tender validity must be discouraged and resorted to only in absolutely unavoidable, exceptional circumstances.

4. Competent Financial Authority: Financial powers have been delegated to various authorities in AVNL and its units, through the DoFP. These powers are to be used within the framework of laid down procedures, canons of financial propriety and amplificatory instructions.

- i. The powers so delegated also imply accountability; and the CFA must ensure that financial propriety and probity are observed in all cases.
- ii. All financial powers are to be exercised by the appropriate CFA. Where financial powers have been delegated to more than one authority under the same item/ head

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of delegation, authority with next higher delegated financial powers will constitute the 'next higher CFA'.

- iii. The financial powers delegated by AVNL to various authorities in AVNL and its units/establishments cannot be further sub-delegated by the delegate. However, on the strict understanding that the sole responsibility rests on them, the authorities to whom financial powers have been delegated may authorize officer(s) to sign communications and financial documents on their behalf conveying the sanction of the original delegate provided that the name of the officer who is so authorized is communicated to the Audit Officer concerned.
- iv. The recommendations of TPC will be concurred by Chief Financial Advisor/Financial Advisor and approved by CFA in the same TPC. CFA is the Chairman of relevant TPC/TEC. In case of dissent note/different opinion (Financial Advisor or any other TPC/TEC member), the decision of CFA will be final. CFA can overrule Financial Advisor or any other TPC/TEC member after recording reasons for overruling.
- v. The constitution of the TEC/TPC shall be as notified in the DoFP. However, the Chairpersons of these Committees (CFA), if necessary, may co-opt other relevant experts on the Committee. Reference in this manual to VSL TPC (Vendor Selection TPC) is to the appropriate TPC while performing initial activities for procurement (including vendor selection amongst other activities) indicated in subsequent chapters of this manual.
- vi. The CFA will be decided taking into consideration, the value of the original quantity to be ordered plus the Option Clause quantity. In case of foreign procurement, the current Exchange Rate of SBI, Parliament Street Branch/ RBI as on Tender bid closing date, shall be taken into consideration for determining the CFA. For the purpose of cost reduction and convenience, number of items or group of items may be clubbed for tendering, provided the CFAs are defined in advance before floating the TE by VSL TPC i.e. individual item wise or all items together.

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vii. In umbrella agreements of multi-years (including RCs), CFA shall be decided on the basis of average annual requirement and not the sum of annual contracts.

viii. In respect of cases beyond the powers of unit/TPC-I that have been duly approved, unless specifically decided otherwise by the CFA, subsequent operations shall be done by the relevant CFA (TPC) after strictly complying with the provisions of this Manual.

5. Consultation with Finance: Procurement above the prescribed threshold limit in the DoFP shall be done only with the concurrence of Finance at all the prescribed stages. Though Finance is an integral part of the TPC/TEC structure, a financial concurrence will also be required on the recommendations of the TPC prior to CFA's approval in the same TPC. In case of disagreement/ non concurrence by the Financial Advisor (FA), the CFA can overrule the Financial Advisor (FA) after recording reasons for overruling the views of FA. In all cases where the CFA has overruled the advice of Finance, the Secretary of the TPC shall send a copy of the TPC minutes to the Director Finance, AVNL. Consequently, the Director Finance to examine the merits of case and issue necessary directives to the unit for each such cases. However, the CFA is accountable and responsible for her/his decision and accordingly, the decision of the CFA (although by overruling) shall stand firm and final.

6. Responsibility of Competent Financial Authority: CFA is the Chairman of relevant TPC/TEC. The CFA must consider all aspects of the case, including the quoted price, terms and conditions of the contract, delivery period, warranty, freight, insurance and other charges and the compliance with the technical specifications/QR before a purchase decision is taken. Conditional offers and those with specifications not in conformity with the tendered specifications (Essential QRs), normally should not be considered. However, in exceptional cases of any justifiable minor discrepancies, CFA (Chairman of relevant TPC/TEC) may take appropriate decision with recorded reasons. Wherever as per DoFP, delegated powers are exercisable subject to financial concurrence, it shall be ensured before according sanction that the requisite financial consultations have been done at all the prescribed stages. While

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making the purchase decision, the CFA needs to satisfy himself/herself that: (i) proper procedures have been followed at various stages of procurement, (ii) purchase policies of the Government have been complied with, and (iii) capacity and financial status of the firm have been checked. Purchase decisions should be communicated only through a formal order in a written form.

7. Exemption/Relaxation: Government of India has issued general directives on (i) mandatory/preferential purchase of specified goods from specified suppliers (ii) extension of price preference (iii) exemptions/ relaxation from certain tender conditions like tender fee, EMD, PSD, etc., to certain categories of suppliers. In procurements attracting these general directives, the contemporary directives of the Government of India should be checked (from the relevant website) for necessary action. These contemporary directives shall apply in the procurement of Commercially-off-the-shelf (COTS) as well as Made-to-order (MTO) items. DDP may issue separate directives indicating the eligibility and nature of concession/relaxation in order to promote MSEs (Micro & Small Enterprises), Start-ups, Stand-ups etc. to be followed.

8. Standard Tender Document: Standard forms of tender are to be used as enquiry documents and contracts in line with the extant rules, regulations, directives, procedures etc. Deviations in the standard provisions of the standard documents may be permitted by an authority competent to grant waiver/ relaxation for the provision as per the DoFP. Extent of deviation that may be permitted by the said competent authority shall be as per the powers available to him under the DoFP for granting waiver/ relaxation.

9. Time Frame: All activities must be undertaken expeditiously, and consultations/ advice rendered within a specified time frame. The time-frame, as envisaged by the AVNL units (in the form of SOP), shall be adhered to in the procurement process to ensure that the bids are finalized within validity period. In case the prescribed time frame cannot be adhered to in any specific case, suitable extension of validity of the bids should invariably be asked for, after recording valid reasons justifying extension of the said validity.

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IV. DEVELOPMENT OF MICRO, SMALL & MEDIUM ENTERPRISES

1. The Micro, Small and Medium Enterprises Development Act 2006 provides that: “For facilitating promotion and development of micro and small enterprises, the Central Government or the State Government may, by order, notify from time to time the preference policies in respect of procurement of goods and services produced and provided by micro and small enterprises by its Ministries or departments, as the case may be, or its aided institutions and public sector enterprises”.
2. Any order issued by Central Government in relation to Micro, Small or other sections of Industries relevant to procurement shall be followed by all units under AVNL.
3. Currently, one such Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012 w.e.f 01.04.2012(subsequent amendment DPE.OM. No. PP-7(4)/2007-Fin dated 14.11.2018), is in force and should be strictly adhered to.
4. The Public Procurement Policy shall apply to Micro and Small Enterprises registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Hand-loom or any other body specified by Ministry of Micro, Small and Medium Enterprises (MSME).
5. Declaration of Udyog Aadhaar Memorandum (UAM) number by the MSME vendors on CPPP/AVNL e-procurement portal should be made. The MSE bidders who fail to submit UAM number will not be able to avail the benefits available to MSEs as contained in Public Procurement Policy for MSEs Order, 2012 issued by MSME for tenders invited electronically through CPPP/AVNL e-procurement portal.

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V. STARTUPS

1. Definition Of Startup: An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property, if it aims to develop and commercialize: (i) A new product or service or process, or (ii) A significantly improved existing product or service or process that will create or add value for customers or work-flow. Provided that the mere act of developing: (i) Products or services or processes which do not have potential for commercialization, or (ii) Undifferentiated products or services or processes, or (iii) Products or services or processes with no or limited incremental value for customers or work-flow would not be covered under this definition. Here, the term Entity means a private limited company (as defined in the Companies Act, 2013), or a registered partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2002).

2. Relaxation Of Norms For Start-Ups: AVNL shall relax the following eligibility criteria for registration from Start-Ups in order to encourage them to participate in supplies for AVNL procurement:

2.1 Prior Turnover

2.2 Prior Experience

3. Start-Up Recognition: Start up is a Company that has been in existence for less than Five years and with sales revenues not exceeding Rs 25 crore. Apart from innovation, such Start-Ups will be expected to be engaged in the development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

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4. Identification Of Area: AVNL shall identify areas of Start-Ups which will be hosted in AVNL website under 'separate tab' and Vendors need to contact R&D division of AVNL for Start-Up activities.

5. Payment For Start-Up: Advances up to 15% may be considered if request is received by AVNL against Bank Guarantee. The interest on the advance amount is not to be insisted from Start-Ups.

6. Start-Ups & iDEX Challenges: Under the Chapter-III (PROCEDURE FOR PROCUREMENT UNDER 'MAKE' AND 'INNOVATION' CATEGORIES) of DAP-2020, MoD has set up Innovations for Defence Excellence (iDEX) initiative under the Defence Innovation Organization (DIO) and Technology Development fund (TDF) under DRDO to use a multi-pronged approach and reach out/engage a large pool of innovators/technocrats/professionals/academicians including amongst the smaller enterprises, start-ups and MSMES, to foster innovation in a coherent, strategized, and integrated manner.

7. Procurement of Stores/Sub-System/System developed under iDEX Challenge: In this regard communication (via email) received from iDEX-DIO, DDP, MOD Dated: 19.01.2022, and the same has been incorporated: The products developed by any innovator / Startup/Company under iDEX initiatives need to be treated at par with Proprietary sources and taken up for procurement under that category. In case more than one innovator/ Startup / Company has accepted the challenge and accomplished the same, the procurement would be done on limited tender basis restricting the tender to such successful innovator / startup / company.



VI. CATEGORISATION OF PROCUREMENT

The requirement for procurement of goods may arise for catering to the annual production and allied activities, building up authorized stocks, repair and maintenance of assets. Similarly, the need for procurement of services may arise for maintenance of equipment/assets, outsourcing the services that can be economically performed in trade or where facilities are not available/not adequate in-house, and for engaging experts and consultants.

1. Ex-Import: An item already established by any of the AVNL unit or indigenized, should normally not be imported. However, decision to import can be taken considering the in-house production capacity, delivery timelines, the product mix, availability of manpower, condition of plant & machinery etc. and after duly recording specific reasons with the approval of Head of Unit. While initiating the case, at the time of taking decision for placement of order as well as taking all subsequent decisions like extension/re-fixation of delivery period etc., all relevant aspects like capacity of the concerned AVNL unit, availability of indigenous sources, capacity and reliability of indigenous sources, cost of indigenous supplies v/s the import cost etc. should be kept in view. The supply position of indigenous sources should be ascertained at every stage of procurement.

2. Import Restriction: Vide notification F.NO. 12/17/2019-PPD, Dt 15.05.2020, Ministry of Finance, Department of Expenditure, Public Procurement Division, has issued the amendment in General Financial Rule (GFR), 2017- Global Tender Inquiry. With regard to all import actions, all AVNL unit shall adhere to Amended Rule 161 (iv) and subsequent amendments/clarifications issued from time to time. In this regard, the office Memorandum: No. F.41112021-PPD dated 03.08.2021, Government of India Ministry of Finance, Department of Expenditure Procurement Policy Division, shall prevail till further orders.

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3. Make or Buy Decision: Policy on make or buy (including import substitution) decision should be such that it not only promotes optimum utilization of in-house capacity in AVNL but also lays equal emphasis on cost of production being reasonable. After weighing all facts, an appropriate make or buy decision shall be taken by Empowered Committee of Procurement.

4. Outsourcing: Non-core activities should, as far as possible, be outsourced, if cheaper options can be found outside AVNL & resources thus released should be utilized for core activities.

5. Empowered Committee of Procurement (ECoP):

5.1 Constitution: The constitution of Empowered Committee of Procurement at Unit level shall be as under:

- i. Head of the Unit-Chairman
- ii. Head of Planning-Member
- iii. Head of Material Management-Member
- iv. Chief Financial Advisor-Member.
- v. All Heads of Production-Member

5.2 Role & Responsibility: The prime responsibility of the Empowered Committee of Procurement (ECoP) shall be:

- i. Categorization of Stores under the class A, B & C considering the cost and lead time for procurement (periodicity two years).
- ii. Categorization of stores: Indigenous/Ex-Import considering Indian Defence Eco-System of the country (periodicity two years).

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- iii. Decision for not resorting to SD-OTE to develop the further sources for critical stores having sufficient (more than three) and reliable vendor base (periodicity two years).
- iv. Decision for not resorting to SD-OTE to develop the further sources for critical stores having two or three sources. However, such decision shall be taken considering the merit of the stores and previous efforts made to develop further sources (periodicity three years).
- v. To review the list of critical stores for decision taken under above para.
- vi. Identify the activities for outsourcing.
- vii. Review of all BNE (Buyer's Nominated Equipments) or User/Designer's Designated Equipments used in the platform with regard to their availability & pricing and suggest the actions to be taken as per procurement manual.
- viii. Review of list of stores procured from all Public Sectors Units (PSUs) and take appropriate decision to develop alternate sources through SD-OTE considering the facts: (a) supplies from these PSUs in accordance with production schedule of the unit (b) rates reasonability (c) after sale service during warranty and thereafter.
- ix. Review of all stores procured on SKS/PAC basis and suggest the future course of action so that the scope for competition can be explored.

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VII. PURCHASE PROCEDURE

1. Authority of Procurement: Contracts/Deemed Contract/Agreements signed with any customer including with Units under AVNL and DPSUs, Supply Plans issued by AVNL and Purchase Requisition raised by the user section are the required authority for procurement.

2. Specification: Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, and transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement. The procedure to be followed in making public procurement must conform to the following yardsticks :

- i. The description of the subject matter of procurement to the extent practicable should be objective, functional, generic and measurable and specify technical, qualitative and performance characteristics.
- ii. Where applicable, the technical specifications shall, to the extent practicable, be based on the national technical regulations or recognized national standards, wherever such standards exist, and in their absence, be based on the relevant international standards.
- iii. All procurements have to meet the stringent specifications prescribed. In addition to qualitative requirements, the specifications indicate the detailed qualitative requirements of the item being procured and shall indicate all relevant requirements/parameters like: (i) material composition (ii) physical (iii) dimensional (iv) performance (v) tolerances (if any) (vi) manufacturing process (where applicable) (vii) test/inspection schedule (viii) acceptance criteria (ix) preservation & packing (x) transportation requirements (especially relevant for chemicals), etc, without any superfluous requirements that may have the effect of stifling competition or increasing expenses.

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iv. AHSP/Specifications promulgating authority should periodically forward copies of specifications/amendments to all agencies concerned to ensure that goods of current specification are purchased.

2.1 Proprietary Article Specification: These are available only with the proprietary firm (OEM) and are protected by the intellectual property rights. PAC specifications are normally not available with the purchaser and therefore these stores may be accepted based on the firm's certificate of quality.

2.2 Branded Product Specification (Reference to Brands in specification): To the extent possible, broad-based specifications, use of industry standards in the specification, etc., will promote healthy competition in procurement. Therefore, a specific brand or catalogue number of a brand, etc. should not be referred to in the tender. However, in some unavoidable situations (while purchasing the spare parts required for machine/equipment, transport vehicle, inserts for specific cutting tool holders) if it is essential to buy an item of a specific brand name, then LTE shall be issued to all known authorized dealers for that brand or OTE to be resorted to get competitive offers from authorized dealers. The specifications for branded commercial product are not available with the purchaser or the inspecting agency and these are to be accepted on the firm's guarantee/warranty and certificate of conformity.

2.3 Industrial Specifications: There are standard industrial specifications like: IS, BS, DIN and GOST available for sale in the market. In the case of medical stores standard specifications are issued by WHO, FDA, CE etc. Every procuring and inspecting agency should acquire such specifications for reference to ensure quality standard of the product being procured.

2.4 Defence Specifications: There are defence specifications for specific items for use by the defence departments, particularly the defence services. These are Joint Services Specifications, Mil-specs, etc. Copies of such specifications should be available with the procuring agency, inspecting authority and the AHSP.

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2.5 Indigenized Item Specification: The manufacturing agency, QA agency, DRDO, AVNL and Service Headquarters, involved in the indigenization efforts often successfully indigenize some items as import substitutes. In such cases, the specifications, including the drawing and other details, are formulated by these agencies in consultation with the user, manufacturing firms, and QA agency, Design agency, Service Head Quarters (as the case may be) to guide future production. Such specifications should be available with the purchase agency as well as the inspecting authority so as to ensure conformity with the required quality standards of the items being supplied.

2.6 Ad-hoc Specifications: There may be items for which neither the industrial nor the defence specifications are available. In such cases, the Indentor must indicate the general parameters, normally the dimensions, mechanical parameters, chemical composition, performance parameters, etc. to enable procurement and inspection. Such ad-hoc specifications must be broad enough to permit wider participation by the suppliers and should not be restrictive.

2.7 As per Sample Specification: There are occasions when items, normally PAC products, cannot be procured from the original manufacturer and have to be procured from another manufacturer as per sample in the absence of detailed specifications or drawing. For such items, the supplier prepares detailed specifications as well as the drawing and gets it approved by the purchaser. The purchaser and the inspecting authority should acquire such specifications and drawings and retain with them to guide future production and inspection.

2.8 Common Use Items Specification: There are a large number of items used by the AVNL units which are common/generic in nature, freely available in the open market. As in the case of ad-hoc specifications, specifications of common use items should also be broad enough to permit wider participation by the suppliers and should not be restrictive to stifle competition.

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3. Store Holders Inability/Material Planning Sheet: For procurement of any item a Store Holder Inability Sheet (SHIS)/Material Planning Sheet (MPS) shall necessarily be prepared, duly indicating the requirement, present stock, dues and the net requirement. The Store Holders Inability Sheet and the Material Planning Sheet together provide the complete details of the computation of quantities to be procured. Normally, the annual requirement is taken into consideration for preparation of SHIS/MP Sheet. The reference to annual requirement in respect of direct material shall include the requirement for the first quarter of the subsequent year. SHIS/MPS for multiple year requirements can also be generated wherever relevant. Attention shall be paid to the shelf life (where relevant) of the item to eliminate avoidable losses in storage. In such cases staggered deliveries should necessarily be resorted to. Following guidelines to be followed in respect of SHIS/MPS:

- i. If valid labour estimate exists in the AVNL Units for the item (or operation) being procured (or outsourced) from trade then justification for the procurement (or outsourcing) shall be recorded, and the Unit shall ensure that payments for the same work (or operations) are not claimed for departmental labour also.
- ii. The SHIS/MPS has to be vetted by QC/Pattern Office/Design Office/Standard Cell for the technical specification to ensure that material is procured as per the latest drawings/ technical specifications.
- iii. Direct material SHIS/MPS is not required to be vetted by the Finance but to be signed by the Group In charge.
- iv. SHIS/MPS will have a life of 12 months (i.e. SHIS generation to issue of tender) and will need re-validation thereafter by Group Officer of Material Planning Section.
- v. The cases where contracts are delayed or existing supply orders not likely to fructify, then to save time, procurement action can be initiated on provisional

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SHIS/MPS and can be processed up to Tender opening stage with the approval of Head of Unit.

4. Quantity to be Purchased: Following guidelines shall be followed while deciding the quantity to be procured:

4.1 Direct Material: The procurement for all direct materials would be taken based on the delivery schedule indicated in the contracts/agreements entered into by AVNL or its units. This procurement could be covering one year or multiple years requirement. The VSL TPC shall, as a part of due diligence, after considering the nature of the store, lead-time & difficulty involved in procurement, vendor development, need for indigenization etc. take an appropriate decision as to whether it would be prudent or/and advantageous to procure:

- i. The annual requirement *or* part of annual requirement or
- ii. The multi-year requirement. However, prior approval of the Director Operations shall be taken for initiating any multi-year procurement.

4.2 Multi-Year Procurement Procedure (Long-Term Umbrella Agreement) for MTO Stores:

- I. Such Agreement/Contracts may be concluded up to Five years for MTO items with suitable PV clause, if required.
- II. Such Agreement/Contracts shall be on agreed delivery schedule/period commensurate with production program.
- III. Such Agreement/Contracts may even be concluded at the same rate parallel with multiple vendors to ensure reliability, continuity and ease of supply.
- IV. CFA in such Agreement/Contracts shall be decided on the basis of total tendered quantity of contract years.

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4.3 Indirect Material: Procurement of indirect materials (not required directly for production) shall be made on the basis of monthly average consumption during the preceding 24 months, duly making an allowance for relevant factors like the quantum of production, machines being utilized, product-mix, etc. For new indirect materials the necessity for procurement shall be approved by the Head of the Unit.

4.3 Quantity Justification: The Vendor Selection TPC shall also deliberate on the justification for the quantities proposed for procurement and record such decision taken for all items (direct & indirect).

4.4 Provision for Excess Procurement: There may be a case where despite covering full requirement (as per available contract) through supply order (s), the materials are not being supplied by the suppliers as per contractual schedule. For such cases, if it is feasible to manufacture the item in-house, the required raw materials or any other inputs, covering up to 25% of the supply order (s) qty can be purchased additionally with the prior approval of Director (Operation), AVNL, without canceling the existing supply order. This additional provisioning, as mentioned in this para, can also be done via means of outsourcing the required store from other established supplier.

5. Procurement Lead Time: Timely procurement action should be initiated duly taking into account the procurement lead-time and the production throughput-time so that the end-product issue plan matches with the requirement projected by the Indentor. Apart from initiating timely action, the case shall also be processed expeditiously at every stage of examination and the model time-frame as decided by the respective units shall be complied with.

5.1 Prompt and timely action should be taken, for both indigenous as well as imported items, so that stock-out situations are avoided to ensure continuity of production while at the same time maintaining the overall SIH inventory within the authorized limit.

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The authorized SIH inventory level is six months to one year for all AVNL units. However, the overall inventory shall be maintained by the Units within the limit specified by AVNL. A higher SIH inventory holding can be authorized under exceptional circumstances by AVNL.

5.2 Stocking of COTS and Rate contract items are to be decided on the basis of contract terms and conditions (should not be more than 6 months).

5.3 In the event of any AVNL unit holding inventory in excess of their authorized limit, the unit shall work out a time-bound action plan for liquidation of the excess inventory.

5.4 The unit shall closely monitor & progress the action plan duly associating the Financial Advisor.

5.5 AVNL shall also monitor the progress of liquidation on yearly basis.

5.6 Since procurement of stores is based on the SHIS with the deficiency being worked out after considering the stocks, work-in-progress (WIP) and dues, it will not result in the procurement resulting in holding stock of the item in excess of the requirement. However, any change in production programme of any end product due to increase or decrease in demand or any other reason will necessitate mid-course review.

5.7 The provisioning period comprises of: (i) the lead time, intended to cover all actions right from assessment of net requirement up to completion of delivery by the supplier, and (ii) the period of utilization, which is the production period during which the entire ordered quantity (including the stocks and dues existing at the time of the provisioning action) will be utilized for meeting the production target. Normally the period of utilization is 12 months (plus the first quarter of the subsequent year).

6. Stockpile: Stockpile is an emergency reserve of imported and difficult to procure indigenous stores clearly identified as such, held for the purpose of enhancing the

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responsiveness of production units to unexpected demand surges and stock out situations. Once an item is identified for stockpiling and its quantity determined, the competent authority shall be approached for sanctioning the stockpile creation. Maximum permissible Stockpile for imported and difficult-to-procure indigenous stores is 12 months and 8 months respectively, unless otherwise higher levels have been specifically authorized by AVNL through a separate order.

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VIII. MODES OF PROCUREMENT AND SELECTION

Tendering method should be flexible enough to accommodate different procurement methods. The most transparent method is to allow all the potential suppliers to participate in the tendering process without limitations. However limited tendering is justifiable wherever it is not feasible or efficient to consider and evaluate large number of potential suppliers considering the complex nature of the store. The limited tendering should be equally transparent and to be conducted in accordance with the procedures laid down in this manual. Selection of suppliers for limited tendering should ensure that items planned for procurement is in the supply range of the bidders. The procurement of non-project material (indirect items) through Proprietary/single tendering could be used only in exceptional circumstances since the selection criterion for suppliers are not available. Once in every year review of the items procured on proprietary/single tender to be made and the scope for competition to be explored. An Empowered Committee of Procurement needs to be constituted with the approval of Head of the Unit to carry out the review. This chapter principally deals with the procurement through tendering.

1. Purchase Through Tendering: Procurement of stores by obtaining tenders shall be done by adopting the following standard methods. These standard methods shall also apply for procurement of services, subject to other instructions contained in this Manual being followed.

- i. Advertised Tender Enquiry (OTE/ GTE)
- ii. Limited Tender Enquiry (LTE)
- iii. Single Tender Enquiry (STE)
- iv. Proprietary Article Procurement
- v. Single Known Source (SKS)
- vi. Electronic Reverse Auction

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2. Tendering (e-Procurement): In stores procurement all tendering shall be done through e-procurement mode only. The Manual Tendering, in exceptional cases, be resorted only after obtaining prior concurrence of Director (Operation) - AVNL, citing reasons for such exemption.

3. Open Tender Enquiry/Global Tender Enquiry: Open Tendering is the most preferred method to be followed. Open tendering is a system whereby even non-registered vendors are free to participate and allowed to quote against the tender advertised on the GeM, CPP Portal, and AVNL website. In case the procurement is intended to be on global basis then the tender to be advertised in the Indian Trade Journal/Indian Export Service Bulletin (IESB). In addition, copies of the tender documents may be made available to the Indian Embassies in potential vendor countries abroad for issuing the tenderers besides making the documents available to the Trade Commissioners of Foreign Embassies in India. In open tendering, all the known and possible sources for the supply of the particular material are made aware of the requirements by sending to them a copy of the advertisement. The advertisement is also to be hosted in the AVNL's website. The purchase section to ensure that the complete bid document should be available on the website, till last date of submission of tenders, for purposes of downloading. This system (OTE/GTE) is not mandatory for purchase of production items from already approved/proprietary/developed sources and also where Licence Agreements/Long Term Contracts are in force besides such other items where prices are controlled / administered by the Government.

Procurement by advertisement should normally be used for procurement of stores (other than Made-to-Order (MTO) stores) with an estimated value more than Rs.25 lakh, subject to the exceptions prescribed in this Manual. OTE procurement may also be with a pre-qualification requirement. OTE being the preferred mode for procurement, the CFA may resort to it even in those cases where other modes for

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procurement from trade have been prescribed in this manual. No manual tendering for OTE/GTE cases.

4. Source Development: The source development OTE (SD-OTE) is done to develop new sources for both MTO & COTS items.

5. Limited Tender Enquiry [for Store Value < 25 Lakh]: LTE may be adopted (for other than MTO items) when estimated value of stores to be procured is up to Rs.25 lakh (including the OC quantity). Tender should be issued (only through e-procurement mode) free of cost simultaneously to all the firms, which are borne on the list of registered suppliers or established suppliers for the stores after due consideration of their past performance/ response, if any. The number of supplier firms in LTE should invariably be three or more [GFR-2017, Rule-162]. Efforts should be made to identify a higher number of approved suppliers to obtain more responsive bids on competitive basis. LTE can be issued to foreign vendors also. Sufficient time should be allowed for submission of bids in Limited Tender Enquiry cases [GFR-2017, Rule-162]. Further, an organization should publish its limited tender enquiries on Central Public Procurement Portal (CPPP) as per GFR-2017, Rule-159. Apart from CPPP, the organization should publish the tender enquiries on the Department's or Ministry's websites. In the case of procurements made through DGS&D Rate Contracts (GeM) or through any other Central Procurement Organizations (CPOs) only award details need to be published. These instructions would not apply to procurements made in terms of provisions of Rules 154 (Purchase of goods without quotations) or 155 (Purchase of goods by purchase committee) of General Financial Rules.

6. Limited Tender Enquiry [for Store Value >25 Lakh]: Purchase through LTE may be adopted (for other than MTO items) when the estimated value of the procurement is more than Rs.25 lakh (including the OC quantity), in the following circumstances, with the approval of Head of Unit (If CFA is Head of Unit, then approval of next higher CFA) :



- i. The competent authority certifies that the demand is urgent and any additional expenditure involved by not procuring through advertised tender enquiry is justified in view of urgency. The competent authority should also put on record the nature of the urgency and reasons why the procurement could not be anticipated earlier.
- ii. The sources of supply are definitely known and possibility of fresh source(s) beyond those being tapped is remote.
- iii. The item to be procured is such that pre-verification of competence of the firm is essential, hence requires registration of firms.
- iv. To prevent stock out situations, to cater unforeseen requirements of the Armed Forces/ MHA and on the ground of national security as per directive of MoD. The CFA shall certify and record justification.

7. Limited Tender Enquiry [for MTO Store Value <25 Lakh]: If the estimated value of the proposal for a MTO item, is up to Rs. 25 lakh (including the OC quantity), then the entire deficient quantity may be procured through LTE without insisting on Source Development Open Tender Enquiry (SD-OTE), provided there are minimum 3 established vendors with valid registration and no cartel is suspected (to be recorded after due diligence by the relevant TPC). If the number of established & registered vendors is less than 3, then, established & registered vendors for the same range of products/ goods/ services/ technology can also be included for the LTE. If the number of established vendors with valid registration for the same range of products/ goods/ services/ technology is less than three or cartel formation is suspected / confirmed, then procurement shall be done as per the procedure detailed for MTO items in the **Chapter- XI**. Further, an organization should publish its limited tender enquiries on Central Public Procurement Portal (CPPP) as per GFR-2017, Rule-159. Apart from CPPP, the organizations should publish the tender enquiries on the Department's or Ministry's websites.

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8. MTO Store Procurement [Store Value >25 Lakhs]: If the MTO procurement is above Rs. 25 lakhs (including the OC quantity); or (ii) there are less than 3 established vendors with valid registration for the same range of products/goods/services/technology or (iii) cartel formation is suspected/confirmed, then procurement will be done as per the procedure detailed for MTO items in the **Chapter-XI**.

9. Limited Tender Enquiry & Last Supplier: In all LTE cases, it is mandatory to include the name of last supplier unless the performance in terms of delivery, quality etc has been recorded unsatisfactory.

10. Single Tender Enquiry (STE): When the purchase is finalized on the basis of an offer from a single source, it is called a 'Single Tender Purchase'. It needs to be recognized that the competition is totally eliminated and the possibility of paying higher prices cannot be ruled out. It is imperative that the purchase on single tender basis be made with the detailed justification in its support and with the approval of Competent Authority, including associated finance. Therefore, this mode of purchase should be resorted to only in unavoidable situations. Purchase through STE may be adopted when:

- i. It is in the knowledge of the user (for indirect item)/ purchase department (for direct material) that only a particular firm is manufacturing the required stores. The reason for arriving at this conclusion is to be recorded and approval of the competent authority obtained.
- ii. In a case of emergency, the required stores are necessarily to be purchased from a particular source, subject to the reason for such decision being recorded and approval of the competent authority obtained.
- iii. For standardization of machinery or components or spare parts to be compatible to the existing sets of machinery/equipment (on the advice of a competent technical expert and approved by the competent authority), the required goods are to be purchased only from a selected firm.



- iv. The relevant Proprietary Article/ Single Known Source Certificate (in the format given at the end on this Manual) should be provided by the CFA as per the DoFP before procuring the stores from a single source under the provision of sub-paragraphs (i) & (iii) above as applicable.
- v. Suitable tender document, containing required terms & conditions are to be issued to the selected firm for preparing and sending its quotation. The question of 'late tender' as well as elaborate process of receipt & opening of tender, as applicable for advertised tenders and LTE, will not apply in case of procurement through STE.
- vi. PAC/ SKS sources at times do not accept some of the standard tender conditions. In such cases, the firms should be persuaded to comply with the standard terms & conditions. If they are still unwilling to accept the standard terms & conditions, then, since no other alternative source is available, HoD (for unit level cases) & Director-Operation (for AVNL level cases) can grant relaxation/ exemption. In such cases of SKS procurements, the AVNL unit shall necessarily increase its efforts to develop alternate sources.
- vii. In case of repetitive STE for specific stores, the efforts made in the past to develop alternate sources be recorded while issuing SKS/PAC Certificate.
- viii. Once the SKS/PAC certificate is issued by the Competent Financial Authority in consultation with Finance, Vendor Selection (VSL-TPC) TPC becomes redundant and therefore no such VSL TPC is required.

11. Proprietary Article Procurement: Certain items, particularly equipments/machine spares, are the propriety product of a manufacturing firm. Such items are only available with that firm or their dealers or distributors since detailed specifications are not available to others for manufacturing the item. Situations may also arise when, for standardization of machinery or ensuring compatibility of spare parts with the existing sets of equipment, goods and services have to be obtained from a particular source. In such situations, a Proprietary Article Certificate may be issued

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to the original equipment manufacturer (OEM)/Authorized Dealer and items procured on PAC basis from that particular firm or its authorized dealers or distributors. Following guidelines to be followed for PAC purchases:

- i. While PAC is issued in favour of the concerned OEM, the item to be purchased from OEM only (not through authorized dealer).
- ii. In case the OEM insists that purchase to be made through an authorized dealer/system-house/system-integrator, the PAC to be issued in the name of dealer authorized by OEM, only and only when the OEM has one dealer in the country (India).
- iii. In case the OEM insists that purchase to be made through an authorized dealer/system-house/system-integrator and the OEM has multiple dealers in the country, no PAC shall be issued in the name of a specific dealer and LTE/OTE to be resorted, giving equal opportunity to all authorized dealers.
- iv. In case of procurement through dealer, the purchaser must insist for documents: (i) Authorized Dealer Certificate issued by OEM, (ii) and Certificate of Originality of the store issued by OEM.
- v. The purchase will be made as per the DoFP for PAC cases. These provisions would also apply to repairs and servicing of equipment through the OEM/sole dealer/servicing agency, authorized by the OEM (as the case may be).
- vi. PAC bestows monopoly and obviates competition. Therefore, PAC status should be granted only after careful consideration of all relevant factors like fitness, availability, standardization and value for money. The CFA for issuing PAC shall be as notified in the DoFP.
- vii. It is common for OEMs to outsource their components/sub-assemblies/assemblies and not manufacture these themselves. Hence, such items may be available at a cheaper price with the actual manufacturers. The indenting/

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procurement officers must, therefore, keep abreast of the probable sources and may procure items from the right source to protect the interest of the State. However, machinery spares should be sourced only from the OEM or OEM approved/recommended manufacturers to make the OEM responsible for malfunctioning, if any, of the main equipment in which the spares will be fitted beyond warranty period.

12. Procurement from a Single Known Source: New sources are to be developed through Open Tender Enquiry (OTE). At times OTEs may result in development of only one source. Pending development of more sources, 80% of requirement with 25% option clause may be procured on Single Known Source mode on the basis of an SKS Certificate to be issued in the prescribed format by the Competent Authority notified in the DoFP. The balance 20% of the requirement may be procured through SD-OTE, without option clause.

13. RC concluded by AVNL: AVNL may, where feasible, conclude Rate Contracts (RCs) through OTE on a 2- bids system for stores of standard type that are identified as common items and are needed on recurring basis by its units. RCs can be finalized through LTE with PSUs in respect of items which are known to be manufactured only by them. The AVNL units, as Direct Demanding Officer, can procure the items under the RC concluded by AVNL. The AVNL units can also conclude RCs under their delegated powers, if such RCs not covered by AVNL. When such RCs are concluded the specifications, prices and other salient details of the rate contracted items shall be posted on the common website, and appropriately updated, for use by all units under AVNL. The RCs concluded by the AVNL/Units shall be operated to the maximum extent possible.

14. Licensor/License Agreements: Tender is addressed to only Licensor/ Licensor nominated sources, and designated sources based on inter Governmental Agreements and General Contracts approved by Government of India. In case of License Manufacture, the licensor's document invariably indicates the details of items and the specific OEMs/Vendors from whom these items are to be procured. Procurement from

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Licensor nominated sources will be treated as proprietary, unless otherwise special financial powers have been delegated as per DoFP.

15. Procurement under Licence Agreement & Manual Tendering: All procurements from the Licensor (OEM of Technology Provider) or procurements under Licence agreement/Joint Ventures/Designers/Buyer's Nominated Equipments can be done via Manual Tendering (without prior approval of Director/Operation-AVNL), if the vendor doesn't agree for e-procurement.

16. Procurement from Customer Nominated Source: This mode of single source procurement is resorted to from a specific source nominated by name in writing by the customer. The following care should be taken while resorting to this mode of purchase:

- i. Procurement from customer nominated source can be resorted to only in case the purchase order/contract with the customer provides for such nomination by the customer. The same shall be regulated in the following manner.
- ii. Reference of specific part numbers of OEM in respect of BNE the contract entered with customer can be considered as basis for procurement of stores on SKS/PAC.
- iii. In case the nominated vendor quotes unreasonable price/Terms and Conditions and does not agree for reduction and waiving of unreasonable conditions, Unit should take up the matter with the customer for their concurrence to accept price / terms and conditions of the vendor. Accordingly, Unit to be compensated for extra cost incurred due to customer nominated items.
- iv. It should be ensured that the customer nominated source essentially originates from the customer.
- v. Procurement from customer nominated single source shall be done as per Single Known Source/PAC.

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17. Electronic Reverse Auction (ERA): Electronic Reverse Auction means an online real-time purchasing technique utilized by the procuring entity to select the successful bid, which involves presentation by bidders of successively more favourable bids during a scheduled period of time and automatic evaluation of bids [GFR-2017, Rule-176].

17.1 Criterion for Electronic Reverse Auction: A procuring entity may choose to procure a subject matter of procurement by the electronic reverse auction method, if:

- i. It is feasible for the procuring entity to formulate a detailed description of the subject matter of the procurement.
- ii. There is a competitive market of bidders anticipated to be qualified to participate in the electronic reverse auction, so that effective competition is ensured.
- iii. The criteria to be used by the procuring entity in determining the successful bid are quantifiable and can be expressed in monetary terms.

17.2 Procedure for ERA: The procedure for electronic reverse auction shall include the following, namely:

- i. The procuring entity shall solicit bids through an invitation to the electronic reverse auction to be published or communicated in accordance with the provisions similar to e-procurement; and
- ii. The invitation shall, in addition to the information as specified in e-procurement, include details relating to access to and registration for the auction, opening and closing of the auction and Norms for conduct of the auction.

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18. Procurement from Defence Public Sector Undertakings: Goods and Services may be procured from Defence Public Sector Undertakings through tender. Any items developed / manufactured by a Defence PSU specifically for the Defence Services, with transfer of technology or through design and development, should be procured from the concerned Defence PSU only. Similarly, Defence PSUs shall be approached for providing any service, such as repairs and overhauling, if facility for providing such services has been set up by a Defence PSU exclusively for the Defence Services. The nature of such procurement (STE/PAC), however, shall be decided as per DoFP of AVNL. Reasons for invoking this provision shall be recorded. However, this clause shall not be applicable once the decision is taken by the **Empowered Committee of Procurement (ECoP) to develop alternate sources for a specific store (Para-5, Chapter-VI)**.

18.1 For cases other than category stated above, Defence Public Sector Undertakings (or Central Govt. Public Sector Undertakings) will have to bid for contracts through a tendering process open to private sector enterprises, for supplying goods and services to AVNL.

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IX. PROCUREMENT OF STORES FROM OTHER UNITS OF AVNL

1. Introduction: In addition to the procurement of stores from the trade, many direct items/stores/services are being manufacture and supplied by the sister units of AVNL to the final issuing Unit. And therefore, this particular chapter deals with procurement of stores and services from the Units under AVNL.

2. Demand Generation: Formal Material Planning Sheet (MPS) shall be generated based on Contracts/Deemed Contract/Agreements and the same shall be processed as per procedure laid down in this chapter. However, this procurement activity shall be dealt by the Planning Section of the respective Units.

3. Methodology: Following methodology shall be followed by all AVNL Units while sourcing the stores from the sister AVNL Units:

- i. No tendering to be resorted for procurement of stores from Units under AVNL.
- ii. Separate IFD shall be placed for each store/service.
- iii. The demand, in the form of IFD, can be placed by the Indenting Unit on the Supplying Unit (s) for full contract quantity along with monthly & yearly supply schedule so that the supplies can be planned in a more efficient manner.
- iv. Since there is no tendering (competitive bidding) mechanism is in place for procurement of such stores, the cost (pricing) and other terms & conditions shall be decided by AVNL HQ on yearly basis at the beginning of every financial year.

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- v. Any store (s) developed / manufactured by a AVNL unit (s) specifically for the other AVNL Unit, with transfer of technology or through design and development, should be procured from the concerned AVNL Unit (s) only.
- vi. Similarly, the Unit shall be approached for providing any other service, such as repairs and overhauling, if facility for providing such services has been set up by the supplying Unit exclusively for the other Unit (s).
- vii. All Units of AVNL shall create a template in their PPC (Information Management System) in line with the IFD format specified in this chapter for data mining and analysis.
- viii. The indenting unit can resort to the tendering process for procurement of such stores with prior approval of Director (Operation), AVNL, giving grounded reason for doing so (this situation may also arise if the supplying unit is not in a position to accept the IFD & supply the stores as demanded).
- ix. However, before seeking the AVNL approval for resorting to tendering, the subject matter shall be deliberated by the ECoP of the concerned unit and the decision of the committee shall be communicated well in advance to the Unit Head of the supplying Unit.
- x. Head of Units (indenting & supplying) shall make all possible efforts to resolve the issue related to IFD supplies at their level before approaching AVNL.

4. **Placement of Demand:** Indenting Unit of AVNL (user), after ensuring that the particulars mentioned in the Inter Factory Demand (IFD) are correct, shall place IFD on the supplying unit in the prescribed form giving, inter-alia, following particulars:

- i. Related Contract No and Date



- ii. Correct nomenclature of the stores demanded together with the relevant manufacturing particulars etc.
- iii. Purpose for which the stores are required
- iv. Delivery Schedule (both monthly & yearly)
- v. Indenting factory shall also provide the feeder factory all particulars/drawings/specifications referred in the IFD and are required for execution of the IFD.
- vi. Copies of IFDs should be endorsed, among others, to the concerned AHSP/QA of indenting factory/Finance of indenting & supplying factories for necessary action by these authorities.

5. **Format of IFD:** Following format shall be followed for sourcing the stores from Sister AVNL Units:

INTER FACTORY DEMAND		
Demanding Unit with Code		Supplying Unit with Code
Sl No	Description	Entry/Remark
1.	Inter Factory Demand No:	
2.	IFD Date:	
3.	Description of Store	
4.	Part/Drg. No	
5.	Quantity	
6.	Cost (Price) in Rs	
7.	Date of Commencement of Supply	
8.	Supply Schedule (Monthly)	
9.	Supply Schedule (Yearly)	
10.	Inspection Agency	
11.	IFD Vetting Authority with Signature (Chief Financial Advisor)	
12.	IFD Approving Authority with Signature (Head of Unit)	

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6. General Terms & Conditions: Followings are the general terms & conditions in respect of stores being outsourced from sister AVNL Units:

- i. The supplying Unit shall ensure that the Inspection Note has been issued by the agency mentioned in IFD.
- ii. The supplying Unit shall support the Indenting Unit towards repair/rectification and service support as and when demanded with or without financial obligation, as the case may be.

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X. PROCUREMENT WITHOUT TENDERING

1. Cash and Carry Procurement: Cash and carry purchase is resorted to in cases of extreme urgency or when the supplier is not willing to supply the required item on credit. Such procurement should be made only in exceptional cases. The cash payment is initially made from the Imprest fund of the unit and the same, on being claimed, is reimbursed by the paying authority after due audit of the transaction. This class of purchase does fall under the category Purchase of goods/services without quotation (tendering). Purchase of goods/services up to the value of Rs. 25,000 (Rupees twenty five thousand) only on each occasion may be made without inviting quotations or bids on the basis of a certificate to be recorded by the competent authority in the following format [GFR-2017, Rule-154]:

Certificate: *“I am personally satisfied that these goods/services purchased are of the requisite quality and specification and have been purchased from a reliable supplier at a reasonable price.”*

2. Purchase of goods/services by Purchase Committee (LPC): Purchase of goods/services costing above Rs. 25,000 (Rupees twenty five thousand only) and up to Rs.2,50,000/- (Rupees two lakh and fifty thousand only) on each occasion may be made on the recommendations of a duly constituted Local Purchase Committee consisting of three members of an appropriate level as decided by the Head of the Unit. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate supplier. Before recommending placement of the purchase order, the members of the committee will jointly record a certificate as under [GFR-2017, Rule-155]:

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Certificate: *“Certified that we, members of the purchase committee, are jointly and individually satisfied that the goods recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the supplier recommended is reliable and competent to supply the goods in question, and it is not debarred by Department of Commerce or Ministry/ Department concerned.”*

3. Purchase Through GeM: Government of India has hosted an online Government e-Marketplace (GeM) for common use Goods and Services. As per Rule 149 of GFR 2017, GeM has been made mandatory for procurement of Goods and Services available on GeM. The procuring authorities will certify the reasonability of rates. The GeM shall be utilized by all the Units of AVNL for direct on-line purchases as per procedure given below:

- i. Up to Rs 25,000/- through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period.
- ii. Above Rs. 25,000/- and up to Rs. 5,00,000/- through the GeM Seller having lowest price amongst the available sellers (excluding automobile where current limit of 30 lakh will continue), of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period. The tools for online bidding and online reverse auction available on GeM can be used by the Buyer if decided by the competent authority.
- iii. Above Rs. 5,00,000/- through the supplier having lowest price meeting the requisite quality, specification and delivery period after mandatorily obtaining bids, using online bidding or reverse auction tool provided on GeM (excluding Automobiles where current limit of 30 lakh will continue).
- iv. The invitation for the online e-bidding/reverse auction will be available to all the existing Sellers or other Sellers registered on the portal and who have offered their goods/services under the particular product/service category, as per the terms and conditions of GeM.



- v. The above mentioned monetary ceiling is applicable only for purchases made through GeM. For purchases, if any, outside GeM, relevant provision of this Procurement Manual shall apply.
- vi. The Government Buyers may ascertain the reasonableness of prices before placement of order using the Business Analytics (BA) tools available on GeM including the Last Purchase Price on GeM, Department's own Last Purchase Price etc.
- vii. A demand for goods shall not be divided into small quantities to make piecemeal purchases to avoid procurement through L-1 Buying / bidding / reverse auction on GeM or the necessity of obtaining the sanction of higher authorities required with reference to the estimated value of the total demand.
- viii. The detailed guidelines issued by Ministry of Defence/Ministry of Expenditure from time to time to be adhered to with respect to procurement through GeM.

4. AVNL Rate Contract: The Corporate Office of AVNL shall, except in case of purchase of production items from already approved/proprietary/developed sources and where License Agreements/Long Term Contracts are in force, to the maximum extent possible, enter into Rate Contracts for items which are commonly used by different units of AVNL. Such contract should be made with reliable and established sources of supply after obtaining competitive offers through Open Tender. The advantages of this arrangement are:

- i. Supplier is assured of expected volume of business and hence can offer better prices.
- ii. AVNL is assured of continuous supply as per requirement.
- iii. Assurance of sustained quality supplies.
- iv. Effective controls on inventory buildup.
- v. Purchasing cost is kept low.

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5. AVNL Licence Agreements: At the time of finalization of licence agreements, Purchase Agreements are also entered which enable AVNL or its units to procure its requirements without calling for offers. The Purchase Agreement is valid for the period of main Licence Agreement and an agreed escalation clause governs the prices applicable on supplies to AVNL or its units.

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XI. PROCEDURE FOR COTS ITEMS

1. The standard procurement procedure contained in the preceding Chapter-VIII (Mode of Procurement and Selection) shall apply while procuring other than MTO items. Advertised OTE shall be the preferred mode for procurement of common use items/commercial specifications which are readily available in the market from a wide range of sources/vendors. However, depending on the value of the procurement the appropriate mode of procurement i.e. OTE, LTE, STE, RC, CP (Cash-Purchase) and LPC as contained in the Manual may be followed within the financial limits specified therein. In procurement of direct material (falling in the category 'other than MTO') through LTE, only established vendors with valid registration as per the SOP for vendor registration shall be allowed to participate.
2. Under advertised tenders (OTE/GTE), procurement shall be made through OEMs/Manufacturers or their authorized dealers/distributors, if it is the policy the OEM/Manufacturer to deal through their authorized dealers/distributor.
3. Similarly, in case of imported stores including raw material/tools & gauges/machinery spares, the procurement can be made through authorized dealers/entities if the OEMs/Manufacturers deal through them.
4. The long term requirement, if known, shall be indicated in the tender notice/ tender to attract more firms to quote.
5. Sometimes, due to short shelf-life, high volatility or high storage losses, difficulties are experienced in procurement, and vendors also normally provide very short validity for their bids. These items being commercially available there are normally adequate number of sources in the market. Therefore, there may not be a need for any special source development exercise. In such case, procurement may be made from registered/government licensed/ reputed vendors through LTE issued to minimum three vendors. Considering the shelf-life and storage losses, the VSL TPC, after duly

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recording reasons, shall decide the optimal frequency at which the procurement will be made.

6. For limited tender enquiry of COTS items, para 5 & 6 of the Chapter-VIII may be referred.

7. Against OTE, (other than MTO) items shall be procured generally through GeM, however competent authority (i.e. relevant TPC as per DoFP of AVNL) may decide to buy through other mode of e-procurement/ paper tender after following the relevant instructions in the matter as notified by GoI from time to time. Level of TPC is decided considering procurement value including option clause quantity.

8. For COTS items, the entire deficient quantity with 50% option clause may be procured through OTE.

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XII. PROCEDURE FOR MADE-TO-ORDER STORES

The challenges in procurement of Made-to-Order (MTO) items are many and complex to handle. These challenges necessitate special procedure for MTO items to ensure delivery of quality end-products according to the targeted production program. The following procedure shall be followed for procuring Made-to-Order items:

- i.** The quantity to be procured is to be worked out as per Para-4, Chapter-VII of this manual.
- ii.** MTO items are manufactured against specific requirements and their sources are limited. And therefore, in order to generate healthy competition, the source development exercise shall necessarily be undertaken through Source Development OTE so as to have adequate sources for a specific item. Advance Vendor Registration (AVR) for new vendors should be done twice a year through open advertisement during the 1st fortnight of January and July of every year. However, in addition, vendor can also apply for registration throughout the year. If no response received in AVR or AVR not floated due to non availability of requirement, then the unit may float SD-OTE in two bids.
- iii.** Vendors become established source for a particular item after securing order by participation in a SD-OTE for the item and successfully delivering at least 60% of ordered quantity against the supply order, and the same being accepted on conformity to the qualitative requirements. However, supplies against subsequent LTE orders shall be accepted subject to completion of the supplies under the SD-OTE.
- iv.** Established vendors for aggregates, assemblies and sub-assemblies shall be considered as established vendors for components and sub-assemblies that go into making of the aggregate, assembly and sub-assembly.

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- v. The Option Clause (OC) is provided in the LTE (associated with SD-OTE) to take care of the eventuality of the SD-OTE supplies not materializing in time for meeting the targeted production. Accordingly, the OC shall be exercised when it becomes evident that supplies from SD-OTE will not materialize in time for meeting the targeted production. The OC may also be exercised in case the supply plan/contract quantity has been enhanced from that considered while calculating the net deficiency.
- vi. If the value of the net deficiency worked out for a MTO item is up to Rs. 25 lakh (including the OC quantity), then without insisting on SD-OTE, the entire net deficiency may be procured through LTE provided there are minimum three established vendors with valid registration and no cartel is suspected (to be recorded after due diligence by the relevant TPC). If the number of established vendors is less than three, then registered vendors for the same range of products/ goods/ services/ technology can also be included for the LTE.
- vii. MTO items are specialized items that do not have commercial application. Therefore, keeping established sources active/alive is the most important aspect of supply-chain-management. Established production lines in the trade remain alive when established sources get periodical orders to keep their facilities active. Thinning out orders on too many established sources has a potential risk of established sources dying out due to non-availability of adequate work to keep established facilities alive/active. To avoid such a situation, for MTO items more than Rs 25 lakh (including option clause quantity), where three or more established sources is existing for an item, the VSL-TPC, with prior approval of Head of Unit (if Head of Unit is CFA, then next higher CFA), may decide not to undertake further source development, provided the existing established sources are not acting in collusion/ cartel. In such case the entire net deficiency may be procured through LTE.
- viii. For items other than those exempted from SD-OTE (as per para-vii) following provision shall prevail:

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- a) 80% of the net deficiency shall be procured with a 25% option clause through LTE issued to only established sources with valid registration. All the established sources, including sources developed by other Units for that particular item, shall be allowed to participate in the LTE.
- b) Balance 20% of the net deficiency shall be procured without option clause through SD-OTE following a two-bid system where established sources shall not be allowed to participate. However, to prevent stock out situations and (or) cater to unforeseen requirements of the Armed Forces/MHA and on the ground of national security as per directive of MoD, LTE can be resorted to for even the balance quantity. In such cases, approval of Head of Unit shall be obtained for resorting to LTE.
- c) With low volume/quantity, if considered necessary by VSL-TPC, LTE of 50% quantity with 100% option clause and SD-OTE with balance 50% quantity without option clause can be initiated.
- ix. The efforts should be made to finalize the SD-OTE in a time bound manner and its progress be closely monitored.
- x. If the Supply Order(s) placed against OTE is not being executed by the supplier(s), even after DP extension (including staggered DP) and the material is urgent, 25% extra quantity with 100% option clause may be procured through LTE from the established and registered firms. The decision to be taken by the same TPC of supply order which is not being executed. However, resulting excess procurement, if any, should be adjusted in subsequent procurement cycle.
- xi. Normally, bids are not invited from both established as well as non-established vendors in the same TE. However, where necessary this may be resorted after recording detailed reasons for the same. In such cases the entire net deficiency may be procured through OTE, following a two-bid system, and allowing established and non-established sources to participate on a level playing field. In

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this context capacity assessment/verification of non-established or unregistered firms shall not be considered as un-equitable treatment, since capacities of established firms are known from the fact that they have supplied the item, and the capacity of firms are required to be verified prior to their registration. However, the TPC, if considered necessary, is competent to seek fresh capacity assessment/verification of established or registered firms also.

- xii.** In LTE for a particular item, tender shall be issued to all established and registered source(s), including sources developed by other units of AVNL/Ex OFs/DPSUs/MOD/User for that particular item. In cases where established & registered sources are less than three, LTE shall be issued to minimum two established and registered sources. If the established & registered source is only one, then procurement shall be on Single Known Source basis after rendering the requisite SKS Certificate (or PAC if a proprietary item).
- xiii.** If distribution of quantity is necessary for having more than one source for strategic reasons, the distribution ratio shall be indicated in the tender (60:40). No distribution of quantity is permitted, if LTE has been issued to two established sources.
- xiv.** Sources unambiguously approved for a particular item(s) by collaborators and design agencies shall also be considered as established sources for that item. They shall be subjected to the normal vendor rating as per SOP.
- xv.** SD-OTE will be on the two bids system wherein the technical bid will lay down the qualifying criteria, such as minimum turnover of the firm, production facilities, supplies of similar products made in required quantity/quality control arrangements etc. The financial bid will contain (i) Item-wise price (ii) Details of applicable taxes & duties and (iii) All other commercial terms & conditions.
- xvi.** Indication of the long term requirement, if known, shall be specified in the SD-OTE to invoke interest in sources to quote.

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- xvii.** Established sources for an item will not be eligible to participate in the SD-OTE for that item. The status whether a firm is established or not shall be reckoned as on the last date of the previous month in which vendor selection TPC is held.
- xviii.** There may be attempts by established manufacturers/suppliers/sources for an item to prevent new manufacturers/sources from being developed. Therefore following precaution may be taken:
- a.** The open tender for developing new sources will be in two bid system, however in the technical bid, only those firms will be short listed that have the capacity for making/developing the said item in terms of machineries, capital, skilled manpower, technology, etc.
 - b.** Any quote that is less than 70% of simple average of the basic rate (LTE and successfully executed SD-OTE/OTE) at which orders (excluding import orders) have been placed over the preceding three years (reckoned from the date of tender opening) shall be deemed as freak rate and rejected.
 - c.** To have more firms developing an item and thereby improve the probability of developing new sources in SD-OTE, the L-2 firm may be given 40% of the tendered quantity on accepting the L-1 rates, provided this was indicated in the tender.
 - d.** If a firm on which source development order has been placed is unable to develop the item within the specified time frame, existing provision of AVNL DoFP should be followed.
 - e.** In the re-tender (or the next OTE, if relevant as mentioned in preceding paragraph), the firm that was unable to develop the particular item even with the extended time-frame that resulted in the re-tender shall not be allowed to participate.

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- xix.** To develop vendors for new items, development orders for value not exceeding delegated powers contained in the DoFP, may be concluded when SD-OTE efforts have not been successful.
- xx.** If two SD Supply Order (s) for an item have already been placed against SD-OTEs (irrespective of availability of number of established vendors), further SD-OTE will not be processed till any of these SD-OTE Supply Orders is completed/short closed/canceled. The firm having one SD-OTE supply order is also not allowed to participate in other SD-OTE for the same item, floated by the same or any other unit of AVNL.
- xxi.** The manufacturing of certain items sourced from the trade may require multiple diverse technologies, e.g. manufacture of certain type of shells require forging as well as machining facilities/technologies. Trade firms generally do not possess the entire range of diverse technologies that are required for the manufacture of such items. In such cases, the appropriate Vendor Selection TPC after due deliberations may decide that firms not possessing required facilities with them, but having agreement (self-declared by vendors) with other firms for these facilities can also participate in the tender. This is subject to the assessment that such bidding firm has adequate facilities to ensure the quantitative and qualitative output as per the tender enquiry. In case the TEC/TPC considers it necessary, the capacity of the firm(s) with whom the bidding firm has such agreement(s) can also be verified for the facilities outsourced by the bidding firm. The bidder shall facilitate such capacity verification. It should, however, be ensured that the bidding firm has the capacity for the important operations in-house. The VSL TPC should deliberate and decide, prior to issue of the TE, the facilities are necessarily to be possessed by the bidding firm and should be duly incorporated in the tender enquiry.
- xxii.** VSL TPCs may also consider for participation of firms those having facility/capabilities of integration with testing facilities (System Integrators). These firms may not have manufacturing facilities but have agreement (self-

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declared by vendors) for supplying of components/assemblies/sub-assemblies. The warranty of the integrated product shall be given by the integrator.

xxiii. For all exclusive spares requirements of the final products being issued by the unit, the unit may initiate procurement action from the established sources. Being non-recurring requirement, SD-OTE may not be required for such projected quantity. RC information, if any, available both at Unit & DGOS Branch may be shared for mutual benefit.

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XIII. TENDERING

1. Introduction: The invitation to tender and instructions at enquiry stage are an important step as the vendor's offer is based upon these instructions. Any ill-conceived, thoughtless and incomplete action at this stage will result in unnecessary delays, increase in paper work and rush purchases. Therefore, careful and meticulous preparation of the TE can enhance the overall efficiency of the supply-chain-management. The enquiry shall be carefully prepared indicating requirements in clear terms. Different types of tenders have already been explained in the Chapter-IX. Needless to mention that the award of the Contract through Public tender is primarily:

- i. To ensure transparency in public procurement;
- ii. To maximize economy and efficiency in public procurement;
- iii. To promote healthy competition among bidders;
- iv. To provide fair and equal treatment to all the bidders; and
- v. To eliminate irregularities, interference and corrupt practices by authorities concerned.

2. Estimating the Cost of Procurement: The correct estimation of cost is an important step for (i) determining the level of CFA (ii) establishing the reasonability of the offers received from suppliers and (iii) determining the availability of funds. The cost estimation should, therefore, be done in a realistic, objective, comprehensive and professional manner after duly considering the prevailing market rates, last purchase price, economic indices for raw material/ labour, other input costs, the intrinsic value, etc. Cost shall be estimated by the procurement section while initiating the procurement proposal. The all inclusive estimated cost (including the tendered quantity and the option quantity specified in the tender) of the procurement shall be the basis for determining CFA as per the DoFP. Various methods available for estimating the cost are: (i) on the basis of the Last Purchase Price duly neutralized for inflationary/deflationary trends, (ii) Professional Officers' Valuation, (iii) obtaining budgetary quotations from prospective suppliers, (iv) market survey, (v) estimation

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from first principles etc. Estimation can also be done by Industrial Engineering Office (IEO), Estimate Office (EO) or Planning Sections of the Unit or through a Technical Committee formed for that purpose. These methods are not mutually exclusive. Any of the method or combination of methods or any other appropriate method may be applied for estimation. The method adopted for estimation of cost should be clearly recorded while seeking the approval of the CFA. The estimated cost, if worked out in foreign currency, should be converted to Rupee, and shown both in terms of the foreign currency as well as Rupee (indicating the exchange rate adopted and date & source i.e. SBI, Parliament Street Branch, New Delhi/RBI) while seeking CFA's approval. In evaluation of price bids exchange rate adopted shall be as on the date of last date of submission of bids.

3. Vendor Selection(VSL): The relevant TPC under whose financial power the case falls will do the vendor selection for the procurement. For cases beyond the powers of the AVNL Unit (i.e. cases falling under the powers of AVNL), vendor selection will be done by Unit Level- I TPC. In addition to various other points, the Vendor Selection TPC shall necessarily deliberate on: (i) justification for the quantities proposed for procurement, (ii) categorization of the item as MTO or other than MTO, (iii) adequacy of vendor base, (iv) estimated cost, (v) mode of procurement with OTE percentage, (vi) realistic delivery period (vii) identification of essential parameters of the tender, if necessary; if no specific essential parameter has been identified then, to eliminate arbitrariness, all parameters of the tender shall be treated as essential. The VSL-TPC minutes shall contain complete details of the deliberations with justification/ reasons.

4. Structure of Tender: And therefore, all tenders must contain following Sections so that the tendering process is coherent with its fundamental principles as stipulated above:

- i. Schedule of Tender (from Hosting to Opening)
- ii. Procurement Guidelines regarding extension of Tender Opening Date (ToD)
- iii. Information regarding Tender Fee
- iv. Information regarding Earnest Money Deposit
- v. Instruction to the Bidder
- vi. Commercial Terms & Conditions

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- vii. Period & Term of Delivery
- viii. Pre-Qualification Criterion
- ix. Technical & Financial Evaluation Criterion
- x. Price Variation (PV) Formula, if applicable.
- xi. Detailed Specification
- xii. Quality Plan for Acceptance of Store after Supply

5. Standard Format: All units of AVNL shall adhere to the Standard Tender Documents suitably designed within the ambit of this manual (in the form of SOP). If any special condition (s) is required to be added (including indicating the option that will apply in the tender in respect of clauses of the standard tender document containing multiple options) these shall be indicated in the additional instructions/conditions of the tender, and the contractor's unqualified acceptance obtained thereof before incorporating the same in the supply order. Additional conditions should not replicate any of the clauses of the general conditions, and wherever the additional conditions are indicated, it should be made clear that the additional condition is in lieu of the specific general condition (to be indicated).

6. Bid System: Depending on complexity and nature of the procurement the tender can be invited in a single bid or in two bids system:

6.1 Single Bid System: Single bid system may be followed in LTEs or where only established manufacturers are participating. In single bid system since the technical and financial terms figure in the same bid, their technical & commercial evaluation shall be done together.

6.2 Two Bid System: The two bids system is used in the procurement which is complex, technical in nature or has indeterminable parameters. In such cases bids should normally be obtained in two parts, namely; (i) Technical Bid and (ii) Financial Bid.

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7. Expression of Interest: There have been instances where the store to be procured is of complex nature and the procuring organization may not possess the full knowledge of the various technical solutions available in the market to meet the desired objectives of a transparent procurement that ensures value for money spent simultaneously ensuring upgradation of technology & capacity building. As per CVC guidelines, in such procurement cases where technical specifications need to be iterated more than once, it would be prudent to invite **Expression of Interest (EOI)** and proceed to finalize specifications based on technical discussions/presentations with the experienced manufacturers/suppliers in a transparent manner. In such cases, two stage tendering process may be useful and be preferred. During the first stage of tendering, acceptable technical solutions can be evaluated after calling for the Expression of Interest (EOI) from the leading experienced and knowledgeable manufacturers/suppliers in the field of the proposed procurement. The broad objectives, constraints etc. could be published while calling for EOI. On receipt of the Expressions of Interest, technical discussions/presentations may be held with the short-listed manufacturers/suppliers, who are prima-facie considered technically and financially capable of supplying the material or executing the proposed work. During these technical discussions the procurement agency may also add those other stake holders in the discussions who could add value to the decision making on the various technical aspects and evaluation criteria. Based on the discussions/presentations so held, one or more acceptable technical solutions could be decided upon laying down detailed and firmed technical specifications for each acceptable technical solution, quality bench marks, warranty requirements, delivery milestones etc., in a manner that is consistent with the objectives of the transparent procurement. At the same time, care shall be taken to make the specifications generic in nature so as to provide equitable opportunities to the prospective bidders. Proper record of discussions/presentations and the process of decision making shall be kept.

Once the evaluation criterion and technical specifications are finalized, the second stage of tendering could consist of calling for techno-commercial bids as per the usual tendering system (preferably OTE) under single bid or two bid systems, as per the

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requirement of each case. Final selections at this stage would depend upon the quoted financial bids and the evaluation matrix decided upon.

8. Tendering Mode: All purchases through tendering shall follow the e-tendering mode. No manual tendering shall be done without prior approval of Director Operation- AVNL with proper justification.

9. Publicity of Advertised Tenders (E-Publishing): It is mandatory for all Ministries/Departments of the Central Government/DPSUs, their attached and Subordinate Offices and Autonomous /Statutory Bodies to publish their tender enquiries, corrigendum thereon and details of bid awards on the Central Public Procurement Portal (CPPP) [GFR-2017, Rule-159]. Following guidelines shall be followed with regard to advertisement of tender notice:

9.1 Open Tender Enquiry (OTE): Printed Advertisement (in the form of a Tender Notice) in leading newspapers relating to OTE through DAVP/ Indian Trade Journal has been discontinued and replaced with mandatory e-publishing of advertisement on CPP portal, e-procurement portal of AVNL and GeM (for items available). If any unit of AVNL still feels that the advertisement should be published in newspaper, a request for DAVP should be sent in a signed letter stating that competent authority has approved publication of newspaper advertisements. In such cases, only window advertisement will be published. All TEs, RFPs, EoI, Notice for pre-Qualification/Registration or any other notice inviting bids or proposals in any form whether they are advertised, issued to limited number of parties or a to a single party will be uploaded in CPP portal at www.eprocure.gov.in and/or on AVNL e-procurement portal and/or on GeM (for items available).

9.2 Global Tender Enquiry (GTE): The notice of global tender enquiry in addition to above, may be sent to the selected Indian Embassies abroad as well as to the Foreign Embassies in India requesting them to give wide publicity of the requirement in those countries. They may also be requested to put the tender notice on their web sites. In Embassies and High Commissions where Defence Attachés are posted, the GTE notice may be sent to the Defence Attachés for giving publicity. The selection of



the embassies will depend on the possibility of availability of the required stores in such countries. Copies of the GTE may also be sent to known OEMs through official e-mail.

10. Tender Fee: In order to promote wider participation and ease of bidding, no cost of tender document may be charged for the tender documents downloaded by the bidders [Chapter-6, GFR 161 (iv)]. Extending the same spirit, no tender fee to be charged in case manual tendering is resorted to.

11. Dispatch of tender documents: Bidding document may be sent to vendors through speed-post/registered-post/courier/email (preferred mode)/fax. When bidding documents are sent to firms through email/ fax, copies of the same should also be sent by registered post. This is applicable only when manual tendering is resorted to.

12. Format of Tender: The bidders are to furnish their quotations as per the prescribed format and instructions incorporated in the tender documents. Fax quotations shall not be accepted in case of manual tendering.

13. Time for submission of bids: The purchaser shall ensure that sufficient time is given to the vendor to offer their bid.

13.1 OTE: Ordinarily, the minimum time allowed for submission of bids in an advertised tender should be three weeks from the date of publication of the tender notice or availability of the bidding document on e-portal, whichever is later. Where it is contemplated to obtain bids from abroad, the minimum period should be four weeks for both domestic and foreign bidders. For reasons to be recorded and without compromising on transparency and fairness, a reduced time frame for submission of bids can be adopted in case of urgency by VSL TPC.

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13.2 LTE: Sufficient time, normally 2 to 3 weeks, should be allowed for submission of bids. For perishable goods/consumables and COTS items a reduced time frame may be adopted. However, such reduced time should not be less than 10 working days.

13.3 LTE (Made-to-Order): If Limited Tender Enquiry is resorted for the MTO items, a reduced time frame (not less than 7 working days) may be adopted to submit the bids by the established vendors in case of emergency. In such cases, bids (including regret letter) from all the established vendors (whom tender enquires have been issued) are mandatory.

13.4 SKS & PAC: Purchase officer's discretion shall prevail subject to getting the valid offer from the vendor.

14. Amendments/ Modifications to Tenders (applicable for Manual Tendering):

The bidder, after submitting its tender, is permitted to submit alterations/modifications to its tender so long such alterations/modifications are received duly sealed and marked like original tender, up to the original/modified tender closing date & time. Any amendment/ modification received after the prescribed original/modified tender closing date & time, should not to be considered. However, the selected e-procurement portal should support such spirit by default.

15. Extension of Tender Opening Date:

15.1 Sometimes, situations may necessitate modification of the tender document already issued (in case of manual tendering) or already put on e-procurement portals (in case of e-tendering). In such situations, it is necessary to amend/ modify the tender document suitably prior to the date of submission of bids. Copies of such amendment/ modification should be simultaneously sent to all the selected suppliers by registered/ speed post/ courier/e-mail in case of manual tendering. In case of OTE, the copies of such amendment/modification are to be simultaneously put on the e-procurement portal & websites.

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15.2 When such amendment/modification changes the requirement significantly and (or) when there is not much time left for the bidders to respond to such amendments, and prepare revised tender, the time and date of submission of tenders are also to be extended suitably but not less than ten working days, along with suitable changes in the corresponding time-frames for receipt of tender, tender validity period etc and validity period of the corresponding EMD/bid security. Depending on the situation, such an amendment may also need fresh publication adopting the same procedure as for publication of the original tender enquiry.

15.3 There may also be situation where adequate response has not been received against the tender. In such cases also, the CFA may after duly recording the reasons, extend the tender opening date. Following procedure to be adopted in such cases, purely on the merits of the tender:

- i. In case of less than three bids on due tender opening date, the TOD shall be extended for 6 working days. Not applicable where LTE has been issued to only two established suppliers.
- ii. No vendor's request to be entertained for extension of TOD.
- iii. Tender to be opened mandatorily on extended tender opening date.
- iv. Conditions stipulated under i, ii & iii are not applicable for PAC/SKS/STE cases.

16. Earnest Money Deposit: To safeguard against a bidder's withdrawing or altering its bids during the bid validity period in the case of advertised or limited tender enquiry, Bid Security (also known as Earnest Money Deposit) is to be obtained from the bidders except Micro and Small Enterprises (MSEs) having Udyog Aadhaar Memorandum (UAM) number as defined in MSE Procurement Policy issued by Department of Micro, Small and Medium Enterprises (MSME) or are registered with the Central Purchase Organization or the concerned Ministry or Department (including other units of AVNL) or Startups as recognized by Department of Industrial Policy and Promotion (DIPP), irrespective of the store for which they are

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registered. EMD is also not required from Central PSUs. The bidders should be asked to furnish EMD along with their bids. The amount of EMD should ordinarily range between two percent to five percent of the estimated value of the goods to be procured. The amount of EMD should be determined accordingly by the Units (VSL TPC) and indicated in the bidding documents. EMD shall be obtained in favour of the Head of Department/Unit. The EMD may be accepted in the form of Account Payee Demand Draft, Fixed Deposit Receipt, Banker's Cheque or Bank Guarantee from any of the commercial banks or payment online in an acceptable form, safeguarding the purchaser's interest in all respects. The EMD is normally valid for a period of forty-five days beyond the final bid validity period.

16.1 EMD need not be taken for tenders with an estimated value (including all taxes) less than Rs. 5 Lakhs.

16.2 EMD need not be taken necessarily in PAC/SKS/STE cases, since there is no other alternative source available and Units have no other option rather than to purchase from that single firm to meet the production target. However, for such cases exemption will be granted by the CFA.

16.3 In lieu of EMD, the AVNL (or its units) may require bidders to sign a Bid securing declaration accepting that if they withdraw or modify their bids during the period of validity, or if they are awarded the contract or they fail to sign the contract, or to submit a performance security before the deadline defined in the request for bid document, they will be suspended for the period of time specified in the request for bids document from being eligible to submit bids for contracts with the entity that invited the bids.

16.4 Notwithstanding anything stipulated above, with regard to EMD (value, and applicability) the latest guidelines issued from time to time by Ministry of Defence/Ministry of Finance to be adhered to.

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17. Record of EMD: Concerned department processing the tender duly concurred by Finance department shall maintain a proper record having details of EMDs submitted by the parties & its refund/return and to monitor outstanding cases of non-refund/return of EMDs. Record should be primarily maintained electronically and payments (dues in/out) recorded in similar means.

18. Return of EMD: The EMD of unsuccessful bidders to be returned as soon as possible. The following criterion to be adopted for return of EMD:

- i. Return/refund of EMDs preferably within 15 working days from the date of tender opening to the bidders whose bids are rejected at the tender opening stage itself or bids which are not considered for evaluation (indicating the reason for returning)
- ii. Refund of EMDs to bidders whose bids are disqualified either during pre-qualification stage or technical evaluation stage (as the case maybe), within 15 working days of receipt of TEC report.
- iii. Refund of EMDs to bidders whose bids are commercially not competitive (except L-1 bidder) within 15 days of determination of L-1 (i.e. after TPC).
- iv. Refund of EMDs to all bidders in case the tender is canceled or re-tendered preferably within 7 working days time from the date of approval for cancellation/re-tendering. However, if re-tender is resorted due to withdrawal of offer by L-1 bidder, then the EMD of the L-1 bidder will not be refunded & the same shall be forfeited.
- v. In case of i & ii above, it is to be ensured that the unopened price bids (in case of manual tender) of unsuccessful bidders (not acceptable offers) are also to be returned along with the EMD.

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- vi. Once EMDs returned and the proposal is further processed for evaluation/approval, then no revisiting/re-examination of the offers, whose EMD has been returned, shall be carried out.
- vii. A suitable clause to be included in the tender to provide RTGS / Bank details of participating bidders for returning of EMDs.
- viii. Declaration regarding refund status of EMDs for unsuccessful bidder to be given in the proposal (TPC brief) put up to CFA for award of contract/order.

19. Pre-Bid Conference: In case of turn-key contract, contract of special nature, complex procurement, etc., a suitable provision may be kept in the tender enquiry document for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specification and other allied technical/ evaluation/ commercial details of the item projected in the tender enquiry document. The date, time and place of pre-bid conference should be indicated in the tender enquiry document for information of the interested bidders. This date should be sufficiently ahead of tender opening date.

20. Receipt and Custody of Tenders (applicable only for manual tendering): Receipt and custody of tenders shall be done in a transparent manner. To ensure that the bids are received by the purchaser in time, a tender box (s) is to be placed in an easily accessible but secured place, duly locked and sealed, clearly indicating the name of the department. The words "Tender Box" should be written on the box in bold font. In cases where the tenders are required to be submitted by hand, it may be ensured that the names and designation of at least two officers are mentioned in the bid documents. The information about these officers should also be displayed at the entrance/ reception of the premises where tenders are to be deposited so as to ensure convenient approach for the bidders.

21. Opening of Tenders under Single Bid System (Manual Tendering): All tenders received on time in sealed envelope should be opened in the presence of authorized representatives of the bidders at the prescribed time, date and place by the official/Tender Opening Committee, to be nominated by the CFA in advance.



- i. The authorized representatives, who intend to attend the tender opening, would be required to bring with them letters of authority from the bidders concerned.
- ii. The tender opening official/ committee should announce the salient features of the tenders like description and specifications of the goods, quoted price, terms of delivery, delivery period, discount if any, whether EMD furnished or not and any other special feature of the tender for the information of the representatives attending the tender opening.
- iii. After opening, every tender should be numbered serially, initialized and dated on the first page by the official(s) authorized to open the tenders. Each page of the price schedule or letter attached to it shall also be initialized by them with date, particularly the prices, delivery period etc., which should also be circled and initialized indicating the date. Blank tenders, if any, should be marked accordingly by the tender opening officials. The official (s) opening the tenders shall encircle and initial with date & time alterations/ erasing/ cutting, if any found in the opened tenders, to authenticate that these were present in the tenders at the time of opening.
- iv. The tender opening official(s) should prepare the list of representatives who attended the tender opening and obtain the signatures of the representatives on the list. The list should contain the name of the representative and the name & address of the firm he is representing. Authority letters furnished by the representatives should be attached with this list. This list should be signed by both the tender opening official(s) with date & time and handed over to the procurement officer and acknowledgement obtained for the same.
- v. The tender opening official (s) shall also prepare an on-the-spot report containing the names of the bidders (serial number wise) salient features of the tenders, as read out during public opening of tenders and affix their signature on the report with date and time. This, along with the tenders that have been opened, shall be handed over to the procurement officer.

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22. Opening of Tenders under Single Bid System (e-tendering): To be opened on e-procurement portal by authorized Tender Opening Officer (s). No Tender Opening Committee is required for opening e-tender.

23. Opening of Tenders under Two Bid System: The procedure laid down in the preceding paragraphs 20 & 21 should be followed, mutatis mutandis, under two bids system also but only the technical bids should be opened in the first instance. Financial bids of only technically acceptable bidders should be opened after evaluation of the technical bids and approval of the TEC report (minutes) by the CFA. The financial bids of bidders whose bids are not found technically acceptable shall be returned back to the bidders unopened.

24. Late Tenders and Unsolicited Offers (applicable for manual tendering): Tenders or modifications to tender received after the specified time for submission shall be treated as 'Late' tenders and shall be marked as "Late Tender". Similar action should be taken in late quotations are received through post, i.e. the officer should mark these tenders as "Late Tender" and file them. Late tenders shall not be opened but shall be kept sealed in their original envelopes and returned back to the firm. Unsolicited offers (in LTE cases) shall be summarily rejected. Such quotations may be entered, in red ink, in the Comparative Statement of Tenders below all the regular tenders. Receipt of late tenders, if any, (which shall not be opened) shall also be entered in the Comparative Statement of Tenders below all the regular tenders in red ink.

25. Late Tenders and Unsolicited Offers (for e-tendering): The e-procurement portal being used for procurement of stores and services should be robust and foolproof so that it, automatically, takes care of issues related to Late & Unsolicited tenders as stipulated under the para- 24.

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26. Option and Repeat Order Clause: Option and Repeat order clauses to be included in tender very carefully examining all aspects of procurement.

26.1 Option Clause: Option clause has an impact on the price quoted by the supplier, and therefore, should not be included routinely. However, when further requirement of the store under procurement exists against quantities of outstanding contract/LoI, then it may be advantageous to have an option clause in the contract, if agreed to by the supplier. Therefore, in all such cases where regular repeated requirements exist, provision for option clause as decided by the VSL TPC, shall be made in the tender/contract.

- i. The option clause can be exercised (if necessary more than once) provided the cumulative of the option clause quantities exercised does not exceed the option clause quantity provided in the contract. All tenders (where subsequent requirement of the item being purchased exists or is expected) should include a provision for an option clause stating “the purchaser (during the original DP or the extended DP, if any DP extension/ re-fixation are granted) retains the right to exercise an option to increase the ordered quantity up to a maximum option clause quantity of the originally contracted quantity at the same rate and terms of contract”.
- ii. The factors like future requirements shall be deliberated in VSL-TPC in consultation with Planning section for all direct material requirements.
- iii. Stores/Services which are recurring in nature, it's prudent to have an Option Clause in the tender and get the advantage of quantity discount. And once it is decided to have an Option Clause in the tender (except SD-OTE & associated LTE cases) the option clause quantity shall not exceed 50 % of original quantity.
- iv. In all such cases where the option clause has been the tender condition, future requirements, to the extent possible, shall be met by operating the option clause with constrains (stipulated in the subsequent para 26.1.v). All such matters shall be deliberated in VSL-TPC.

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- v. The purchaser may operate the option clause within the original DP as well as Re-Fixed/Extended DP subject to: (a) there being a requirement for the item (b) incorporation of Option Clause in the contract (c) there being no downward trend in price (consent of the supplier is not necessary) or if there is a downward trend, the supplier agreeing to reduce the price for the enhanced quantity duly matching with the fall in prices, and (d) if no fruitful result will accrue by floating fresh TE or when the store is urgently required for meeting production targets.
- vi. In case of a downward trend and the supplier agreeing for a matching reduction in prices for the enhanced quantity, the TPC, before exercising the option clause, should carry out the necessary due diligence and unambiguously record that the reduced price is reasonable. While carrying out assessment of downward trend, if any, provisions made under Last Paid Rate (LPR) & Indices for Assessing Price Movements shall be considered.
- vii. The CFA shall be decided taking into consideration the value of the originally ordered quantity plus the option clause quantity. CFA in umbrella agreements of multi years shall be decided on the basis of average annual requirement, since the total value of the contract is the sum of annual contracts (i.e. total tendered quantity divided by no. of contract years).
- viii. In contracts with PV formula, the PV formula being the terms & conditions of the contract, shall apply during the OC also.
- ix. Option Clause has a price implication, therefore, in multi-vendor situations, to provide a level playing field to all vendors, if the tender specifies an Option Clause, bids received without compliance to the same shall be considered as unresponsive. This shall be clearly mentioned in the tender document. In case none of the participating vendors have complied to the OC, then the concerned TPC, after due deliberations, may consider all the bids as responsive on the principle of equitable treatment of vendors.
- x. Option Clause can be exercised in case of STE/PAC/SKS also.

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26.2 Repeat Order: Repeat Order clause should not be included in the TE and Contract as it has an impact on the price quoted by the supplier. However, when further requirement of the stores under procurement exists against quantities of outstanding contracts/LoI, then it may be advantageous to have a Repeat Order to meet the unforeseen/sudden or urgent or emergent requirement. Therefore, a repeat order may be placed with prior approval of Head of Unit on file justifying unforeseen/sudden or urgent or emergent requirement, before initiating Repeat Order. For the Repeat Order cases falling under Unit/Factory TPC-I, prior approval of Director Operation- AVNL shall be obtained. A Repeat order against a previous order may be placed with the recommendation of relevant TPC, approved by the CFA and concurrence of finance. The Repeat Order may be placed subject to the following:

- i. Items ordered against the previous order were delivered successfully.
- ii. It may be exercised within six months from the date of completion of supply against the previous order.
- iii. Original order was not placed to cover urgent/emergent demand.
- iv. Repeat Order is not placed to split the requirement to avoid obtaining the sanction of the next higher CFA/Head of Unit.
- v. The original order was placed on the basis of lowest reasonable and justified price and accepted by TPC, and not on the basis of delivery or any other preference.
- vi. The requirement is there for the stores as seen in the calculation of the net deficiency.
- vii. It should not be construed as single vendor case & CFA for the Repeat Order TPC will remain the same as CFA of Original SO-TPC.

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- viii. In contracts with PV formula, the PV formula being the terms & conditions of the contract, shall apply during the RO also.
- ix. RO can be exercised in case of PAC/ STE/SKS also.
- x. The consent from the vendor for supplying the item at the same price to be obtained for the quantity not exceeding 50% of the original ordered quantity.

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XIV. TENDER EVALUATION

1. Introduction: Initiating Tender evaluation process (either single bid or two bids) is the responsibility of the Purchase Department and shall be given due priority and care. The Purchase Department shall study offers and prepare a statement for endorsing the offers that are prima-facie suitable (that is the offer was received in time and is not unsolicited, and the offer is accompanied by Earnest Money Deposit if required, as per the Tender Conditions). The file then is to be passed to Production Engineering Department/Material Planning Control/User Department (as the case may be) for the further study, preparation of technical compliance matrix, and their recommendations.

2. Technical Compliance Matrix: The Technical evaluation compliance matrix should be signed by the user and purchase section after due verification of bid documents submitted by the bidders as per the eligibility criteria laid down in the tender.

- i. Relaxation of eligibility /pre-qualification criteria should be avoided.
- ii. Technical clarification required from the bidders during technical evaluation should be sought through Purchase Department.
- iii. Introduction of new parameters which has not been indicated in the tender for evaluation is not accepted.
- iv. Post tender changes in the technical specification are not acceptable. In case change in specification is required then the same needs to be justified and re-tendering action may be taken.
- v. Selection of optional items and accessories to be finalized before opening the commercial bid.

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3. Evaluation of Technical Bids: If tenders are invited in two bids, in the first instance, the technical bids shall be opened. The bidders or their duly authorized representatives shall be permitted to witness the tender opening. Thereafter, technical evaluation shall be carried by the appropriate Technical Evaluation Committee (TEC) notified in the DoFP based on technical recommendation of the user section as stated above.

3.1 Constitution of Technical Evaluation Committee (TEC): TEC has representatives of the user, designated inspecting agency, procurement agency, Finance and CFA. Finance representative need not be associated in the TEC if the deliberations are purely technical like assessing conformity to technical specifications and other related technical aspects. Finance representative shall, however, be associated if commercial parameters such as EMD, PSD, Payment Terms, Warranty/ Guarantee clauses, commercial viability of the firm, registration with Tax Authorities, any aspects having financial implication, etc., are indicated in the technical bid and, these or compliance aspects (other than technical conformity) are required to be deliberated at the TEC meeting.

3.2 Objective of TEC: The main objective of the TEC is to examine the technical matrix prepared by the user section/procurement section, showing how the technical parameters of bids received compare with the parameters mentioned in the tender document. All offers conforming to essential parameters should be accepted. The essential parameters should have been identified and recorded in the vendor selection TPC, if not, all parameters are to be treated as essential to eliminate arbitrariness. The TEC should also examine the extent of variations and differences, if any, with the qualifying parameters specified. If considered necessary, the TEC may invite the vendors who meet essential parameters for technical presentation/ clarification.

3.3 Technical Clarification: However, during these clarifications the basic profile/ character of technical offer submitted shall not be permitted to undergo a change. However, opportunity for revision of minor technical details may be accorded to all

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vendors equitably. Original financial bid should remain firm & fixed and no alteration in price should be permitted as a consequence of presentations/clarifications sought by the TEC from the vendor. Conditional offers shall not be accepted.

3.4 Evaluation of Commercial Terms & Conditions: The TEC should also examine the compliance statement in respect of commercial terms and conditions, such as EMD, PSD, Payment Terms, Warranty/ Guarantee clauses, etc., included in the technical bid as per the tender and deliberate on these.

3.5 Role of Member Secretary/TEC: The member secretary of the TEC shall ensure timely recording of the deliberations of the TEC meeting in the form of a minutes of the meeting and get it signed by the TEC members and Chairperson. Thereafter, same shall be concurred by FA and approved by CFA in the same meeting. The minutes of the meeting shall also record a confirmatory statement that none of the TEC members have any personal interest in any of the participating company/ agencies. Status of compliance/deviations from tender clauses in the form of Technical CST that was considered by the TEC in its deliberations shall be recorded. The cases beyond the powers of Head of Unit, TEC report may be accepted by TEC/AVNL.

3.6 Opening of Financial Bid: Financial bids of offers evaluated as technically compliant by the TEC shall only be opened. Where validation trial/testing etc of samples are involved, the financial bids of only those firms whose samples have been recommended as technically compliant in the validation trial/ test reports shall be opened.

4. Evaluation of Financial Bids: Financial evaluation shall be carried by the appropriate Tender Purchase Committee (TPC) notified in the DoFP. TPC shall evaluate (financial) all bids evaluated as technically compliant by the TEC, and unambiguously determine the L-1 duly recording the reasons. The TPC shall deliberate on the procurement, and its members shall render advice/ opinion freely/ frankly in their respective domains to arrive at a well considered decision.

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5. Determination of CFA: Tenders are issued on the basis of the estimated cost (on approval of CFA relevant for the estimated cost). On opening of the price bids, the actual financial implication of the procurement shall be worked out based on price quoted by the lowest responsive bidder, and the CFA accordingly determined for further processing of the proposals. The evaluation criteria for the financial bids (as also the technical bid) should be unambiguously indicated in the tender. The bids received shall be ranked as per provisions contained in this manual, which shall be unambiguously indicated in the TE. Where relevant, it may be specified in the tender that along with their quote, firms shall also offer their rates for comprehensive AMC for a specified period (say 5 years) after expiry of warranty/ guarantee. In such cases the evaluation criteria contained in the tender should clearly specify whether or not the AMC cost will be considered in the CST to decide the L-1 vendor.

6. Basis for Cost Comparison: The basis for comparison of cost shall be as follows:

- i. When the competition is only among the Indian suppliers, the F.O.R Prices at destination, less levies, taxes and duties levied by Central/State/Local Governments such as GST etc. on final product, should be the basis for ranking of quotations.
- ii. When the competition is only among foreign suppliers, the landed price (CIF) at the destination (designated port) shall form the basis for ranking the bids.
- iii. When the competition is amongst domestic and foreign suppliers, the CIF cost quoted by the foreign suppliers plus custom duty and other duties / levies such as anti-dumping duty which cannot be claimed as input tax credit, shall be the basis for comparison with the basic cost offered by the domestic suppliers, after offloading the GST etc. and other local taxes and levies, if any.
- iv. Offers of foreign suppliers are compared with the offers of domestic suppliers on the basis of the CIF cost of foreign supplier. However, difficulties in comparing

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the offers arise when the foreign supplier indicates only the FOB/FCA cost. There is no standard formula for arriving at the CIF cost in such cases, and it will not be appropriate to add a notional additional cost as a percentage of FOB/ FCA cost to arrive at the CIF cost. To avoid such situation, it should be clearly mentioned in the tender that quote on CIF basis is essential to enable evaluation of the offers of foreign vendors. Similarly, the domestic vendors should also clearly indicate in their offer separately the basic cost, GST etc. and other local taxes & levies (if any) to enable a proper evaluation of their offer, providing only an all-inclusive rate will make the offer invalid.

7. Comparative Statement of Tenders (Commercial CST): The procurement section shall compile the offers in the form of a Comparative Statement of Tenders. The quotes in foreign currencies should be converted into Indian Rupees and indicated in the CST. The exchange rate may be obtained from SBI exchange rate of Parliament Street Branch, New Delhi/RBI on the last date of submission of bids. The CST should be exhaustive and it must include all details given in the quotations. Any deviation from the tender documents is to be brought out in the CST. Last purchase price, wherever available, should be indicated in the CST for a fair comparison of the offered prices. The purchase officer (Member Secretary of the TPC) should sign the CST and it should be vetted/countersigned by the Finance when the DoFP prescribes financial powers be exercised with the concurrence of finance. What would be done on the file is the preparation of comparative statement, checking of calculations, the premises on which the comparative statement of tenders has been prepared and prima facie determination of L-1 offer. However, it would be the TPC only which will finally determine the lowest acceptable offer (L-1 offer).

8. CST Preparation: On opening the financial bids (of technically compliant bidders) the comparative statement of tenders should be prepared as per procedure described in Para 6 & 7 above. The CST should be prepared with due care showing each element of cost (basic cost of items, freight, insurance, other requirements except levies, taxes and duties levied by Central/State/Local governments such as GST etc on final product) separately against each bidder where only Indian bidders are participating.

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9. Vetting of CST: Commercial CST shall be vetted by the finance so as to verify its correctness, where delegated powers are to be exercised with the concurrence of integrated finance. Evaluation of financial bids is a very critical activity in procurement, therefore, due care should be exercised to evaluate the bids strictly as per the tender conditions.

10. Price Negotiation: The price negotiation should not be held in OTEs and LTEs where adequate response has been received and the L-1 price is assessed as reasonable. In case, firms are called for price/commercial negotiations, the reasons for taking such decision should be recorded by the TPC. Price/ commercial negotiation may, however, become necessary when there is lack of competition like single tender situations (including PAC, SKS and RST) or when (irrespective of the mode of tendering) the price quoted by L-1 is assessed as unreasonable. Price/commercial negotiations shall be conducted by the appropriate TPC.

10.1 Basis of Price Negotiation: The primary objective of commercial negotiation is to conclude a reasonable price and commercial terms for the procurement. This is a very complex task requiring careful consideration of numerous diverse factors. Some indicative factors that need to be considered while assessing the reasonableness of price & other commercial terms are: the last purchase price, movement of relevant price indices, market intelligence regarding cost of the store or similar surrogate stores, material composition, cost analysis of raw materials, technological intricacies/ complexities of the store or (and) the process of manufacturing it, processing cost in manufacture of the store, whether the stores are in current production or otherwise, maintenance requirements, spares requirement, warrantee, etc.

10.2 Bench Marking: Before scheduled negotiation (wherever negotiation is considered necessary), the TPC shall estimate the reasonable rate or benchmark rate to judge acceptability of the L-1 offer. The approach to be adopted for assessing reasonability in different contingencies is given below:

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- i. In the case of competitive tendering where two or more vendors are competing independently to secure a contract, the competitive bids form the basis for determining reasonableness of prices. The reasonableness of the prices may be established by taking into account: (i) the competition observed from the response of the trade to the enquiry, (ii) last purchase price, (iii) estimated value as given in the contract, (iv) database maintained on costs based on the past contracts entered into, (v) market price, (vi) wherever available the changes in the indices of various raw materials, electricity, whole sale price index, and statutory changes in wages, rates etc.
- ii. The reasonableness of price may also be examined by resorting to cost analysis when there is a wide variance over the last paid price not explained by corresponding changes in indices.
- iii. In imports the indices for inflation/ price of industrial products, exchange rate variation, etc., relevant to the country of origin may also be considered to assess the reasonable price.

11. Last Purchase Price & Price Reasonableness: The Last Purchase Price (LPP) is one of the important factors in deciding price reasonableness. However, following needs to be considered while comparing the quoted rates with the LPP:

- i. The last purchase price pertains to the latest contract of similar magnitude as well as scope and is not more than three years old. LPP of more than three years old may not offer a realistic basis for comparison. However, if recent rates are not available for use as LPP, then the LPP more than 3 years old may also be used by factoring in the annual escalation. Appropriate rate of escalation shall be arrived at after studying the movement of relevant indices representing the inputs for manufacturing the item. This escalation factor should be carefully worked out on the basis of data of past purchases of the same/ similar items or as per the Pricing Policy Agreements, if any.

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- ii. Factors like basket price/ bulk discount offered should be taken into account while using LPP as a benchmark.
- iii. Where the price indicated in the LPP is subject to price variation then the updated price as computed in terms of the price variation clause may be considered.
- iv. Factors like items supplied against LPP being of current production or ex-stock supply need to be taken into account. Similarly, market conditions, downward price trends and other factors like re-starting production lines due to obsolescence, etc., may also have to be considered.
- v. In imported stores, the comparison of the last purchase price should be made with the net CIF value in foreign currency only.
- vi. In SD-OTE, new suppliers at times quote low price (entry price) to gain entry. On the other hand, while establishing production of new items; suppliers are likely to incur additional expenditure towards developing tools, fixtures & gauges, process, training, etc., which will result in the initial cost being higher than that of an established supplier. In addition, when the item is being made for the first time the estimates itself may vary substantially from the actual. In view of these factors, the rates in an SD-OTE may not correctly reflect the cost of an item. Therefore, the SD-OTE rates, being non-established, need not necessarily be considered for bench marking the rates achieved in LTE, the relevant TPC may take an appropriate decision.
- vii. DRDO and Production Agencies may be associated while assessing the reasonability of prices in complex and high value procurement cases.
- viii. In addition to the parameters enumerated above, in case of imports the following shall also be considered: (a) The price fixation procedure/ methodology prevailing in the country of the vendor, (b) The prices of similar products, systems and subsystems wherever available should be referred. The database maintained in the respective division connected with the procurement of such

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type of stores should be accessed and (c) The foreign vendor may be asked to provide the details of past supplies and contract rates, if any, of similar kind of product to other buyers.

12. Indices for Assessing Price Movements: Following guidelines to be followed:

- i. Indices of indigenous items can be accessed from the website of Ministry of Industry www.eaindustry.nic.in. Metals and other minerals may be accessed on www.mmr.online.com. Other useful websites are www.tradintelligence.com and www.cmie.com.
- ii. The RBI monthly bulletin, economic survey and its appendix contain statistical tables that are useful for assessing the market trends. The World Economic Outlook – a monthly report from IMF and European Commission provide data on economic trends like inflation, wages, etc., of different countries. Like LME (London Metal Exchange) also gives price trends of metals.
- iii. The business and commercial newspapers are another source of inputs for assessing price movements. The monthly report of CMIE (Centre for Monitoring Indian Economy) and the PROWESS Package of CMIE give updates on performance of listed Indian companies.
- iv. Some of the above mentioned data sources are priced or require a subscription. The AVNL and its unit can subscribe to these data sources to enable effective examination of the procurement proposal.
- v. Analysis of Financial Statements of the supplier can also provide necessary information for assessing the reasonableness of price quoted. The allocation of overheads should be in line with the established principles of costing. Assessment should also be made on the vendor's approach to controlling cost, adherence to delivery schedule, Cost Accounting System and other factors affecting contractor's ability to meet cost/schedule targets.

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- vi. Reputed expert agencies can also be approached for market intelligence, forecasting trends and best practices. Similarly, Public Sector Banks, particularly SBI, may be consulted before firming up major payments involving LC, Performance Bank Guarantee, reputation of foreign banks etc.
- vii. Assessing reasonableness of price is an arduous and critical task, especially where complete price data is not available or in case of overseas purchases. However, it is important to place on record the efforts made for arriving at the acceptable price and taking the procurement decision.

13. Freak Rate: The freak rates (unreasonably low or high) are sometimes quoted by vendors that frustrate the whole tendering process. This is more likely to happen in source development where established vendors (Indian or foreign) may have an interest to engineer entry barriers by persuading pliable firms to quote unreasonably low. Such orders remain un-executed for long resulting in blocking of quantities and a roadblock on source development. Therefore, it is essential to periodically review the progress of source development orders and take necessary steps to release bad dues for short closure/closure of order after appropriate opportunity given to the firm.

14. Rejection of Bid with Freak Rate: Offers with freak rates (as explained in Chapter-XI) should not be accepted and reasons for rejection should be specifically recorded. The standard tender documents should contain these provisions.

15. Evaluation of Resultant Single Tenders: There are instances when only a single quote or a single valid acceptable quote is received against LTE or OTE. Such situations may arise in single bid tendering as well as in two-bid tendering (before or after technical evaluation). In such circumstances indicating lack of competition, the following aspects shall be examined:

- i. Whether all necessary requirements such as standard tender enquiry conditions, industry-friendly specifications, wide publicity, and sufficient time for formulation of tenders had been taken care of while issuing the tender.

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- ii. Whether the tender had been properly dispatched to prospective vendors (in case of manual tendering).
- iii. Whether the specifications, particularly in the LTE cases, could be reformulated and made broader based to generate wider competition.
- iv. Whether time and criticality of requirement permits reformulation of the specifications.
- v. If the examination reveals that (i) & (ii) have been complied with, and (iii) & (iv) are not feasible, then the proposal may be processed further by the appropriate TPC as per the DoFP. If there is any doubt about the tendering process or it is considered feasible to reformulate specifications without compromising on operational requirement, the tender should be retracted and re-issued after rectifying the deficiencies and (or) reformulating the specification.

16. Re-tendering: Re-tendering after price bid opening amounts to be disclosure of strategic price of one vendor to the others. Therefore, re-tendering may be resorted to under the circumstances:

- i. None of the offer(s) conform to qualitative requirements and other terms & conditions set out in the tender.
- ii. There are major changes in specifications and quantity that may have considerable impact on the price.
- iii. Prices quoted are unreasonably high with reference to assessed reasonable price or there is evidence of a sudden slump in prices after receipt of the bids.
- iv. In case the lowest bidder withdraws his offer, re-tendering should be resorted to as per the instructions issued by the Central Vigilance Commission. While re-tendering, TE may not be issued to the vendor who had backed out and EMD, if any, of such firm should be forfeited. Further, Heads of Unit may issue a show

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cause notice to the defaulting firm, and after considering the reply received thereto, can impose penalty as per existing guidelines on penalties issued by MoD.

- v. If re-tender is unavoidable in an OTE/ SD-OTE for procurement of MTO items, then (to reduce time) after recording reasons, re-tender can be issued to the firms that qualified in the capacity verification in the initial OTE/ SD-OTE, provided the time span between the initial OTE/ SD-OTE and the re-tender is not more than 6 months. Subsequent re-tenders, if any, shall be OTE/ SD-OTE as applicable.
- vi. When re-tendering is decided due to unreasonable rates, negotiation may be held with the firm for supply of the bare minimum urgent/ inescapable requirement, if re-tendering for the entire quantity is likely to delay the availability of the item(s) jeopardizing the essential operations such as meeting the production targets, maintenance and safety. The balance quantity should, however, be procured expeditiously through re-tender following the normal tendering process.
- vii. In situation where after opening of commercial bids, evaluation of tenders become difficult due to insufficient information available to objectively evaluate commercial bid.
- viii. No quote received from the bidder.
- ix. In case of change of mode of tendering, proper justification needs to be brought out clearly at the time of seeking re-tendering approval.
- x. Upon approval for re-tender, proceedings of previous tender are treated as closed and refund of EMDs, if any, shall be done to the bidders.

17. Cartel Formation/ Pool Rates: Sometimes, a group of bidders act in collusion to manipulate the tender process. Cartels normally attempt at manipulating the price and (or) the quantities. Pool/ Cartel formation is against the basic principle of competitive bidding as it defeats the very purpose of open and competitive tendering system. Such

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practices should be severely discouraged with strong measures. In cases where the firms have formed cartel, the offers may be rejected, and the colluding firms shall be issued show-cause notice and their reply examined. Thereafter, based on the merits of the case, action may be taken as per existing guidelines on penalties issued by MoD / AVNL. Suitable provision in this regard should be made in the tender documents. Further, actions like reporting to the Competition Commission, Registrar of Companies, NSIC, FICCI, ASSOCHAM, etc., as relevant, should be taken when cartels are formed on case to case basis requesting them, inter alia, to take suitable strong action against such bidders. All requests for making reference to outside agencies, such as Registrar of Companies or trade associations, are to be made to the Ministry of Defence. Detailed guidelines issued by the Competition Commission of India may be kept in mind while deliberating on the issue of Cartel formation/Bid Rigging/Competition in bidding etc. Where cartel/collusion is suspected but not confirmed, then to break the possible anti-competitive efforts, tender shall specify that bids offering less than 50% of the tendered quantity shall be considered unresponsive. In addition the tendered quantity may be distributed in the ratio 60:40 or 50:30:20 on the basis of vendor rating of the firms worked out as per the AVNL Vendor Registration SOP updated from time to time. Where feasible, the possibility of procuring the item on advertised tender instead of LTE should be explored. Further, the source development efforts for the item should be stepped up.

18. Validity Extension: All efforts should be made to finalize and place the Purchase Order within the validity period of the quote received from the vendor. Cases requiring extension of validity should be rare. And in exceptional situations where the validity period is sought to be extended, it should be imperative to bring on record in real time, valid and logical grounds, justifying extension of the said validity. In case validity extension is required, the same should be sought from the vendor before expiry of the quotes (preferably 3 days in advance). In case of two bid system, price bid of technically accepted offer should be opened for the offers having validity. Proposals put up for CFA's approval should have validity till approval is obtained.

19. Price Preference (Public Sector Undertakings, Ancillaries, Small Scale Industries and Indigenous Manufacturers): Government directives, issued from time to time, lay down policies regarding price preference to be given to Purchases

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from Public Sector Undertakings, Ancillaries, Small Scale Industries and Indigenous Manufacturers and these shall be taken note of while carrying out price comparisons.

20. Samples: When a contract is to be concluded on the basis of approved sample, the same shall bear the seal(s) and signature(s) of the approving authority(s) as appropriate. Various types of samples like standard sample, tender sample, advance sample, bulk supply sample, quality/ audit sample, reference sample, etc., may be encountered during the procurement process. All such samples shall be drawn, retained, classified and disposed in accordance with the instructions issued.

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XV. TERMS AND CONDITIONS OF PURCHASE ORDER

1. Price and Payment Terms: The elements of price included in the quotation of a bidder depend on the nature of the goods to be supplied and the allied services to be performed, location of the supplier, location of the user, terms of delivery, extant rules & regulations about taxes, duties, etc., in the seller's & the buyer's countries/ states. In case of indigenous goods, the bidder shall be asked to indicate the basic price of the finished material and other elements of cost distinctly and separately. In case of imported goods, in addition to similar elements of price as above (other than local taxes), there may be elements of Custom Duty, Import Duty, Landing & Clearing charges, etc. Further, depending on the nature of the goods (whether domestic or imported), there may be cost elements towards installation & commissioning, operator's training etc. It is, therefore, necessary that, to enable the bidders to frame their quotations properly in a meaningful manner, the tender documents clearly specify the desired terms of delivery and also the duties & responsibilities to be performed by the supplier in addition to supply of goods. Where the price has several components like price of the goods, costs for installation & commission, operators' training etc. the bidders should be asked to furnish the cost break-up indicating the applicable prices for each such component (as specified and desired in the tender enquiry document) along with the overall price.

2. Currency: The tender documents shall specify the currency (currencies) in which the tenders are to be priced. As a general rule (i) domestic bidders are to quote and accept their payment in Indian currency (ii) costs of imported goods that are directly imported against the contract may be quoted in foreign currency (currencies) and paid in the currency as the case may be (iii) in imported goods also the portion of the allied work/ services that are to be undertaken in India (like installation & commissioning) are to be quoted and paid in Indian currency (iv) authorized Indian dealers of foreign vendors shall quote in Indian currency.

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3. Performance Security Deposit: To ensure due performance of the contract, Performance Security Deposit shall be obtained from the successful bidder (s) awarded the contract. Performance Security Deposit shall be obtained from every successful bidder irrespective of his registration status etc. The following Instructions/Guidelines shall be followed, while preparing the purchase orders:

- i. Performance Security Deposit is not necessary for contracts valuing up to Rs. 10 lakh.
- ii. Above Rs. 10 lakh, PSD is mandatory.
- iii. The Performance Security Deposit should be for an amount equal to 3% of the contract value [Revised vide Notification No F 9/4/2020-PPD; Dt 12th November 2020]. However, any amendment to this effect issued by MoD from time to time shall be adhered to.
- iv. PSD is initially to be given by the supplier for original supply order quantity without option clause quantity. PSD 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).
- v. Regarding Option Clause, PSD amount may be worked out based on Option Clause quantity. PSD for Option Clause quantity may be returned after 60 days of fulfillment of all contractual obligations of the Option Clause quantity including warranty period (if any).
- vi. Performance Security Deposit may be furnished in the form of an Account Payee Demand Draft/Banker Cheque, Fixed Deposit Receipt from a Commercial Bank, Bank Guarantee from a Commercial Bank or online payment in an acceptable form safeguarding the purchaser's interest in all respects. It should be drawn in favour of Head of Unit/AVNL. A model format of Bank Guarantee for obtaining

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Performance Security Deposit is provided at Annexure. Indemnity Bonds may be accepted as Performance Security Deposit from Central PSUs/DPSUs.

- vii. At the request of the supplier, (i) EMD or (ii) pending bills of the contractor, if any, against other contracts, can be adjusted against the Performance Security Deposit demanded.
- viii. Any interest accrued in FDR submitted as PSD by the vendors shall remain in purchaser's account.
- ix. In foreign procurement, Performance Security Deposit shall be obtained from the supplier in the form of Bank Guarantee, in the prescribed format, issued by an Indian Public Sector Bank or a Private Sector bank authorized to conduct government business or any International bank for which counter guarantee is given by Indian Bank acceptable to the purchaser.
- x. Performance Security Deposit submitted by suppliers in permitted form shall be kept in the custody of Head of Unit of AVNL or an officer authorized by him in writing.
- xi. The bank guarantee, etc., after verification/ confirmation of genuineness by the relevant bank, should be entered in a suitable register and a copy of the bank guarantee, etc., shall be endorsed to the Branch AO for cross check. The validity of the bank guarantee, etc., shall be monitored closely by the respective purchase department. It's mandatory to have Standard Operating Procedure (SOP) in every unit of AVNL to monitor EMD/Security Deposit status and liquidation thereof.
- xii. Performance Security is to be furnished within specified date/time (generally 30 days after notification of the award) and it should remain valid for a period of 60 days beyond the date of completion of all contractual obligations of the supplier, including warranty obligations, if any.

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- xiii.** There shall be no warranty period for raw materials and certain service contracts like AMC, Labour contract and any additional items notified by AVNL. Therefore, PSD shall be released after 60 days of completion of contractual obligations in such cases.
- xiv.** Since firms include in their price the element of finance cost on account of the Performance Security Deposit, it is necessary for suppliers to submit the Performance Security Deposit as per the terms & conditions of the Supply Order.
- xv.** Receipt of the Performance Security Deposit should be intimated to the Associated Finance and QC. The Quality Control department shall take up inspection of the store only on receipt of the intimation about receipt of the requisite Performance Security Deposit. Care should be taken to ensure that whenever DP extension/re-fixation, etc. are granted, the Performance Security Deposit is got suitably re-validated so that it is valid for 60 days beyond the new date of completion of all contractual obligations.
- xvi.** Performance Security can be submitted by the vendor for the entire contract at a time or in part proportionate to the part quantity to be supplied. Thus, before completion of Supply Order, full PSD (put together part PSDs) should be submitted. However, the Performance Security Deposit would qualify for being returned only when all the contractual obligations against the original contract quantity are fulfilled.
- xvii.** In case of Option Clause, full PSD for Option Clause quantity may be submitted.
- xviii.** Submission of the Performance Security Deposit within the specified date shall be insisted upon, unless otherwise, within the specified date allowed for submission of Performance Security Deposit, the firm completes all its contractual obligations qualifying for return of the Performance Security Deposit

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had it been submitted. In such situations, if requested by the supplier, the Performance Security Deposit may also be adjusted against the current bills.

- xix.** If a firm fails to submit (within the specified date) the requisite Performance Security Deposit as per the contract conditions, then he shall be treated as an unreliable firm and shall be governed as per existing guidelines on penalties issued by MoD/AVNL.
- xx.** As a rule, Performance Security Deposit should not be waived except in the most unavoidable circumstances. At the specific request made by the supplier, Performance Security Deposit may be waived, in unavoidable circumstances, by the respective CFA within their financial powers as per the DoFP after taking into account the reliability and financial standing of the firm on the basis of their registration with anybody specified by MoMSME (like MSEs having UAM number registered with NSIC, DIC, KVIC etc) or with units of AVNL or in the case of reliable national/ international OEMs.
- xxi.** Performance Security Deposit can be waived in PAC/ SKS procurements if the firms are unwilling to provide Performance Security Deposit, since there is no other alternate source available. However, in such cases of SKS procurement, the purchase department shall necessarily step up efforts to develop more sources.
- xxii.** Performance Security Deposit shall be forfeited and credited to the account of AVNL/Units in the event of a breach of contract by the supplier, in terms of the relevant contract.
- xxiii.** Performance Security Deposit is taken for the due performance of an individual contract and becomes returnable (without interest except FDR) to the contractor immediately on his performing/ completing the contract in all respects and not later than 60 days of completion of all such obligations under the contract, including warranty obligations, if any.

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xxiv. In severable contracts, since each instalment is a separate contract, the related Performance Security Deposit (if separately provided for each instalment) would qualify for being returned as and when all the contractual obligations against each of the separate contract are fulfilled. In an entire contract with instalment deliveries, since it is a single contract, the Performance Security Deposit would qualify for being returned only when all the contractual obligations against the entire contract are fulfilled.

4. Firm (Fixed) Price vis-a-vis Variable Price: To the maximum extent possible, the contract shall be placed with firm & fixed price. The tender with price variation clause must be incorporated considering all elements diligently and without inviting subjectivity. Contracts, with delivery period less than 12 months, should be concluded on firm and fixed price by inviting tenders accordingly. However, contracts may be entered with variable price, even if the delivery period is less than 12 months, when the price trend of the store is volatile. Where it is decided to conclude the contract with variable price, an appropriate clause incorporating, inter alia, suitable price variation formula should also be provided in the tender enquiry documents. Following to be considered while entering into contract with variable price.

4.1 Base Level: In the price variation clause, the price agreed upon should specify the base level (i.e. the month and year to which the price is linked) to enable variations being calculated with reference to the price levels prevailing in that month and year.

4.2 Price Variation Formula: A formula for calculation of price variation that has taken place between the base level and the scheduled delivery date should be included in the price variation clause. Suitable weights are to be assigned to the applicable elements (i.e. fixed overheads & profits, material(s) and labour) in the price variation formula. If the production of the goods needs more than one raw material, then the input cost of material may be further sub-divided for different categories of material, for which cost indices are published.

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4.3 Calculation: The variations are to be calculated by using indices published by Governments/Chamber of Commerce/ reputed markets periodically. The price variation formula is also to stipulate a minimum percentage of variation of the contract price above which the price variation will be admissible (e.g., where the resultant increase is lower than, say 2% , of the contract price, no price adjustment will be made in favour of the supplier). The Price Variation clause shall specify cut-off dates for material and labour, as these inputs taper off well before the scheduled delivery dates.

4.4 Ceiling: The Price Variation clause shall provide for a ceiling on the price variations. It could be a percentage per annum or an overall ceiling or both. The buyer should ensure a provision in the contract for benefit of any reduction in the price in terms of the Price Variation clause being passed on to him.

4.5 Price Variation & Advance Payment: Where advance or stage payments are made, there should be a further stipulation that no price variations will be admissible on such portions of the price, after the dates of such payment.

4.6 Price Variation & Delivery Schedule: No upward 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.

4.7 Price Variation & Liquidated Damage: Where 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.

4.8 Price Variation & Variation in Taxes/Duties & Foreign Exchange Rate: Where contracts are for supply of equipment, goods, etc., imported (subject to Customs Duty and foreign exchange fluctuations) and/or locally manufactured

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(subject to GST 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.

4.9 Vetting of Price Variation Clause: The Price Variation clause and associated formula is required to be vetted by Finance before incorporating in the tender document. No parameter of discretion/assumption should be the part of price variation formula. It should also contain the mode and terms of payment of the price variation admissible.

5. Exchange Rate Variation: In case of a contract involving substantial import content(s) and having a long delivery period (exceeding one year from the date of contract), an appropriate Foreign Exchange Variation clause may be formulated and incorporated in the Tender. In that clause, the bidders shall be asked to 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 bidders may be asked to 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 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

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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 purchaser may formulate an appropriate ERV clause in consultation with Finance. The following documents should be furnished by the supplier for claiming 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.

6. Modes of Payment (Domestic Supplier): Payments to domestic suppliers are usually made by NEFT/cheque/ demand draft drawn on AVNL/Units of AVNL or branch of the Reserve Bank of India or State Bank of India transacting government business. Such payment can also be made to the supplier's bank, if the bills are endorsed in favour of the bank with a pre-receipt embossed on the bills with the words, "Received Payment" and both the endorsement and pre-receipt are authenticated by the supplier. In addition, an irrevocable power of attorney is to be granted by the supplier in favour of the bank.

7. Modes of Payment (Foreign Supplier): In international trade, buyer and seller being located in different countries may not know each other well. Further, the two countries would have different legal systems, currencies and trade and exchange regulations. As a result of these uncertainties, the buyer and the seller require assurance regarding the delivery of goods and payments, respectively.

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7.1 Seller's Concern: The seller would want to be assured that:

- i. He will be paid as soon as the goods are shipped.
- ii. He will be paid by the buyer or his bank as per contractual obligations.
- iii. He will receive the payments in his own country and currency of the contract.

7.2 Buyer's Concern: The buyer would want to ensure that:

- i. The payment is made for the goods only after they are shipped by the seller.
- ii. The seller will ship the goods ordered for and deliver them in time.

These concerns are addressed by adopting letter of credit or direct debit transfer as the mode of payment in imports. Payments to foreign suppliers are ordinarily made by Letters of Credit (LC) opened by the State Bank of India or any other scheduled/ authorized Bank. While opening the Letters of Credit the purchaser should follow the provision of Uniform Customs and Practices for Documentary Credit (UCPDC). Apart from Letter of Credit mode, payment can also be made to the seller through Direct Bank Transfer for which buyer has to ensure that payment is released only after the receipt of prescribed documents. In procurement through global tendering, especially in high value contracts, to have uniform payment clauses in case domestic suppliers desire payment through Letter of Credit, then depending on the merits of the case, the same can be agreed to. The Finance office, which would be responsible for making payment, should be clearly mentioned in the tender and the contract.

8. Letter of Credit (LC): Two banks are involved for payment to the supplier by Letter of Credit – purchaser and supplier's bank. The purchaser is to forward the request to its bank in the prescribed format as formulated by State Bank of India, along with all relevant details including authenticated copy of the contract. Based on the same, the purchaser's bank opens '*Letter of Credit*' on behalf of the purchaser for

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transacting payment to the supplier through the supplier's bank. Care should be taken to ensure that the payment terms and the documents to be produced for receiving payments through letter of credit are identical with those shown in the contract. Generally, irrevocable letter of credit is opened so that the supplier is fully assured of its payment on fulfilling its obligations in terms of the contract. Following points should be checked by granting extension of LC:

- i. The extension of delivery date in the contract and corresponding amendment in LC for the latest date of shipment.
- ii. Performance Bank Guarantee (PBG) extension.
- iii. Onus of charges for LC extension.
- iv. In case, the delivery date of the contract is extended to take care of delay in supply, for which supplier is responsible, the letter of credit is also to be extended, but the expense incurred for such extension (of letter of credit) shall be borne by the supplier.
- v. LC can be extended with the concurrence of Finance and the approval of the CFA if the value of the procurement requires consultation with Finance as per the DoFP.

9. Direct Bank Transfer (DBT): The DBT mode of payment is a direct transfer of funds to the account of the supplier by the purchaser's bank, on being so authorized by the purchaser. DBT shows high degree of trust between parties. Buyer ensures that the payment is released only after receipt of the requisite documents provided in the contract and confirmation from the Supplier that one set of the documents has been sent to the port consignee immediately after dispatch of the stores.

10. LC vis-a-vis DBT: In comparison with payments through Letters of Credit, the payment through DBT has following advantages:

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- i. The payment is released only after receipt of goods.
- ii. The payment is made only after full satisfaction to the quality, quantity etc.
- iii. DBT is cost-effective as compared with LCs.

11. Payment Terms (Domestic Vendors/Suppliers): Payment terms are important since it has a direct influence on the vendors cost of finance that plays a significant role in deciding the cost of the store or service being procured.

11.1 Option-I (90:10%): Normally, 90% of the contract amount shall be paid against provisional receipt of the item at the consignee's premises along with inspection note and other relevant documents. Balance 10% shall be paid after the stores have been properly checked and accounted for.

11.2 Option-I (95:5%): Alternatively, where considered necessary (such as raw materials), 95% of the contract amount can be paid against provisional receipt of the item at the consignee's premises along with inspection note and other documents. Balance 5% can be paid after the stores have been properly checked and accounted for.

11.3 Option-III (100%): Some suppliers prefer 100% payment on delivery and acceptance of material at purchaser's premises, which can be accepted. In such cases, payment is to be made within 30 days of receipt of materials at the unit's premises along with requisite/relevant documents from suppliers.

11.4 Part Payment (Pro-rata) : In many cases, suppliers request for allowing part supply and the corresponding part payment. Such requests may be considered based on the merits of the case, duly safeguarding buyer's interest.

11.5 Spot Payment: In some exceptional procurement of COTS items with extremely high commercial demand (i.e. a situation of seller's market), suppliers may be unwilling to deliver/ supply the item unless Spot Payment is made. In such

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exceptional cases Spot Payment can be agreed to by the TPC after duly recording the reasons for taking the decision.

11.6 Term of Delivery: Generally, the preferred terms of delivery are CIP/destination or delivery at site, so that the supplier remains responsible for safe arrival of the ordered stores at the site. Therefore, unless otherwise decided Ex-works or FOR/dispatching station should be avoided.

12. Payment Terms for Foreign Vendors: The payment to the foreign vendor is made as per following norms:

- i. The normal mode of payment to foreign vendors is through irrevocable Letters of Credit (LC) or Direct Bank Transfer (DBT). It should be ensured that the payment is released in accordance with the provisions of the contract and subject to the deductions of such amounts as the supplier may be liable to pay under the agreed terms of the contract.
- ii. Where the payment is to be made through Letter of Credit, it shall be opened within forty five days of receipt of notification of readiness of goods for delivery from the foreign vendor. The vendor shall normally be given forty five days from the date of signing of contract for notifying such readiness. The period may be varied, as per requirement, but it should be decided while processing the proposal and indicated in the tender.
- iii. The period for notification of readiness of goods and opening of LC should be so fixed that LC is opened three months prior to the expiry of the delivery period. The period mentioned in the tender should not be varied, particularly in Global Tender Enquiry and Limited Tender Enquiry cases.
- iv. It should also be mentioned in the tender that the LC would be valid for ninety days from the date of its opening, on extendable basis by mutual consent of both the buyer and the seller, unless it is a revolving LC. The period may also be

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varied, as per requirement, but it should be decided while processing the proposal and indicated in the RFP.

- v. All expenses related to Letters of Credit outside India should be borne by the foreign vendor.
- vi. In case of extension of delivery period, both LC and delivery period should be extended, and the LC charges shall be borne by the supplier, if the extension is due to reasons attributable to the supplier.
- vii. Payment through Direct Bank Transfer (DBT) would be the normal mode for payments below USD 100000, and such payments should be made within 30 days of receipt of clear payment documents (Bill of Lading, AWB, Proof of shipment, etc.) or as specified in the contract. In cases the supplier is not agreeable to DBT and insists on payment through LC, then payment can be made through Letter of Credit subject to the supplier bearing extra costs, if any, involved.
- viii. In case installation, commissioning, etc., are relevant in the procurement and the supplier is responsible for the same, then 80 - 90% of FOB/ FAS price may be paid against invoice, inspection certificate (where applicable), shipping documents etc., and balance within 30 days of successful installation & commissioning at the consignee's premises and acceptance by the consignee.

13. Advance Payment: Generally, no advance should be paid to the firms/contractors and payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary in the case of maintenance contract, development/ fabrication contracts or in case of turnkey projects to give an advance. In such cases it should be ensured that only a minimum reasonable amount, **up to 15%**, is given as advance at the time of placement of the order. Such advance payments will be made only against the supplier furnishing of a bank guarantee (for 110 % of the advance given) from a public sector bank or private sector bank duly authorized by RBI to handle Government transactions. If it is decided to provide advance then the same shall be indicated in the

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tender to ensure fair and equitable treatment of vendors. The Cases of advance payment over and above the limits prescribed above would require the approval of the AVNL Board. Where advance payment is made in contracts with price variation, there should be a further stipulation that no price variations shall be admissible on such portion of the price, after the date of payment of the advance.

14. Stage Payments: Stage payments may become relevant in high value tenders/ contracts when: (i) throughput time for manufacture of the stores being procured or (ii) delivery period is very long. Such instances of procurement involving stage payment would be rare. Stage payments, if unavoidable, shall be made only against satisfactory completion of clearly identifiable physical milestones and the quantum of the stage payment should be commensurate with the quantum of work completed at up to the milestone, else it would become another form of advance which is not permissible. If stage payments are proposed to be made on completion of milestones, it should be clearly mentioned upfront in the TE with the approval of CFA and the concurrence of Finance, wherever required as per DoFP. The percentage payable and the milestones on satisfactory completion of which the stage payments will become admissible shall be unambiguously disclosed in the tender to ensure transparency, fair & equitable treatment of vendors. In stage payments, adequate safeguard should be taken against the risk of the contractor not completing the balance uncompleted work. This risk can be covered through a suitable Bank Guarantee from banks authorized to carryout government business. Where stage payments are made, there should be a further stipulation that no price variations will be admissible on such portions of the price, after the dates of such stage payments.

15. Bank Guarantees (BG): Bank Guarantee is a one way contract made by the bank on behalf of its client (supplier) and the beneficiary (purchaser) guarantying to secure compliance of the supplier to a contract between the client (supplier) and the beneficiary (purchaser). The salient features of the guarantee are:

- i. Absolute in character and independent of the underlying contract.
- ii. Imply obligation to unconditional and without demur payment against a valid claim.

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- iii. For specified amount and period.
- iv. Issued against matching counter-guarantee from the applicant (supplier).

15.1 Format of BG: The format of the Bank Guarantee should be provided by the purchaser and should adequately cover the risks. The essential elements of PBG are:

- i. Amount.
- ii. Address of the beneficiary, applicant and the bank.
- iii. Validity date.
- iv. Contract number and date.

15.2 Invocation of BG: Bank Guarantee can only be invoked after fulfilling the following conditions:

- i. Claim/ intimation should reach the issuing Bank on or before the expiry date.
- ii. Claim/ intimation should be in strict conformity with the terms of the Guarantee.
- iii. Issuing Bank cannot enquire into merits of the claimant or take views on any dispute between the (supplier) applicant and the (purchaser) beneficiary.
- iv. Compliance of terms of the guarantee, payments are to be effected immediately and unconditionally.

15.3 Verification of BG: The various Bank Guarantees obtained from suppliers (Performance Bank Guarantee, Advance Bank Guarantee, Warranty Bond, Earnest Money Deposit, etc.) shall be necessarily got confirmed/ verified for its genuineness, standing of the issuing bank, etc.

15.4 Acceptance of Bank Guarantee: In domestic procurement, the Bank Guarantee issued by any of the Commercial Bank can be accepted. The genuineness of the Bank Guarantee shall be confirmed from the issuing bank.

15.5 BG in Foreign Procurement: In foreign procurement, Bank Guarantee shall be obtained from the supplier, in the prescribed format, issued by an Indian Public Sector

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Bank or a Private Sector Bank authorized to conduct government business or any International bank for which counter guarantee is given by Indian Bank acceptable to the purchaser.

16. Liquidated Damages (LD): Compensation of loss on account of late delivery where the loss is pre-estimated and mutually agreed to is termed as the Liquidated Damage (LD). Law allows recovery of pre-estimated loss, provided such a term is included in the contract. For imposition of LD, there is no need to establish actual loss due to late supply.

16.1 Legal Status: The legal position with regard to claim for liquidated damages is as follows:

- i. Whatever the quantum of the loss sustained, the claim cannot exceed the sum stipulated in the contract.
- ii. Only reasonable sum can be calculated as damages, which in given situation may be less than the sum stipulated.
- iii. What is a reasonable sum would depend on facts.
- iv. Court may proceed on the assumption that the sum stipulated reflects the genuine pre-estimates of the parties as to the probable loss and such clause is intended to dispense with proof thereof.
- v. The distinction between penalty and LD has been abolished by the Indian Contract Act and in every case; the Court is not bound to award more than 'reasonable compensation' not exceeding the amount so named.

16.2 Claim of LD: There should be a suitable provision in the terms & conditions of the contract for claiming liquidated damages of appropriate amount from the supplier to take care of delays in supplies and (or) performance that are attributable to the

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supplier. Such recovery through liquidated damages should be without prejudice to the other remedies available to the purchaser under the terms of the contract.

16.3 Amount of LD: The standard Liquidated Damages percentage is 0.5% per week (or part thereof) of the prices of any stores/ service which the contractor has failed to deliver within the delivery period specified in the contract.

16.4 Maximum Limit of LD: There should also be an appropriate maximum limit of such deduction, to be shown as a specific percentage of the contract value of delayed supplies/ services and incorporated in the contract terms. The ceiling of LD is 10%. Liquidated Damages are to be calculated on the basic cost (excluding taxes & duties) as per MoD O.M No. 8(8)/O2P/2018 dated 06.08.2018.

16.5LD & Price Variation Clause: 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.

17. E-Payment: It will be mandatory for the suppliers/ vendors to indicate their bank account numbers and other relevant e-payment details so that payments could be made through ECS/ NEFT/ RTGS mechanism instead of payment through cheque.

18. Deduction of Income Tax etc. at Source from Payments to Suppliers: This will be done as per the existing law in force during the currency of the contract. Other taxes, if any, will be paid/ reimbursed on production of documentary evidence.

19. Payment of Air Freight Charges: Goods that are required to be air lifted are to be dispatched through Air India only (except on the routes where Air India doesn't operate) on a 'Charge forward basis'. All air freight charges, which are shown on the relevant consignment note as chargeable to the consignee, are to be paid to Air India / other Airlines as applicable in Rupees.



20. Documents for Claiming Payment: The documents to be submitted for audit and payment depend upon the nature of procurement and the terms and conditions of a particular supply order/ contract. However, essential documents that are required for audit and payment are indicated in the tender. The supply order or copy of supply order issued to the supplier should be received back before release of last/ final payment.

21. Refund from Supplier: Sometimes, the suppliers, after claiming and receiving reimbursements for Taxes, and Duties etc. from the purchaser, applies to the concerned authorities for refunds, on genuine grounds, of certain portions of such duties & taxes paid by it and receives the permissible refunds. Such refunds contain the purchaser's share also (out of the payments already made by the purchaser to that supplier). The tender enquiry document and the contract are to contain suitable provisions for obtaining such refunds, if any, from the supplier.

22. Duties & Taxes on Domestic Goods: The duties & taxes i.e. GST etc. levied on domestic goods by the Government vary from product to product. As a general policy, the statutory variations in such duties & taxes shall be allowed during the period from the last date of submission of bids to the date of acceptance of the tender (i.e. placement of contract) and during the original/ re-fixed /extended delivery period of the contract so that both the supplier and purchaser are equally compensated for rise or fall in the prices of the goods on account of such statutory variations. In the tender conditions, the bidder(s), shall necessarily indicate the prices along with the break-up details of taxes and duties, even if these are nil. In the absence of any indication to this effect by the bidders, the bids shall be treated as invalid. Sometimes, bidders mention in their bids that the quotation includes current rates of taxes & duties as applicable and statutory variations, if any at the time of supply will be applicable. This condition can be accepted. However, correctness of the taxes & duties quoted by a bidder as applicable during that period is to be verified while considering its tender. Also, only statutory variations, and no other type of variations are allowed.

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23. Custom Duty on Imported Goods: In imported stores, the bidders shall specify separately the total amount of custom duty included in the quoted price duly indicating the break-up details of basic, additional and special custom duty. The bidders shall indicate correctly the rate of custom duty applicable for the goods in question and the corresponding Indian Customs Tariff Number. Where customs duty is payable, the contract should stipulate the quantum of duty payable in unambiguous terms. Customs duty exemption, if any, notified by the Government of India shall be availed. If the contracted stores are entitled to any drawback of customs duty in respect of the store or the raw materials involved in its manufacture, then the price to be charged by the seller should be the net price after the deduction of all the entitled custom duty drawbacks.

24. Duties & Taxes on Raw Materials: The purchaser is not liable to any claim from the supplier on account of fresh imposition and/ or increase (including statutory increase) of GST etc. on raw materials and/ or components used directly in the manufacture of the contracted goods taking place during the pendency of the contract, unless such liability is specifically agreed to in terms of the contract.

25. Procurement governed by General Contracts: In case of procurements under long term general / umbrella contracts / main agreements between the Government of India and the Government of the country concerned, provisions of the such contracts/agreements will prevail in respect of the format of the RFP, quotations, general terms and conditions, LD clause, integrity pact etc. However, provisions of this Manual shall apply in respect of those aspects that are not covered by such contracts/agreements.

26. Force Majeure:

- i. Force majeure means an event beyond the control of the supplier and not involving the supplier's fault or negligence, and which is not foreseeable. Such events may include, but are not restricted to, acts of the purchaser either in its sovereign or contractual capacity, wars or revolutions, hostility, acts of public



enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts, freight embargoes, acts/ actions of state authorities or any other circumstances beyond the control of the parties. If there is delay in performance or other failures by the supplier to perform its obligation under its contract due to an event of Force Majeure occurring after conclusion of the contract, then the supplier shall not be held responsible for such delays/ failures.

- ii. If a Force Majeure situation arises, the supplier shall promptly notify the purchaser in writing of such conditions and the cause thereof within 21 days of occurrence of such event (commencement as well as cessation of the Force Majeure event). Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period exceeding 60 days, either party may at its option terminate the contract without any financial repercussion on either side.
- iii. In contracts on foreign vendors, the Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of the respective country shall be a sufficient proof of commencement and cessation of the above circumstances.
- iv. There may also be a Force Majeure situation affecting only the purchaser. In such a situation the purchaser is to take up with the supplier on similar lines as above for further necessary action.

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XVI. ORDER & ORDER AMENDMENT

1. Signing of Contracts/ Placing of Supply Orders: After the TPC decisions & formal signature of Minutes (CFA approval for non TPC cases), the supply order should be issued to the firm within 10-15 days from the date of signing the TPC Minutes (CFA approval). It must be ensured that the contract/supply order is as per the terms & conditions approved and the rates finally negotiated and accepted by the TPC are correctly reflected, to this extent the contract/supply order shall be vetted by the Finance before issue. Copies of the contract/supply order should be sent to all concerned, including Finance, audit authority and the paying authority, and their acknowledgement obtained. The following guidelines shall be followed, while preparing the purchase orders:

- i. All purchase orders shall be system generated and not types or handwritten.
- ii. Total No. of items must be mentioned in words to obviate any unauthorized alterations.
- iii. Alterations, additions or amendments shall be avoided on Purchase Orders. Amendments, if any, are to be effected only by issuing Purchase Order amendments.
- iv. All Purchase Orders shall be signed by Secretary TPC for all TPC cases & respective CFA for non-TPC cases, as the case may be.

2. Purchase Order Acknowledgement: One copy of purchase order shall be sent to the supplier with a request to send back the acknowledgement as a token of acceptance of the order (Proper acknowledgement form is to be enclosed). While sending a copy of Purchase Order for acknowledgement by the supplier, a suitable mention must be made of the period within which the Vendor has to respond. In case

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the acknowledgement is not received within the stipulated period, the dealing officer should correspond with the supplier for an appropriate response.

3. Purchase Order / Database: All purchase orders including amendments should be processed through ERP/MIS (Management Information System) system.

4. Distribution of Purchase Order Copies: Purchase order copies would need to be sent to Finance (along with copy of approved purchase proposal). The original purchase order is sent to vendor while a copy is retained in the purchase file. Further, as a distribution of PO copies to other associated departments like Stores, Indentor, Quality and User department should have an access to Purchase Order through ERP/MIS. Such of the orders not accessible through ERP may be provided as hard copy against specific requirements.

5. Amendment to Contract: All amendments to contracts, which have financial implications, including short closing and delivery period extensions without imposition of liquidated damages, should be invariably approved by the CFA as per DoFP, and also in consultation with the FA, wherever the original contract was concluded with the concurrence of finance. Amendments affecting delivery period should not be made as a matter of routine. All cases for extension of delivery period shall be processed with imposition of liquidated damages and other penalties as per the contract, except for the cases where the contract provides for waiving off of the liquidated damages on account of justified reasons. When there is no downward trend in prices, and DP extension with LD is applicable, then CFA shall approve the same without financial consultation. For other DP extension cases, financial consultation is necessary.

6. Short/Excess Deliveries: There can be occasions when excess/ short supplies are made by the suppliers due to various reasons. These variations in supplies for other than raw materials may be accepted, subject to the value of such excess/short supplies not exceeding: (a) 5% (five percent) of the original value of the contract, if total contract value is less than 10 lakhs, (b) 2 % (two percent) of the original value of the contract, if total contract value is 10-50 lakhs, and (c) 1 % (one percent) of the



original value of the contract, if total contract value is more than 50 lakhs. The amendment in the supply order for short/excess deliveries shall be approved by the CFA on noting, if variation is within the specified limit and payment to be made on pro-rata. No formal TPC is required to this effect.

6.1 No excess deliveries beyond the specified limit to be accepted. Short deliveries beyond the specified limit shall be treated as breach of contract.

6.2 Needless to mention that the **short/excess** deliveries as specified shall be adjusted in the next cycle of procurement, if any.

6.3 Quantity tolerance shall be permitted to the extent of + / - 5% for raw materials irrespective of value.

7. Correspondence with the Supplier after Breach of Contract: The purchaser (or its authorized representative) is not to enter into correspondence after expiry of the delivery date stipulated in the contract, because such correspondence will make the contract alive. This situation will not allow the purchaser to cancel the contract straight away without first serving a performance notice to the supplier. However, even after expiry of the delivery period of the contract, the purchaser may obtain information regarding past supplies etc. from the supplier, simultaneously making it clear to the supplier that calling of such information is not intended to keep the contract alive and it does not amount to waiving the breach and that it is without prejudice to the rights and remedies available to the purchaser under the terms of the contract.

8. Cancellation of Contract for Default: The purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, terminate the contract in whole or in part.

8.1 Conditions for Cancellation: The contract can be terminated under following conditions:

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- i. If the supplier fails to deliver any or all of the stores within the time period(s) specified in the contract, or any extension thereof granted by the Purchaser.
- ii. If the supplier fails to perform any other obligation under the contract within the period specified in the contract or any extension thereof granted by the purchaser.

8.2 Action post Cancellation: In the event the purchaser terminates the contract in whole or in part; the purchaser may take recourse to the following action:

- i. Performance Security may be forfeited;
- ii. The purchaser may procure, upon such terms and in such manner as it deems appropriate, stores similar to those undelivered, and the supplier shall be liable for all available actions against it in terms of the contract.
- iii. Penalty as per existing guidelines on penalties issued by MoD/AVNL. However, the supplier shall continue to perform the contract to the extent not terminated. Before cancelling the contract and taking further action, if considered necessary legal advice may be obtained.

9. Termination of Contract for Insolvency: If the supplier becomes bankrupt or otherwise insolvent, the purchaser may, at any time, terminate the contract, by giving written notice to the supplier, without compensation to the supplier provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the purchaser.

10. Termination of Contract for Convenience: After placement of contract, there may be some unforeseen situation compelling the purchaser to cancel the contract. In such cases, the purchaser is to send a suitable notice to the supplier for cancellation of the contract, in whole or in part, for its (purchaser's) convenience, inter alia, indicating the date with effect from which the termination is to become effective.

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Depending on the merits of the case, the purchase organization may have to suitably compensate the supplier on mutually agreed terms for terminating the contract. Suitable provisions to this effect are to be incorporated in the tender document as well as in the resultant contract. However, a rate contract / long term umbrella agreements should not have any provision for compensation after first year execution of contract.

11. Short Closure of Contract/Supply Order: The request from the firm for short closer of the supply order for other than raw materials may be accepted without any penalty with the approval of CFA, subject to following conditions:

- i. When the short supplies amounting less than 5% (five per cent) of the original value of the contract, if total contract value is less than 10 lakhs.
- ii. When the short supplies amounting to less than 2 % (two per cent) of the original value of the contract, if total contract value is 10-50 lakhs.
- iii. When the short supplies amounting to less than 1% (one per cent) of the original value of the contract, if total contract value is more than 50 lakhs.
- iv. The request of short-closure beyond the specified limit shall be treated as breach of contract.
- v. The short quantity to this effect shall be adjusted in the next cycle of procurement, if any.
- vi. The short closure, within the specified limit for raw material as well as for other than raw material, shall be approved by the CFA on noting. No formal TPC to be conducted to this effect.

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XVII. INSPECTION OF STORE

1. Inspection: Before accepting the contracted goods, it must be ensured that the goods have been manufactured/supplied as per the required specifications and are capable of performing the functions as specified in the contract. Accordingly, the tender document and the consequent contract shall unambiguously specify complete details of inspection/ tests to be carried out and the stages/ manner for carrying out the same. The details of the Inspecting Authority shall also be incorporated in the tender documents. The stages and modes of inspection will depend on the nature of the goods, total value of the contract, location of the supplier, location of the user, etc. The commonly followed modes of inspection are given in the following paragraphs.

2. Inspection at Supplier's Premises: Normally inspection at supplier's premises may either be Stage Inspection, if the inspection is conducted during the manufacturing process or Pre-dispatch Inspection, if the inspection is conducted on the finished products prior to despatch from supplier's premises.

2.1 Tender Condition: In import-procurements with Inspection at the supplier's premises, the TE shall mention the scope of such inspection, the likely number of such inspections, the composition of the inspection team and duration of inspections.

2.2 Scope of Inspection: The stores shall be inspected in accordance with the provisions of the contract and details mentioned therein.

2.3 Seller's Responsibility: Where inspection at the supplier's premises is specified, the seller will give the buyer sufficient advance notice (in writing) of the date on which the goods will be ready for inspection. The seller will also provide the buyer's inspector/inspection-team all the necessary facilities including appliances, tools,

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material and labour at no extra cost, to carry out the specified inspection. When independent tests and analyses, in addition to those made by the inspector on the seller's or sub-seller's premises, are considered necessary, the seller shall provide testing at seller's expense and deliver, free of charge, at such place as the purchaser may direct, such materials as he may require for tests or analysis.

2.4 Marking of Sample/Lot: If any of the products whether finished or in the course of production, are rejected by the inspector, they shall be marked and segregated in such a distinctive manner, to the satisfaction of the inspector, so as to ensure that they are identified as rejected products. The buyer shall not be liable for payment for any rejected supplies or any costs of inspection thereof.

2.5 Replacement of Rejected Store: The seller shall at his own expenses and within the period of delivery, as specified in the contract, replace or make good, to the satisfaction of the inspector, any articles rejected on inspection. The decision of the inspector regarding mode, method, rejection or acceptance of the specified items/ entire batch/ lot will be final.

2.6 Buyer's Right: The buyer reserves the right to inspect the stores on receipt and discrepancy or defects found shall be reported to the Seller within a period specified in the contract and the seller shall rectify the same within a period specified in the contract on receiving the intimation.

3. Acceptance of Stores against Supplier's Inspection Report and Warranty: Often in case of stores to be imported from abroad, pre-dispatch inspection of goods at supplier's premises involves considerable expenditure to the purchaser. In such a situation, if feasible, the purchaser may substitute the pre-dispatch inspection by the purchaser's inspector with the manufacturer's in-house inspection report and warranty. However, before adopting this procedure, the nature and cost of the goods ordered, the reliability of the supplier, etc. shall be kept in view and appropriate decision taken. For checking the reliability and background of the supplier, if necessary, the purchase organization may also request the Indian Embassy located in that country for a report on the technical/ financial competence of the firm. Further,

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reliable publications/internet sources that provide authentic technical & financial data and details of the manufacturing companies located in those countries, such publications may also be relied upon for this purpose. Extending the same philosophy, acceptance of stores against the supplier's Inspection Report, if necessary, can also be resorted to in domestic procurements if the supplier is reliable.

4. Inspection at Consignee's Premises: In this mode, the inspection is done on receipt of goods at the purchaser's site before accepting the same. Sometimes, Joint Receipt Inspection at the consignee's premise, by the representatives of supplier and the buyer, may be considered necessary, in such cases the requirement shall be clearly specified in the tender/ contract. Depending on the nature of the store and its value, generally a Joint Receipt Inspection (JRI) may be necessary if stores have been provisionally accepted (i) against supplier's Inspection Report & warranty or (ii) Pre-dispatch Inspection.

5. Inspection after Installation & Commissioning at Site: This method is adopted to check the performance and output of the equipment, machinery, sub-assembly, etc., after the same is installed & commissioned at site or assembled/ integrated with the main assembly.

6. Inspection Procedure: The inspection procedure shall be as per the provisions contained in the contract. After satisfactory inspection/ tests, the acceptable goods shall be stamped, labeled, marked or sealed, according to the circumstances in such a way so as to make subsequent identification of accepted lots easy for the consignee/ user. Inspection Notes shall be issued in the prescribed format for the goods accepted. For goods not meeting the contract requirements, the rejection Inspection Notes shall be issued immediately.

7. Inspection of Goods offered at the fag-end/ on the last date of the Contract Delivery Period at Firm's Premises: Where feasible, the supply order while mentioning the delivery period may also indicate the time required for inspection, so as to facilitate the supplier offering stores for inspection well in time. In cases where the supplier offers stores for inspection during the last few days of the contract

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delivery period or on the last day of the contract delivery period at firm's premises, the stores shall be deemed to have been supplied within the delivery period as per supply order i.e no DP extension shall be required. In such cases, the inspection should be completed and I-Note may be issued at the earliest and vendor may be allowed to deliver the materials maximum within 30 days beyond the issue of I-Note. Delivery period extension will be required for the supplies beyond 30 days of issue of I-Note and/or full/ partial rejection of stores.

8. Purchaser's Right of Rejection: On many occasions, the stores received at purchaser's premises are in damaged condition or having deviations from the I-Note. Under such circumstances, the purchaser has the right to reject the goods on receipt at its premises during final inspection after recording the reasons, although the goods have already been inspected and cleared at pre-dispatch stage by the purchaser's inspector. However, such rejection should be strictly within the contractual terms & conditions and no new condition should be adopted while rejecting the goods during final inspection.

9. Acceptance of Goods vis-à-vis Warranty Provisions: Goods accepted by the purchaser at initial inspection and in final inspection in terms of the contract shall in no way dilute purchaser's right to reject the same later, if found deficient in terms of the warranty clause of the contract.

10. Joint Investigation against Complaints relating to Quality of Goods: In case a written complaint is received from the supplier disputing rejection of goods by the purchaser's inspecting officer, the same should be jointly investigated by an authorized representative of the purchase organization, who is well conversant with the goods and an authorized representative of the supplier. The joint inspection report shall be signed by both the members, and the matter processed accordingly for further necessary action.

11. Outside Testing Laboratories: Sometimes, it becomes necessary to conduct type test, acceptance test or special test at outside laboratories when facilities for these tests are not available in-house with the supplier or carrying out of confirmatory tests

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is considered desirable before accepting the goods. In such cases the list of reputed testing labs whose reports are acceptable to the purchaser shall be indicated in the tender/contract.

12. Delivery Period: Delivery as per delivery-schedule stipulated in the contract is crucial for timely positioning of stores required for production. Further, maintaining sanctity of the delivery-schedule specified in the contract will also avoid holding unnecessary inventories. To maintain the sanctity of the delivery schedule in the contract, in the first instance firms should be given realistic delivery-schedules duly taking into account their capacity to produce the store, which will eliminate repeated DP extensions that would otherwise become necessary. Therefore, procurement proposals should be initiated well in time and closely monitored after taking into consideration the provisioning period.

13. Delivery & Multiple Orders: Further, in cases where a firm holds more than one supply order for the same item, it shall be ensured that deliveries against orders concluded at lower rates are made/ accounted for first.

14. Delivery Period & Associated Services: The period for delivery of the ordered stores and completion of any allied service (s) thereof (like installation and commissioning of the equipment, etc.) should be properly specified in the contract duly indicating definite dates, and the same shall be deemed to be the essence of the contract. Expressions such as 'immediate', 'ex-stock', "as early as possible", 'off the shelf', etc. shall not be used to indicate contractual delivery period.

15. Staggered Delivery: Staggered deliveries (if relevant) should be clearly indicated in the tender/contract, duly specifying unambiguously the date from which the delivery schedule will be reckoned (normally the date of signing of the contract). Where relevant, the contract should specify the date by which the stores shall be offered for inspection. Where inspection by the Purchaser prior to delivery is provided for, no stores will be considered ready for delivery until the Purchaser or his authorized inspector certifies in writing that the stores have been inspected and approved by him.

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16. Part Supply: The contract or any part thereof, if delivered in more than one instalment, shall be deemed as complete, and the contract price for the delivered goods shall become payable to the seller (if permissible under the contract), only when all terms & conditions relevant to that delivery as per the provisions of the contracts have been completed.

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XVIII. DELIVERY & PENALTIES

1. Introduction: The terms of delivery is decided depending on the nature of goods to be purchased, transportation facility available, location of the user, location of the prospective suppliers etc. Terms of delivery, inter alia, determine the delivery point of the ordered goods from where the purchaser is to receive/ collect the goods. Terms of delivery have direct bearing on the quoted prices.

2. Relationship between the Terms of Delivery and the Date of Delivery: Delivery dates in respect of contracts incorporating standard and commonly used terms of delivery shall be deemed to be as follows (where mode is through airlift “Bill of Lading” would imply “Airway Bill”):

2.1 Ex-Works: The date on which supplier delivers the goods to the purchaser at its (supplier’s) factory/premises.

2.2 FOR, Station of Despatch (FOR - Free on Rail): The date on which the goods are placed by the supplier on rail with clear RR (Rail Receipt).

2.3 FOR, Destination: The date on which the ordered goods reach the destination railway station specified in the contract.

2.4 CIP, Destination (Carriage & Insurance Paid): The date on which the delivery is made at the destination mentioned in the contract.

2.5 Local Delivery at Site: The date on which the delivery is made at the consignee’s site mentioned in the contract.

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2.6 FAS, port of shipment (FAS - Free Alongside Ship): The date on which the supplier deliver the goods alongside the vessel at the specified port of shipment. This date is reflected in the Bill of Lading.

2.7 FOB, port of shipment (FOB - Free on Board): The date on which the supplier delivers the goods on vessel's board at the specified port of shipment. This date is reflected in the Bill of Lading.

2.8 CIF, port of destination (CIF - Cost, Insurance and Freight): The date on which the goods arrived at the destination port.

Note: The FAS, FOB & CIF terms of delivery are applicable for goods that are directly imported from foreign countries against the subject contract, and not imported already by the supplier under its own arrangement. The CIP terms of delivery may be applied both for domestic as well as imported supplies. The terms of delivery should be clearly indicated in the tender/ contract. The contract (in imports) shall also clearly state that expenditure such as the cost of packing, internal transportation, fees of forwarding agents, warehousing charges, port trust, dock/ harbour dues and all other expenses, as may be incurred for the purpose up to the point of delivery of the stores as per the terms of delivery, shall be to the sellers account.

3. Air Consignment: As per the extant directive of the Government, airlifting of any goods from abroad by the government department will be done through the National Carrier i.e. Air India wherever available. However, before processing any contract involving import of goods through air by AVNL, the contemporary instructions in this regard may be ascertained and followed. In case, the consignments are dispatched by vendors at their cost, the selection of Airline etc. will be at their discretion.

4. Insurance: Wherever necessary, the goods supplied under the contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the contract. If considered necessary, the insurance may be done for coverage on "all risks" basis including war risks and strike clauses. The amount to be covered under insurance

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should be sufficient to take care of the overall expenditure to be incurred by the purchaser for receiving the goods at the destination. Insurance of imported goods/equipment would need to be arranged on a very selective basis and only for cases where the value of individual shipment is expected to be in excess of Rs. 5 Cr. Where delivery of imported goods is required by the purchaser on CIF/ CIP basis, the supplier shall arrange and pay for marine/ air insurance, making the purchaser as the beneficiary. Where delivery is on FOB/ FAS basis, the marine/ air insurance shall be the responsibility of the purchaser.

5. Failure to Deliver within the Contract DP: When the supplies do not materialize by the delivery date (even after 30 days of issue of I-Note) the purchaser has the options given below:

- i. Extending the delivery date with imposition of liquidated damages without concurrence of Finance.
- ii. Re-fixing the delivery date without LD with concurrence of Finance, by clearly recording reasons for arriving at the decision.
- iii. Forfeit the performance security and canceling the contract and repurchasing the non-supplied quantity with concurrence of Finance.
- iv. Impose other available penalties under the contract as per penal provision in vogue with concurrence of Finance.

6. Re-fixation of Delivery Period: Re-fixation of delivery period means arriving at a fresh delivery period by recasting the original contractual delivery period after taking care of the lost period, for which the supplier was not responsible. Re-fixation of delivery period should be done with the concurrence of Finance. Normally, in the following circumstances, the contractual delivery period needs to be re-fixed to cater for the lost period, without imposing any penalty to the supplier with concurrence of Finance.

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- i. Cases where the manufacture of stores is dependent on the approval of the advance sample and delay occurs in approving the sample though submitted by the supplier in time.
- ii. Where extension in delivery period is granted on account of some omission on the part of the purchaser which affects the due performance of the contract by the supplier.
- iii. Cases where the buyer controls the entire production.
- iv. Where the input (part or full) is to be provided by the buyer and there has been a delay on part of the buyer in doing so.
- v. The delivery cannot be re-fixed to make a contract a 'severable' contract without the specific agreement of the supplier, if the delivery originally stipulated in the contract was in the form of an 'entire' contract.

7. Extension of Delivery Period: If the supplier is unable to complete the supply within the stipulated delivery period (including 30 days after issue of I-Note, in case of inspection at firm's premises), the supplier is required to request for extension of delivery period. If the contractual delivery schedule is decided to be extended then the same may be done by issuing an amendment to the contract with suitable denial clauses and right to impose liquidated damages for delay. The liquidated damages shall apply from the contracted delivery period. The amendment letter should mention, inter alia that, in addition to imposition of liquidated damages, no extra price or additional cost for any reason whatsoever beyond the contractual cost will be paid to the supplier for the delayed supply; at the same time, if for any reason, whatsoever the cost of the goods to be supplied/ services to be performed by the supplier decreases that benefit shall be passed on to the purchaser. Supplier's unconditional acceptance of the amendment by a specified date is to be watched and if the supplier does not agree to accept the amendment letter, further action is to be taken against the supplier in terms of the contract. CFA for granting delivery period extension, shall be as per DoFP of AVNL.

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8. Extension of Delivery Period (No Downward Trend): When there is no downward trend in prices, and DP extension with LD is applicable, then financial consultation shall not be required. However, for DP extension without LD, financial consultation shall be required. If the last day of delivery period falls on a holiday, DP should automatically be extended to include next working day.

9. Extension of Delivery Period (Downward Trend): When there is downward trend in prices, advantage of the same should be taken while considering the request for extension of the delivery period in consultation with finance as given below:

- i. Where the total cost differential on account of lower trend observed is less than the Liquidated Damages leviable (if the delay is attributable to the supplier), the delivery period may be extended with application of Liquidated Damages.
- ii. If the total cost differential on account of lower trend is more than the Liquidated Damage leviable (if the delay is attributable to the supplier), the lower price should be counter offered to the firm. If the firm accepts the counter offer, the delivery period shall be extended at lower price without Liquidated Damages. If the firm does not accept the lower price, the contract may be canceled/short closed and appropriate action be taken to re-purchase the stores on priority keeping in view the requirement. While carrying out assessment of downward trend, if any, the provisions made in 'Last Paid price' & Indices for Assessing Price Movements shall be considered.

10. Risk and Expense Purchase: Risk and expense purchase clause may be included in the TE and the contract, if considered necessary. Risk and Expense purchase clause is provided to safeguard against the eventuality of the supplier failing to honour the contract obligations. While initiating risk purchase at the cost & expense of the supplier, the purchaser must satisfy himself that the supplier has failed to deliver and

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has been given adequate & proper notice to discharge his obligations. When risk purchase clause is invoked, the defaulting supplier is liable to pay the additional amount incurred by the purchase, if any, in procuring the said contracted goods/ services through a fresh contract (i.e. additional cost if any incurred as compared with the amount contracted with him). Factors like method of recovering such amount should also be considered while taking a decision to invoke the provision for risk purchase.

11. Risk and Expense Purchase (PAC/SKS): Risk purchase at the cost and expense of the supplier may not always be a practical proposition as it may not be feasible to enforce recovery without legal action. In proprietary/ single known source items where it would not be possible to procure the item from any other alternate source, the contract should necessarily have other forms of safeguards like Performance Bank Guarantee instead of the risk purchase clause.

12. Risk and Expense Purchase (Foreign Contract): In case of foreign contracts also, risk and expense clause is generally not feasible.

13. Other Remedies: The other remedies available to the purchaser in the absence of the Risk and Expense Clause are:

- i. Deduct the quantitative cost of discrepancy from any of the outstanding payments of the supplier.
- ii. Avoid issue of further TEs to the firm till resolution of the discrepancy.
- iii. Obtain suitable Performance Bank Guarantee
- iv. In import contracts, finally approach the Government of the supplier's country through the Ministry of Defence, if needed.

14. Performance Notice: There can be situations where supply/ services has not been completed within the period stipulated in the contract due to the negligence/ fault

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of the supplier, and the supplier has not made any request for extension of delivery period, and the contracted goods/ services are still required by the purchaser and the purchaser does not want to cancel the contract at that stage. In such a case, a Performance Notice (also known as Notice-cum-Extension Letter) may be issued to the supplier by suitably extending the delivery date and by imposing liquidated damages with denial clauses etc. Supplier's unconditional acceptance of the Performance Notice by a specified date is to be watched and if the supplier does not agree to accept the same, further action is to be taken against the supplier in terms of the contract.

15. Despatch of Goods after Expiry of Delivery Period: As per the contract terms the supplier is not to supply the goods when there is no valid delivery period. In case the supplier makes any supply after expiry of delivery period, the purchaser/ consignee can reject the supplies and inform the supplier accordingly; the purchaser shall also have the right to cancel the contract (w.r.t. non-supplied goods) in terms of the contract. If, however, the purchaser/ consignee requires the goods (which has been supplied after expiry of the delivery period), the purchaser may extend the delivery period with the usual LD & denial clauses when there is no downward trends and accept the goods. The denial clause refers to the clause in the tender/ contract denying increase in price, taxes, duties, etc., taking place during the extended DP, when DP extension is granted.

16. Packaging and Despatch for Imports: The stores are required to be packaged to withstand normal conditions of transportation (shipment and short-term storage during transit and in the country of destination in imports). The following conditions will apply with reference to packaging:

- i. The seller shall be responsible for any loss or damage or expenses incurred by the purchaser because of inappropriate packages.
- ii. The packages containing articles classified as hazardous should be packed and marked in accordance with the requirements of the appropriate regulations governing their despatch by sea or air.

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- iii. The seller shall also comply with the detailed packaging and despatch instructions, if specified in the contract.
- iv. The responsibility of sending despatch documents will rest with the seller. Detailed shipping instructions for imports issued from time to time by the buyer will apply.

17. Warranty Claims for Imports: All stores to be supplied should be free from all defects/ faults in material, workmanship and manufacture. They should be of the highest grade; and consistent with the established/ generally accepted standards for material of the type used; and in full conformity with the specifications, drawings or samples; and shall, if operable, operate properly. The seller shall be bound to furnish a clear written warranty regarding the same. In the event of the ultimate consignee in India not finding the stores in accordance with the order, the seller will be required to replace them free of cost inclusive of all freight and handling charges. Such replacement will be done within specified number of days from the claim report raised by the purchaser. These standard conditions will also apply in respect of replaced stores. This warranty shall remain valid for eighteen months after delivery or twelve months after their arrival at the ultimate destination in India, whichever is earlier, or as specified in the contract. The Warranty shall be applicable for use and storage of stores in Indian climatic conditions. Technical life of the unit to be delivered for replacement will not be less than the remaining technical life of the faulty/defective/deficient unit being replaced by new unit. Warranty claims, if any, shall be raised within the time frame prescribed for it in the contract.

18. Ground Rent: If the material supplied by the vendors is rejected at the Unit premises, the vendor is required to lift the rejected material within 30 days of issue of rejection I-Note. The Units under AVNL 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

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30 working days time to the firm. A specific provision should be made in the tender documents to the effect that the ground rent 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, the Unit is entitled to recover the ground rent due and all incidental expenses from EMD/PSD. The financial power for exemption of Ground Rent may be incorporated in the DoFP.

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XIX. INCOTERMS

1. Incoterms (acronym stands for international commercial terms) is a trademark of the International Chamber of Commerce, registered in several countries and are a set of internationally recognized trading terms, defined by the International Chamber of Commerce (ICC).

2. These are used for the purchase and shipping of goods in the international market place.

3. Full details can be found on the ICC website: iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020. All units of AVNL shall adhere to the latest provisions of INCOTERMS as notified from time to time on its official website.

4. Each INCOTERM refers to a type of agreement for the purchase and shipping of goods internationally.

5. INCOTERMS also deal with the documentation required for global trade, specifying which parties are responsible for which documents. Determining the paperwork required to move a shipment is an important job, since requirements vary so much between countries. Two items, however, are standard: the commercial invoice and the packing list.

6. Unless otherwise specifically agreed to by the purchaser and the supplier and incorporated in the contract, the applicable rules & regulations for transportation of goods from foreign countries will be as per the contemporary version of International Commercial Terms (INCOTERMS) evolved by International Chamber of Commerce. INCOTERMS are the official rules for worldwide interpretation about the duties, obligations, etc. of the buyer and the seller for transportation of the goods from seller's country to buyer's country.

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7. INCOTERMS are recognized by the United Nations Commission on International Trade Law (UNCITRAL) as the global standard for such interpretation.

8. Incoterms are grouped into four different categories:

8.1 E-Terms: Where the seller makes the goods available to the buyer at the seller's own premises (Ex-Works). E-terms occur when a seller's responsibilities are fulfilled when goods are ready to depart from their facilities.

8.2 F-Terms: Where the seller is obligated to deliver the goods to the carrier appointed by the buyer (FCA). It refers to shipments where the primary cost of shipping is not paid for by the seller.

8.3 C-Terms: Where the seller contracts and pays for the transportation to a named port (CIF). Terms beginning with C deal with shipments where the seller pays for shipping.

8.4 D-Terms: Where the seller pays all costs and accepts all risks to deliver the goods to an agreed upon point (DDP). D terms cover shipments where the shipper/seller's responsibility ends when the goods arrive at some specific point. Because shipments are moving into a country, D terms usually involve the services of a customs broker and a freight forwarder. In addition, D terms also deal with the pier or docking charges found at virtually all ports and determining who is responsible for each charge.

9. ICC changed basic aspects of the definitions of a number of INCOTERMS, buyers and sellers should be aware of this. Terms that have changed have a star alongside them.

10. EX-Works (named place): One of the simplest and most basic shipment arrangements places the minimum responsibility on the seller with greater responsibility on the buyer. In an EX-Works transaction, goods are basically made

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available for pickup at the shipper/seller's factory or warehouse and "delivery" is accomplished when the merchandise is released to the consignee's freight forwarder. The buyer is responsible for making arrangements with their forwarder for insurance, export clearance and handling all other paperwork.

11. FOB (Free On Board) (named port of shipment): One of the most commonly used-and misused-terms, FOB means that the shipper/seller uses his freight forwarder to move the merchandise to the port or designated point of origin. Though frequently used to describe inland movement of cargo, FOB specifically refers to ocean or inland waterway transportation of goods. "Delivery" is accomplished when the shipper/seller releases the goods to the buyer's forwarder. The buyer's responsibility for insurance and transportation begins at the same moment.

12. FCA (Free Carrier) (named place): In this type of transaction, the seller is responsible for arranging transportation, but he is acting at the risk and the expense of the buyer. Where in FOB the freight forwarder or carrier is the choice of the buyer, in FCA the seller chooses and works with the freight forwarder or the carrier. "Delivery" is accomplished at a predetermined port or destination point and the buyer is responsible for Insurance.

13. FAS (Free Alongside Ship)* (named port of shipment): In these transactions, the buyer bears all the transportation costs and the risk of loss of goods. FAS requires the shipper/seller to clear goods for export, which is a reversal from past practices. Companies selling on these terms will ordinarily use their freight forwarder to clear the goods for export. "Delivery" is accomplished when the goods are turned over to the Buyers Forwarder for insurance and transportation.

14. CFR (Cost and Freight) (named port of destination): This term formerly known as CNF (C&F) defines two distinct and separate responsibilities-one is dealing with the actual cost of merchandise "C" and the other "F" refers to the freight charges to a predetermined destination point. It is the shipper/seller's responsibility to get goods from their door to the port of destination. "Delivery" is accomplished at this time. It is the buyer's responsibility to cover insurance from the port of origin or port

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of shipment to buyer's door. Given that the shipper is responsible for transportation, the shipper also chooses the forwarder.

15. CIF (Cost, Insurance and Freight) (named port of destination): This arrangement similar to CFR, but instead of the buyer insuring the goods for the maritime phase of the voyage, the shipper/seller will insure the merchandise. In this arrangement, the seller usually chooses the forwarder. "Delivery" as above, is accomplished at the port of destination.

16. CPT (Carriage Paid To) (named port of destination): In CPT transactions the shipper/seller has the same obligations found with CIF, with the addition that the seller has to buy cargo insurance, naming the buyer as the insured while the goods are in transit.

17. CIP (Carriage and Insurance Paid To) (named port of destination): This term is primarily used for multi-modal transport. Because it relies on the carrier's insurance, the shipper/seller is only required to purchase minimum coverage. When this particular agreement is in force, Freight Forwarders often act in effect, as carriers. The buyer's insurance is effective when the goods are turned over to the Forwarder.

18. DAF (Delivered At Frontier) (named point): Here the seller's responsibility is to hire a forwarder to take goods to a named frontier, which usually a border crossing point, and clear them for export. "Delivery" occurs at this time. The buyer's responsibility is to arrange with their forwarder for the pickup of the goods after they are cleared for export, carry them across the border, clear them for importation and effect delivery. In most cases, the buyer's forwarder handles the task of accepting the goods at the border across the foreign soil.

19. DES (Delivered Ex Ship) (named port of destination): In this type of transaction, it is the seller's responsibility to get the goods to the port of destination or to engage the forwarder to the move cargo to the port of destination uncleared. "Delivery" occurs at this time. Any destination charges that occur after the ship is docked are the buyer's responsibility.

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20. DEQ (Delivered Ex Quay)* (named port of destination): In this arrangement, the buyer/consignee is responsible for duties and charges and the seller is responsible for delivering the goods to the quay, wharf or port of destination. In a reversal of previous practice, the buyer must also arrange for customs clearance.

21. DDU (Delivered Duty Unpaid) (named point of destination): This arrangement is basically the same as with DDP, except for the fact that the buyer is responsible for the duty, fees and taxes.

22. DDP (Delivered Duty Paid) (named point): DDP terms tend to be used in inter-modal or courier-type shipments. Whereby, the shipper/seller is responsible for dealing with all the tasks involved in moving goods from the manufacturing plant to the buyer/consignee's door. It is the shipper/seller's responsibility to insure the goods and absorb all costs and risks including the payment of duty and fees.

23. The updated INCOTERM Matrix, defining the responsibility of Buyer/Seller/Shipper shall be adhered to.

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XX. RATE CONTRACT

1. Introduction: Items satisfying any one of following parameters may be considered for concluding a RC (i) available in the market ex-shelf or otherwise as per requirement of several users including Factories under AVNL (ii) required by several users on recurring basis and having clear specifications (ii) that are fast moving with short shelf life or storage constraints (iii) expected to have only marginal price fluctuation (if not stable prices) during the currency of the RC or price fluctuation may be captured through standard/Govt. price indices available on the web (iv) that take long gestation period to manufacture and for which there is only one source for manufacturing. RC can be concluded for direct/ indirect material including the allied services.

2. RC Definition: A Rate Contract (commonly known as RC) is an agreement between the purchaser and the supplier for supply of the specified goods (and allied services if any) at specified price and terms & conditions (as incorporated in the rate contract) during the currency of the contract. No quantity is mentioned nor is any minimum off-take guaranteed in a Rate Contract. The Rate Contract is in the nature of a standing offer from the supplier. The firm and (or) the purchaser is/ are entitled to withdraw/ cancel the Rate Contract by serving an appropriate notice on each other (not less than 30 days). However, once a supply order is placed on the supplier for supply of a definite quantity as per the terms of the rate contract during its validity, the supply order becomes a valid & binding contract and the supplier is bound to supply the ordered quantity.

3. AVNL Rate Contracts: AVNL may, where feasible, conclude RCs through OTE on a two bids system for stores of standard type that are identified as common user items and are needed on recurring basis by various AVNL Units.

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3.1 RCs can be finalized through LTE with PSUs in respect of items which are known to be manufactured only by them. AVNL or its Units may procure these items, as Direct Demanding Officer, under the RC concluded by AVNL.

3.2 The AVNL, on a case-to-case basis, may also specifically authorize its Units to conclude RCs under their delegated powers.

3.3 When RCs are concluded, the specifications, prices and other salient details of the rate contracted items shall be intimated for use by all units under AVNL.

3.4 The rate contract may normally be concluded for one year. However, if necessary, shorter or longer period, not exceeding five years, with PV clause, if feasible, can also be considered after recording the reasons for the decision.

3.5 As far as possible termination period of RC should be so fixed as to ensure that budgetary levies would not affect the price and thereby frustrate the contracts.

4. Competent Financial Authority: Assessed annual value of off-take plus 10% additional off-take, over the period of the rate contract, shall be considered for determining the level of CFA for conclusion of rate contract/ price agreement. The rate contract during its validity can be operated up to a maximum of 10% in excess of the assessed off-take. Any additional quantity is required to be approved by next higher CFA.

5. Estimate/Contract/ Requisition: A rate contract can be concluded based on the assessed annual requirements of various users under the authority processing an RC proposal. The contract concluding authority (AVNL or any Unit authorized by AVNL) shall obtain assessed annual requirement from all possible users duly approved by Unit Heads along with the detailed specifications.

6. Selection of Firms: Rate contracts should be normally concluded only with the registered firms based on their capacity assessment by the designated Registering/

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Inspecting Agency. In respect of unregistered firms bidding for Rate Contract for the first time, their technical and financial capabilities must be verified. Past performance of the firm shall be taken into account before finalizing the RC.

7. Price Negotiation: While concluding RC, it may be required to conduct price negotiations by the relevant TPC to obtain best value for money and confirm clearly the RC terms & conditions to avoid ambiguity and dispute at a later stage.

8. Conclusion of a RC: RC concluded will be signed for and on behalf of AVNL by the authority delegated powers to enter into RC or an officer authorized to sign financial documents on his behalf, after the approval of CFA.

9. Conclusion of Parallel RC: In case, it is observed that a single supplier does not have sufficient capacity to cater the entire demand of an item or where it is desirable to have a wider vendor base due to criticality of the items or required by more than one Units, in such cases parallel RCs with more than one firm at the same rate may be concluded. In order to ensure the vendor base intact, minimum order quantity may be prescribed in TE. RC may be concluded area/zone wise at the same rate, if vendors are available for various area/zone. The preferred choice of zone/area may also be asked from the vendors in TE. It is preferred to have more than one vendor in RCs due to multiple locations of AVNL Units. The CFA, based on the merit of each case, may decide the number of firms to be awarded RC for an item so that the DDO will have a wider choice. If the intention is to conclude parallel RC, the same shall be indicated in the tender documents. In all such cases, the proposal to distribute the order will be part of the tender, and the bidders other than L-1 have to match the L-1 price.

10. Operating RCs: Orders against a RC concluded by any authority may be placed on the terms & conditions of the RC by all Direct Demanding Officers. To facilitate such operation, a suitable provision should be made in the RCs.

11. Special Conditions Applicable for RC: Some conditions of rate contract differ from the usual conditions applicable for other contracts. Some such important special

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conditions of rate contract are: (i) Earnest Money Deposit is not applicable (ii) the Schedule of Requirement may indicate only the anticipated off-take without any commitment (iii) purchaser reserves the right to conclude more than one rate contract for the same item (iv) purchaser as well as the supplier may withdraw the rate contract by serving suitable notice (30 days notice period) to each other (v) purchaser has the option to renegotiate the price with the rate contract holders (vi) in case of emergency, the purchaser may purchase the same item through ad-hoc contract with a new supplier (vii) normally the terms of delivery in rate contracts are FOR, since the users are spread all over the country (viii) supply orders, incorporating definite quantity of goods to be supplied along with all other required conditions following the rate contract terms, are to be issued for obtaining supplies through the rate contract (ix) purchaser and the authorized users of the rate contract are entitled to place supply orders up to the last day of the validity of the rate contract and, though supplies against such supply orders will be effected beyond the validity period of the rate contract, all such supplies will be guided by the terms and conditions of the rate contract (x) the rate contract shall incorporate a Fall Clause.

12. Fall Clause: Fall clause is a price safety mechanism in rate contracts. The fall clause provides that if the rate contract holder reduces its price or sells or even offers to sell the rate contracted goods following conditions of sale similar to those of the rate contract, at a price lower than the rate contract price, to any PSUs, Govt or Govt. owned organization during the currency of the rate contract, the rate contract price will be automatically reduced with effect from that date for all the subsequent supplies under the rate contract and the rate contract amended accordingly. Other parallel rate contract holders, if any, are also to be given opportunity to reduce their price as well, by notifying the reduced price to them and giving them 15 (fifteen) days time to intimate their revised prices, if they so desire, in sealed cover to be opened in public on the specified date & time and further action taken as per standard procedure.

On many occasions, the parallel rate contract holders attempt to grab more orders by unethical means by announcing reduction of their price (after getting the rate contract) under the guise of Fall Clause. This situation is also to be dealt with in similar manner as mentioned earlier. It is, however, necessary that the purchaser keep special watch

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on the performance of such rate contract holders who reduce their prices on one pretext or other. If their performances are not up to the mark, appropriate action should be taken against them including de-registering them, suspending business dealing with them, terminating the contract, etc.

13. Performance Security: Depending on the assessed overall off-take against a rate contract and, also, assessed number of parallel rate contracts to be issued for an item, the authority concluding the RC (s) may consider obtaining performance security of reasonable amount from the RC holders. RC Firms should submit the Performance Security within 30 days of issue of RC Order, failing which order will be cancelled. In case of cancellation of RC, for the reason of any default, RC can be concluded with the next eligible firms (participated in the TE) for balance quantity at the same L1 rate. A suitable clause to this effect is to be incorporated in the tender enquiry documents. Performance Security shall, however, not be demanded in the supply orders issued by Units against rate contracts.

14. Renewal and Extension: It should be ensured that new rate contracts are made operative immediately after the expiry of the existing rate contracts without any gap. In case, however, it is not possible to conclude new rate contracts due to some reasons, timely steps are to be taken to extend the existing rate contracts with same terms, conditions etc. for a suitable period, with the consent of the rate contract holders. Rate contracts of the firms, which do not agree to such extension, are to be left out of consideration for renewal and extension. Period of such extension should generally not be more than three months. Also, while extending the existing rate contracts, it shall be ensured that the price trend is not downward, if so extension may be made provided the RC holder agrees to reduce the price commensurate with the drop in prices.

15. Termination and Revocation of RC: RC is in the nature of standing offer and a legal contract comes into being only when a supply order is placed by the CFA/ Direct Demanding Officers. Being just a standing offer, embodying various terms of the offer, the purchaser may revoke it at any time during its currency. However,

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reasonable opportunity shall be given to the supplier to represent against any revocation/ cancellation of RC.

16. Payment Terms: Standard Payment terms, as indicated below, should be incorporated in all Rate Contracts:

- i. Up to 95 % on receipt of stores at consignee's premises against despatch documents (provisional receipt and copy of Inspection Note). However, in case it becomes essential to despatch stores by train, 90% payment can be released against proof of despatch (copy of the RR and inspection note).
- ii. Balance on accounting of stores by the consignee.
- iii. Payment should be made by the paying authority within 21 working days from the date of receipt of bill, if the supporting documents meet paying authority requirement. Consolidated observations, if any should be forwarded within 10 working days by paying authority to the CFA.

17. Paying Authority: The units concerned will be the paying authority to make payment for such procurements.

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XXI. CONTRACT

1. Elementary Law: The principles of contract and the meaning of various legal terms used in contracts are contained in the Indian Contract Act (1872) read along with the Sale of Goods Act (1930). The law relating to redressal of disputes is laid down in the Arbitration and Conciliation (Amendment), Act 2015 No. 3 of 2016 published vide the Gazette of India Notification dated 01-01-2016. Some of the salient principles relating to contracts are set out briefly in this chapter. The government contracts (supply orders/ purchase orders are also basically contracts) are governed by the same laws which are applicable to contracts between private parties.

2. Contract: The proposal or bid or offer made by the supplier when accepted is a promise. A promise and every set of promises forming the consideration for each other is an agreement, and an agreement if made with free consent of parties competent to contract, for a lawful consideration and with a lawful object is a contract.

3. Proposal or Offer: When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of the other to such act or abstinence, he is said to make a proposal or offer. In a sale or purchase by tender, the tender signed by the bidder is the proposal. The invitation to tender and instructions to bidders do not constitute a proposal.

4. Acceptance of the Proposal: When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a promise.

5. Agreements are Contracts: An agreement is a contract enforceable by law when the following are satisfied: (i) competency of the Parties, (ii) freedom of consent of both Parties, (iii) lawfulness of consideration, and (iv) lawfulness of object. A defect affecting any of these renders a contract un-enforceable.



6. Competency of Parties: Under law any person who has attained majority and is of sound mind or not debarred by law to which he is subject, may enter into contracts. It, therefore, follows that minors and persons of unsound mind cannot enter into contracts nor can insolvent person do so.

7. Parties to the Contract: Categories of persons and bodies who can be parties to the contract may be broadly sub-divided as (i) Individuals (ii) Partnerships (iii) Limited Companies, and (iv) Corporations other than limited companies.

8. Contracts with Individuals: Individuals tender either in their own name or in the name and style of their business. If the tender is signed by any person other than the concerned individual, the authority of the person signing the tender on behalf of another must be verified and a proper power of attorney authorizing such person should be insisted on. In case, a tender is submitted in a business name, and if the business is a concern of an individual, the constitution of the business and the capacity of the individual should appear on the face of the contract and the tender signed by the individual himself as proprietor or by his duly authorized attorney.

9. Contracts with Partnerships: A partnership is an association of two or more individuals formed for the purpose of doing business jointly under a business name. It is also called a firm. It should be noted that a partnership is not a legal entity by itself, apart from the individuals constituting it. A partner is the implied authority to bind the firm in a contract coming in the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. While entering into a contract with partnership firm care should be taken to verify the existence of consent of all the partners to the arbitration agreement.

10. Contracts with Limited Companies: Companies are associations of individuals registered under Companies Act in which the liability of the members comprising the association is limited to the extent of the shares held by them in such companies. The company, after its incorporation or registration, is an artificial legal person, which has an existence quite distinct and separate from the members of shareholders comprising

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the same. A company is not empowered to enter into a contract for purposes not covered by its memorandum of association; any such agreement in excess of power entered into the company is void and cannot be enforced. Therefore, in cases of doubt, the company must be asked to produce its memorandum for verification or the position may be verified by an inspection of the memorandum from the office of the Registrar of Companies before entering into a contract. Normally, any one of the Directors of the company is empowered to present the company. Where tenders are signed by persons other than Directors or authorized Managing Agents, it may be necessary to examine if the person signing the tender is authorized by the company to enter into contracts on its behalf.

11. Corporation other than Limited Companies: Associations of individuals incorporated under statutes such as Trade Union Act, Co-operative Societies Act and Societies Registration Act are also artificial persons in the eye of law and are entitled to enter into such contracts as are authorized by their memorandum of association. If any contract has to be entered into with any one of such corporations or associations, the capacity of such associations to enter into contract should be verified and also the authority of the person coming forward to represent the said associations.

12. Consent of Both Parties: Two or more persons are said to consent when they agree upon the same thing in the same sense. When two persons dealing with each other have their minds directed to different objects or attach different meanings to the language which they use, there is no agreement. The misunderstanding which is incompatible with agreement may occur when (i) misunderstanding relates to the identity of the other party to the agreement (ii) it relates to the nature or terms of the transactions (iii) it relates to the subject matter of the agreement.

13. Free Consent of the Parties: The consent is said to be free when it is not caused by coercion, undue influence, fraud, misrepresentation or mistake. Consent is said to be so caused when it would not have been given but for the existence of coercion, undue influence, fraud, misrepresentation or mistake. When consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was caused. A party to a

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contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.

14. Consent given under Mistake: In case consent to an agreement has been given under a mistake, the position is slightly different. When both the parties to an agreement are under a mistake as to a matter essential to the agreement, the agreement is not voidable but void. When the mistake is unilateral on the part of one party only, the agreement is not void.

15. Mistake of Fact and Law: Distinction has also to be drawn between a mistake of fact and a mistake of law. A contract is not void because it was caused by a mistake as to any law in force in India but a mistake as to law not in force in India has the same effect as a mistake of fact.

16. Consideration: Consideration is something which is advantageous to the promisor or which is onerous or disadvantageous to the promisee. Inadequacy of consideration is, however, not a ground for avoiding the contract. But an act, forbearance or promise, which in contemplation of law has no value, is no consideration and likewise an act or a promise, which is illegal or impossible, has no value.

17. Lawfulness of Object: The consideration or object of an agreement is lawful, unless it is forbidden by law or is of such a nature that if permitted, it would defeat the provisions of any law, or is fraudulent or involves or implies injury to the fraudulent property of another or the court regards it as immoral or opposed to public policy. In each of these cases the consideration or object of an agreement is said to be unlawful.

18. Communication of an Offer or Proposal: The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made. A time is generally provided in the tender forms for submission of the tender. Purchaser is not bound to consider a tender, which is received beyond that time.

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19. Communication of Acceptance: A date is invariably fixed in tender forms up to which tenders are open for acceptance. A proposal or offer stands revoked by the lapse of time prescribed in such offer for its acceptance. If, therefore, in case it is not possible to decide a tender within the period of validity of the offer as originally made, the consent of the bidder firm should be obtained to keep the offer open for further period or periods.

20. Completion of Communication of Acceptance: The communication of an acceptance is complete as against the proposer or offerer, where it is put in the course of transmission to him, so as to be out of the power of the acceptor, and it is complete as against the acceptor when it comes to the knowledge of the proposer or offerer. The medium of communication in government contracts is generally by post and the acceptance is, therefore, complete as soon as it is posted. So that there might be no possibility of a dispute regarding the date of communication of acceptance, it should be sent to the correct address by some authentic foolproof mode like registered post acknowledgement due, etc.

21. Acceptance to be Identical with Proposal: If the terms of the tender or the tender, as revised, and modified, are not accepted or if the terms of the offer and the acceptance are not the same, the acceptance remains a mere counter offer and there is no concluded contract. It should, therefore, be ensured that the terms incorporated in the acceptance are not at variance with the offer or the tender and that none of the terms of the tender are left out. In case, uncertain terms are used by the bidders, clarifications should be obtained before such tenders are considered for acceptance. If it is considered that a counter offer should be made, such counter offer should be carefully drafted, as a contract is to take effect on acceptance thereof. If the subject matter of the contract is impossible of fulfillment or is in itself in violation of law such contract is void.

22. Withdrawal of an Offer or Proposal: A bidder firm, which is the proposer, may withdraw its offer at any time before its acceptance, even though the firm might have offered to keep the offer open for a specified period. It is equally open to the bidder to revise or modify his offer. Such withdrawal, revision or modification must reach the

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accepting authority before the date and time of opening of tender. No legal obligations arise out of such withdrawal or revision or modification of the offer as a simple offer is without a consideration. Where, however, a bidder agrees to keep his offer open for a specified period for a consideration, such offers cannot be withdrawn before the expiry of the specified date. This would be so where earnest money is deposited by the bidder in consideration of his being supplied the subsidiary contract and withdrawal of offer by the bidder before the specified period would entitle the purchaser to forfeit the earnest money.

23. Withdrawal of Acceptance: An acceptance can be withdrawn before such acceptance comes to the knowledge of the bidder. A telegraphic revocation of acceptance, which reaches the bidder before the letter of acceptance, will be a valid revocation.

24. Signing of Contracts: All defence contracts are in the name and on behalf of Head of Unit. However, the contract, after due approval of the CFA, may be signed by an officer, duly authorized by the CFA in writing. The specimen signature of such officer is to be sent to all concerned, including the paying and inspecting authorities. As for the contractor, the person signing the contract is deemed to have been authorized by the supplier.

25. Acceptance of the Contracts: Any contract, when not signed by both parties, namely the purchaser and the supplier, is deemed to come into force with the acceptance of the tender as per mutually agreed terms & conditions contained in the tender and the firm's offer. However, in the case of supply orders, the firm should check the supply order and convey acceptance of the same within seven days of receipt of the supply order. If such an acceptance or communication conveying their objection to certain parts of the contract is not received within the stipulated period, the supply order is deemed to have been fully accepted by the firm. In case of foreign contract, normally both parties sign the document thus conveying their acceptance of the contract.

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26. Stamping of Contracts: Under entry 5 of Schedule I of the Indian Stamp Act, an agreement or memorandum of agreement for or relating to the sale of goods/merchandise exclusively is exempt from payment of stamp duty.

27. Types of Contracts: Government contracts can be of many types depending on the nature of the item being procured, work to be executed, and services required to be rendered and support to be provided. The provisions contained in this Manual are applicable to the contracts for activities falling in the scope of this Manual. These will apply to all other types of revenue contracts. The general types of contract could be (i) purchase order for items of stores, spares or equipment (ii) rate contract (iii) price agreement (iv) service contract (v) annual maintenance contract/comprehensive maintenance contract (vi) consultancy contract (vii) development contract.

28. General Principles of Contracting: The following principles are laid down for the guidance of the authorities who have to enter into contracts or agreements involving expenditure from public funds (i) the terms of contract must be precise and definite, and there must be no room for ambiguity or misconstruction therein (ii) standard forms of contracts should be adopted, wherever possible, and the terms of the contract should be subjected to close prior scrutiny (iii) as far as possible and where mandated, particularly if standard format of contract is not to be adopted, legal and financial advice should be taken in drafting of contracts and before they are finally entered into (iv) the terms of a contract, once the contract is concluded, should not be materially varied without the previous consent of the authority competent to enter into the contract as so varied (v) no contract involving an uncertain or indefinite liability or any condition of an unusual character should be entered into without the previous consent of the competent financial authority (vi) Whenever practicable and advantageous, contracts should be placed only after tenders have been openly invited (vii) in selecting the tender to be accepted, the financial status of the individuals and firms tendering must be taken into consideration in addition to all other relevant factors (viii) even in those rare cases where a formal written contract is not made, no order for supplies, etc., should be placed without at least a written agreement as to the price (ix) adequate provision must be made in the contracts for safeguarding government property entrusted to the service provider.

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29. Changes/ Amendments to a Concluded Contract: No variation in the terms of a concluded contract should normally be made, unless the contract specifically provides for it, in which case this can be done with the specific written consent of the parties to the contract. Amendment to a contract already concluded may become essential in certain situations when either party to the contract requests for an amendment and the proposed amendment is acceptable to other party to the contract.

30. Enhancement in Rates: No enhancement in rates/ prices should be made unless the contract specifically provides for it. Such situations may arise in those cases where the contract provides for price variation clauses or the change is due to variation in GST/ Custom Duties/ other Government taxes & levies and the contract provides for payment of these duties on the basis of actual rates, provided the supplies are made during the original/ re-fixed /extended delivery period. Consultation with Finance in such cases would be required if the original contract was concluded with the concurrence of Finance or after increase in value, the contract falls within the delegated powers of the CFA, exercisable with the concurrence of Finance.

31. Liability on account of Taxes & Duties on Grant of Extension of Delivery Period: While granting extension of delivery period, any increase in the taxes and levies, may be payable.

32. Termination of a Concluded Contract: A contract may be terminated when (i) the supplier fails to honour any part of the contract including failure to deliver the contracted stores/render services in time (ii) the contractor 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 (iii) both parties mutually agree to terminate the contract (iv) the item offered by the supplier repeatedly fails in the inspection and/ or the supplier is not in a position to either rectify the defects or offer items conforming to the contracted quality standards (v) any special circumstances, which must be recorded to justify the cancellation or termination of a contract.

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33. Contract Effective Date: The contract effective date is normally the date on which the contract is signed by both the parties unless otherwise mutually agreed to and clearly indicated in the contract as per agreed terms and conditions.

34. Conditions of Contract: A contract is a legal document and must be governed by certain terms & conditions to protect the interest of both the parties to the contract. It is important that every purchase officer is not only familiar with each conditions of a contract, but that he is also able to take appropriate & timely action to safeguard the rights of the purchaser. It is also desirable that the conditions of a contract are practical, fair and just for both the purchaser and supplier. The conditions of contract become binding for both parties on signing/ acceptance of the mutually agreed contract.

35. General Conditions of Contract: In order to facilitate clear understanding of the conditions of contract, a set of general conditions of contract (GCC), generally applicable to all contracts, is formulated and made available to all firms at the time of registration itself. GCC may be published on the website also. The tender format contains reference to the GCC as well as special conditions of the contract (SCC) that the bidders would be required to abide by. The contract must also include the GCC as well as SCC specific to a particular case, as mentioned in the tender. The GCC and SCC of contract are included in the format of the tender as well as the supply order/ contract, respectively.

36. Special Conditions of Contract: Special conditions of contract (SCC) are supplementary conditions applicable to a specific tender and contract. Such conditions become essential particularly in cases of contract for supply of services or even equipment. Special conditions of contract can be included on case-to-case basis. In addition, there may be a need to stipulate conditions like stage inspection, acceptance trials, installation, setting to work, and commissioning or pre-defined stages of payment for services. Such conditions should be decided while processing the proposal for CFA's approval and mentioned in the tender as well as the contract/ supply order.

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37. Applicability of GCC to Supply Orders: The GCC and SCC of contract are applicable to supply orders also. Acceptance of supply order by the firm is essential to make the same as legally valid document.

38. Applicability of all Terms and Conditions: The formats of the tender and the contract agreement contain all the general and special conditions of contract. All the general terms & conditions and special conditions should invariably be mentioned in the tender and the contract. Minor changes in the text would be permissible, as long as such changes do not materially alter the context or import of the relevant article. The CFAs would be competent to take a decision in this regard in consultation with Finance, wherever such consultation is required for sanctioning the proposal. Legal opinion may be sought, if considered necessary, before making any such alteration. However, standard text of clause given in tender and supply order should not be altered without seeking legal opinion.

39. Amplification of the Terms and Conditions: The terms and conditions included in the specimen format of the tender and the contract are self-explanatory. However, some of the salient terms and conditions are also explained in the succeeding paragraphs for better understanding.

40. Effective Date: Normally, the date of signing of the contract will be the effective date of contract, except when specifically provided otherwise in the contract. Where specifically agreed to by the parties to the contract, effective date may be the date on which any or the last of the following conditions, as applicable, is complied with (i) furnishing of the Performance Bond in the form of PBG by the seller (ii) obtaining of the export license for supply of stores by the seller and a confirmation in writing sent to the buyer within specified days of signing of the contract (iii) receipt of Bank Guarantee for advance payment (iv) date of issue of the End User Certificate. The contract will be valid from the effective date till fulfillment of all contractual obligations by the parties to the contract.

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41. Arbitration: A tender being issued to Indian private firms should have an arbitration clause as per the Arbitration and Conciliation (Amendment), Act 2015 No. 3 of 2016 published vide the Gazette of India Notification dated 01-01-2016. All the arbitration should be completed and settled as per timelines given in the Act. A tender being issued to Indian Private Firms/Vendors should have an arbitration clause stating the following: "All disputes & differences arising out of or in any way touching or concerning this agreement (except those for which specific provision has been made therein) shall be referred to Sole Arbitrator to be appointed by CMD/AVNL-Chennai 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 matter to which this agreement relates and in course of his duties had not expressed views on all or any of the matter in dispute or differences. The Award of Sole Arbitrator shall be final and binding on the parties.

42. Appointment of Arbitrators through Court: There may be situations when either party approaches a court of law for appointing an independent arbitrator. Purchase Officers must consult the Legal Advisor and Government counsel in all cases of arbitration.

43. Settlement of Disputes: Considering the legal complications, cost involved in litigation and difficulties in enforcing legal awards, all efforts have to be made to settle disputes with overseas contractors through negotiations, especially in small value contracts. The sole-arbitration clauses as laid down in the general conditions of contract may not be accepted by foreign firms. Where necessary, as an alternative, provision may be made in the contract for arbitration by three Arbitrators, one each nominated by the purchaser and the supplier; and the third, who should not normally be a native of either India or the contractor's country to be chosen by these two Arbitrators. In case of disagreement between the two Arbitrators, the third Arbitrator may be left to be nominated by the Chairman of International Chamber of Commerce, Paris or similar prima-facie neutral and reputed institutions.

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44. Buy-back Offer: When the procurements are to replace an existing old item (s) with a new item(s), a suitable clause should be incorporated in the tender so that prospective and interested bidders may formulate their bids accordingly. Depending on the value and condition of the old item (s) to be traded, the time as well as the mode of handing over of the old items to the successful bidder should be decided and relevant details in this regard suitably incorporated in the tender. Suitable provision should also be made in the TE to enable the purchaser either to trade or not to trade the old item (s) while purchasing the new one (s).

45. Fall Clause: In cases where contracts have to be concluded with the firms, whose rate contract with any central procurement agencies has expired and renewal of RC has not taken place, a 'fall clause' should be incorporated in the supply order/ contract to the effect that during the currency of the supply order/contract, in case rates are found to be lower on conclusion of rate contract, the lower rates as in the rate contract shall be applicable.

46. Penalties: All contracts whether with domestic or foreign vendors will have provision for Suspension or Banning or debarment. The latest guidelines issued by MoD for penalties in business dealing with entities and the suitable procedure (SOP) for levy of financial penalties and/or suspension/banning of business dealings with entities promulgated by AVNL should be followed. Action may be taken by the Head of Department by issuing a show cause notice to the firm(s) and after due consideration of all relevant facts and circumstances of the case, an appropriate decision may be taken. The reasons for the decision should be duly recorded in detail. If the Head of Department is of the view that the gravity of misconduct justifies penal action involved more than one Unit, then the case shall be referred to AVNL for appropriate action by Competent Authority.

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XXII. CONSULTING SERVICES

1. Definition: "Consulting Service" means any subject matter of procurement (which as distinguished from 'Non- Consultancy Services' involves primarily non-physical project-specific, intellectual and procedural processes where outcomes/deliverables would vary from one consultant to another), other than goods or works, except those incidental or consequential to the service, and includes professional, intellectual, training and advisory services or any other service classified or declared as such by a procuring entity but does not include direct engagement of a retired Government servant [GFR-2017, Rule-177]

Note: These Services typically involve providing expert or strategic advice e.g., management consultants, policy consultants, communications consultants, Advisory and project related Consulting Services which include, feasibility studies, project management, engineering services, finance, accounting and taxation services, training and development etc.

2. Hiring of Consultancy: The Ministries or Departments or AVNL may hire external professionals, consultancy firms or consultants (referred to as consultant hereinafter) for a specific job, which is well defined in terms of content and time frame for its completion [GFR-2017, Rule-178].

3. Identification of Services required to be performed by Consultants: Engagement of consultants may be resorted to in situations requiring high quality services for which the concerned unit of AVNL or AVNL, as the case may be, does not have requisite expertise. Approval of the competent authority should be obtained before engaging consultant(s) [GFR-2017, Rule-180].

4. Preparation of scope of the required Consultant(s): The unit of AVNL/AVNL should prepare in simple and concise language the requirement, objectives and the scope of the assignment. The eligibility and pre-qualification criteria to be met by the consultants should also be clearly identified at this stage.

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5. Estimating Reasonable Expenditure: The unit of AVNL proposing to engage consultant(s) should estimate reasonable expenditure for the same by ascertaining the prevalent market conditions and consulting other organizations engaged in similar activities.

6. Identification of Likely Sources (Cost of Consultancy < 25 Lakhs) : Where the estimated cost of the consulting service is up to Rupees twenty-five lakhs, preparation of a long list of potential consultants may be done on the basis of formal or informal enquiries from other Ministries or Departments or Organizations involved in similar activities, Chambers of Commerce & Industry, Association of consultancy firms etc.

7. Identification of Likely Sources (Cost of Consultancy > 25 Lakhs) : Where the estimated cost of the consulting services is above Rupees twenty-five lakhs, in addition to above (6), an enquiry for seeking 'Expression of Interest' from consultants should be published on Central Public Procurement Portal (CPPP) at www.eprocure.gov.in and on GeM. An organization having its own website should also publish all its advertised tender enquiries on the website. Enquiry for seeking Expression of Interest should include in brief, the broad scope of work or service, inputs to be provided by the Ministry or Department, eligibility and the pre-qualification criteria to be met by the consultant(s) and consultant's past experience in similar work or service. The consultants may also be asked to send their comments on the objectives and scope of the work or service projected in the enquiry. Adequate time should be allowed for getting responses from interested consultants [GFR-2017, Rule-183].

8. Short Listing of Consultants: On the basis of responses received from the interested parties as per Rule 183 above, consultants meeting the requirements should be short listed for further consideration. The number of short listed consultants should not be less than three [GFR-2017, Rule-184].

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9. Preparation of Terms of Reference (TOR): The TOR should include (i) Precise statement of objectives. (ii) Outline of the tasks to be carried out. (iii) Schedule for completion of tasks. (iv) The support or inputs to be provided by the Ministry or Department to facilitate the consultancy. (v) The final outputs that will be required of the Consultant.

10. Preparation and Issue of Request for Proposal (RFP): RFP is the document to be used by the unit of AVNL for obtaining offers from the consultants for the required service. The RFP should be issued to the shortlisted consultants to seek their technical and financial proposals. The RFP should contain:

- i. A letter of Invitation
- ii. Information to Consultants regarding the procedure for submission of proposal.
- iii. Terms of Reference (TOR).
- iv. Eligibility and pre-qualification criteria in case the same has not been ascertained through Enquiry for Expression of Interest.
- v. List of key position whose Capacity Verification (CV) and experience would be evaluated.
- vi. Bid evaluation criteria and selection procedure.
- vii. Standard formats for technical and financial proposal.
- viii. Proposed contract terms.
- ix. Procedure proposed to be followed for midterm review of the progress of the work and review of the final draft report.

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11. Receipt and opening of proposals: Proposals should ordinarily be asked for from consultants in 'Two bid' system with technical and financial bids sealed separately. The bidder should put these two sealed envelopes in a bigger envelop duly sealed and submit the same to the indenting unit of AVNL by the specified date and time at the specified place. On receipt, the technical proposals should be opened first by the unit at the specified date, time and place.

12. Late Bids: Late bids i.e. bids received after the specified date and time of receipt should not be considered [GFR-2017, Rule-188].

13. Evaluation of Technical Bids: Technical bids should be analyzed and evaluated by a Consultancy Evaluation Committee (CEC) constituted by the indenting unit/AVNL. The CEC shall record in detail the reasons for acceptance or rejection of the technical proposals analyzed and evaluated by it.

14. Evaluation of Financial Bids of the Technically Qualified Bidders: The Unit/AVNL shall open the financial bids of only those bidders who have been declared technically qualified by the Consultancy Evaluation Committee as per above for further analysis or evaluation and ranking and selecting the successful bidder for placement of the consultancy contract.

15. Quality and Cost Based Selection (QCBS): QCBS may be used for Procurement of consultancy services, where quality of consultancy is of prime concern [GFR-2017, Rule-192].

- i. In QCBS initially the quality of technical proposals is scored as per criteria announced in the RFP. Only those responsive proposals that have achieved at least minimum specified qualifying score in quality of technical proposal are considered further.
- ii. After opening and scoring, the Financial proposals of responsive technically qualified bidders, a final combined score is arrived at by giving predefined



relative weightages for the score of quality of the technical proposal and the score of financial proposal.

- iii. The RFP shall specify the minimum qualifying score for the quality of technical proposal and also the relative weightages to be given to the quality and cost (determined for each case depending on the relative importance of quality vis-a-vis cost aspects in the assignment, e.g. 70:30, 60:40, 50:50 etc). The proposal with the highest weighted combined score (quality and cost) shall be selected.
- iv. The weightage of the technical parameters i.e. non- financial parameters in no case should exceed 80 percent.

16. Least Cost System (LCS): LCS is appropriate for assignments of a standard or routine nature (such as audits and engineering design of non-complex works) where well established methodologies, practices and standards exist. Unlike QCBS, there is no weightage for Technical score in the final evaluation and the responsive technically qualified proposal with the lowest evaluated cost shall be selected.

17. Single Source Selection/Consultancy by Nomination: The selection by direct negotiation/nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:

- i. Tasks that represent a natural continuation of previous work carried out by the firm;
- ii. In case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance;
- iii. Situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.
- iv. Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source

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selection in the context of the overall interest of the Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.

- v. It shall ensure fairness and equity, and shall have a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature; and the required consultancy services are not split into smaller sized procurement.

18. Monitoring the Contract: The Department should be involved throughout in the conduct of consultancy, preferably by taking a task force approach and continuously monitoring the performance of the consultant(s) so that the output of the consultancy is in line with the Department's objectives.

19. Public Competition for Design of Symbols/Logos: Design competition should be conducted in a transparent, fair and objective manner. Wide publicity should be given to the competition so as to ensure that the information is accessible to all possible participants in the competition. This should include publication on the website of Department concerned, as also the Central Public Procurement Portal. If the selection has been by a jury of experts nominated for the purpose, the composition of the jury may also be notified.

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XXIII. GUIDELINE FOR PROCURMENT UNDER MAKE-II

1. Introduction: The 'Make' procedure for indigenous design, development and manufacture of defense equipment/ weapon systems derives its genesis from DAP-2020 (Chapter-III). Subsequently, a simplified procedure for sub-category 'Make-II' was notified with an objective of wider participation of Indian industry, impetus for MSME/start-ups sector, simplified implementation, and timely induction of equipment into the Indian Armed Forces. In this subcategory, no AVNL funding is envisaged for sample development purposes but has assurance of orders on successful development and trials of the sample. Number of industry friendly provisions such as relaxation of eligibility criterion, minimal documentation, provision for considering proposals suggested Suo-moto by industry etc., have been introduced in the Make-II Procedure. With the emerging dynamism of private sector and with the aim of achieving substantive self-reliance in defense production/manufacturing, it is imperative that AVNL should harness the potential of private sector by implementing Make-II procedure at every level for indigenously developing parts/products. Successful development under this framework would result in procurement, from successful suppliers, as per Purchase Manual of AVNL, by inviting commercial bids which is to be submitted prior to Commencement of Trials. The requirement of local content for sample development and subsequent procurement phase shall be in sync with the requirement stipulated in 'Buy (Indian-IDDm)' category of DAP-2020.

2. Scope: The projects under this framework will involve sample development of sub-systems/sub-assembly/assemblies/components/material, primarily for import substitution/innovative solutions, for which no funding will be provided by AVNL for sample development purposes. Projects with estimated cost of sample development phase not exceeding Rs 50 Lakhs will be earmarked for MSMEs/Startups. However, if no MSME /Startup expresses interest for such proposal, the same may be opened up for all.

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3. Development Process steps: The development & procurement process under this scheme would involve the following functions:

- i. Formulation of Proposal by Indigenization Committee (IC).
- ii. Approval of proposal by Competent Authority.
- iii. Issue of Expression of Interest (EoI).
- iv. Evaluation of EoI responses.
- v. Award of Purchase order (Project Sanction Order)
- vi. Design and Development of sample/prototype
- vii. Solicitation of Commercial Offer
- viii. Trials & evaluation of sample/prototype
- ix. Techno Commercial discussions/negotiation
- x. Award of Procurement Contract

4. Formulation of Proposal: Based on the Indigenization plan of the AVNL Unit, each Division Planning along with R&D will identify the potential Make-II projects. An Indigenization Committee shall be constituted at each Division consisting of members from Production, Quality, Finance, Procurement, Planning, R&D, etc, as required) for this purpose. List of items shall be hosted on AVNL/ Make in India websites, along with item details, inviting the willingness of Industry to participate in the aforesaid potential projects.

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5. Approval of proposal: Indigenization Committee (IC) will formulate the proposal indicating the quantities required, estimated project cost (Cost of development of sample and cost of subsequent procurement) and technical specifications/preliminary specifications. In Case technical specifications are not known, the same will be formulated by Indigenization Committee. The quantities for the subsequent procurement will be structured around following considerations:

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- i. Visibility of orders.
- ii. Economic viability.

5.1 Approval for the proposal shall be obtained from Competent Authority for quantities required, Estimated Project Cost (Cost of development of sample and cost of subsequent procurement) & Technical/Preliminary specifications. Following would be highlighted while seeking approval: -

- I. Estimated development cost & procurement cost.
- II. Quantities required post the successful development of sample.
- III. Acceptability of Multiple Technological Solutions, if any.
- IV. Single vendor situation for cases where an innovative solution has been offered by an individual or a firm.

5.2 Approving authority for the same will be Unit Head-up to Rs 5 Cr and Director Operation- Cases beyond Rs 5 Cr.

- i. Approval for proposals will be valid for six months. For cases where EoI is not issued within six months from accord of approval, Head of the Unit will re-validate the approval after due justification by IC.

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- ii. Indigenization Committee shall, inter-alia, carry out the important functions such as (a) Preparing and issue of EOI, (b) Receipt & evaluation of EOI responses, (c) Issue of Purchase order (d) Monitoring and reporting of aspects relating to sample development including generation of Intellectual Property, and (e) Any other responsibilities as entrusted by the Head on the Unit

6. Issue of EoI: Indigenization Committee (IC) shall get the EoI hosted in AVNL / Make in India Website, inviting Company (ies) to participate in development process. The EoI will contain the following:

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- i. Technical specifications/ Preliminary specifications.
- ii. Scope of the item including number of samples required.
- iii. Time frames and critical activities.
- iv. Cost sharing mechanism for trials may be specified with the objective to facilitate the development process.
- v. List of trials/items/facilities/consumables that will be provided free of cost and also specify 'number of times' such free trials will be allowed.
- vi. Quantities required for next known no of years (Based on market condition).
- vii. Acceptability of Multiple Technological Solutions, if any and splitting of procurement quantities between L-1 & L-2.
- viii. Details of Evaluation Criteria for assessment of EOI response.

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7. Evaluation of EoI responses: Responses to EoI shall be evaluated as per criteria given in EoI and shall be approved by the Competent Authority. All the shortlisted companies will be called suppliers.

7.1 Project shall be progressed ahead, even if only one EoI respondent is found meeting the evaluation criteria subject to approval of Indigenization Committee.

7.2 Purchase order with 'Nil' financial implications shall be issued after obtaining approval of the competent authority as per DoFP.

8. Time Overrun: The approval of extension of timelines for any 'Make-II' project may be accorded by Competent Authority, on recommendations of Indigenization Committee IC. In case, only one vendor has offered the sample within timelines stipulated in the Purchase Order, the other suppliers will not be accorded more than two time-extensions, and thereafter, the case will be progressed as resultant Single Vendor.

9. Design and Development of Samples/Prototypes: Indigenisation Committee (IC) will act as the primary interface for suppliers during the design and development stage and will facilitate the following:

- i. Provision of requisite professional inputs/documentation/samples to suppliers (Samples may be provided against Bank Guarantee).
- ii. Providing clarifications related to functional or operational aspects of the item / equipment.
- iii. Coordinate trials including provisioning of trial range/test facilities/consumables, etc., as mentioned in the EoI.

10. Solicitation of Commercial offers: Request for Quotation (RFQ) for 'Procurement phase', as per their extant procedure, will be issued for submission of their commercial offer prior to commencement of trials. The quantities in

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Procurement phase cannot be reduced from the quantities indicated in EoI issued for the sample development phase.

11. User Trials & evaluation: User trials would be carried out by AVNL/Units to validate the performance of the sample offered by suppliers. Projects, where sample of only a single firm/individual clears the trials, shall be progressed as a resultant single vendor.

12. Techno Commercial discussions The Estimated Project cost at the time of approval, will be calculated on the basis of last purchase price of the imported item being substituted. The techno commercial discussions to be carried out and all processes from opening of commercial bids till conclusion of contract to be done by Commercial Negotiation Committee (CNC). Negotiations in case of multi-vendor projects having procurement cost less than Rs 25 crore shall be carried out only in special circumstances with reasons to be recorded. However, Commercial Negotiation Committee (CNC) will carry out negotiations for all single vendor cases, other than resultant single vendor, irrespective of value of the project. The products which are being developed under 'Make-II' as an import substitute and their prices are known, no bench-marking & no negotiation will be carried out, even in single vendor cases, if the offered price is lower than Import cost by 20% on case to case basis. However, in such cases, the Competent Financial Authority (CFA) will satisfy himself/herself that the price of the selected offer is reasonable with respect to the approved cost and consistent with the quality required. After techno commercial discussion, the extant procurement procedure of AVNL would be followed and the Purchase Order would be signed as per DoFP. The Integrity Pact shall also be signed with supplier along with Non disclosure agreement and Non competitive agreement.

13. Multiple technological solutions: In cases involving large quantities and where multiple technological solutions are acceptable, an option may be provided in the EoI and subsequently in the Commercial RFQ for the 'procurement' phase for procurement of specified quantities (in the ratio of 60:40) from L-2 vendor who have successfully developed the product sample, on the condition that this second vendor

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accepts the price and terms & conditions quoted by the L-1 vendor. In case, multiple technological solutions are not acceptable, the successful other vendors will be issued a certificate indicating that the product has been successfully trial evaluated, to facilitate such vendors to explore other markets and remain in the production of the product.

14. Intellectual Property Rights (IPRs): Supplier or Development Agency (DA) and AVNL shall be the co-owner of IPR generated during development of project. And each of the co-owner will have independent right to exploit the IP rights, to its own benefit, without the consent of co-owner.

15. Review and Monitoring: The progress of the item would be monitored by Indigenization Committee (IC) on regular basis. Review of the projects shall be carried out on Quarterly basis at Corporate of Office and/or at Unit and Quarterly Report shall be prepared.

16. Foreclosure: No Foreclosure of the Project will be done after issue of Purchase Order other than for reasons of default/ non-adherence to Purchase order by Supplier. However, if rates quoted by the Supplier in procurement phase are found to be abnormally high, AVNL will reserve the right to foreclose the procurement process. All deviations on matters concerned with 'Make-II' cases not covered under this framework, shall require prior approval of CMD. Any grievance during the process shall be redressed as per laid down procedure in Purchase Manual of AVNL.

17. Eligibility Criteria: All entities (except Start-Ups & MSMEs) satisfying all of the following criteria shall be considered as an eligible 'Indian Vendor' for evaluation of EoI by Indigenization Committee:-

- i. Public limited company, private limited company, partnership firms, limited liability partnership, one Person Company, sole proprietorship registered as per applicable Indian laws. In addition, such entity shall also possess or be in the process of acquiring a license/development of products if the product under project requires license as per DIPP's licensing policy.

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- ii. The entity has to be owned and controlled by resident Indian citizens; entity with excess of 49% foreign investment will not be eligible to take part in Make-II.

18. Criteria for Startups/MSMEs: Eligibility criteria for Start-Ups & MSMEs are as under:

- i. Startups recognized by Department of Industrial Policy & Promotion (DIPP) under the eligible Domain / Category shall be eligible to participate.
- ii. For projects with estimated cost of prototype development phase not exceeding Rs. 2 Cr and Procurement Cost not exceeding Rs.10 Cr, no separate technical financial criteria be defined for both 'Startups' and 'MSMEs', to encourage their participation.

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XXIV. PREFERENCE TO MAKE-IN-INDIA

1. Introduction: Department for Promotion of Industry and Internal Trade, in partial modification (Paras 2, 3, 5, 9(a), 9(b) and 10(b) modified and Para 3A added) of Order No.P-45021/2/2017-B.E.II dated 15.6.2017 as amended by Order No.45021/2/2017-B.E.II dated 28.5.2018 and order No.P-45021/2/2017-B.E.-II dated 29.5.2019, hereby issues the revised 'Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 effective with immediate effect. The essence of the policy is given below:

Whereas it is the policy of Government of India to encourage 'Make in India' and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them,

2. Definitions: For the purposes of this Order:

2.1 Local content: Means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

2.2 Class-I Local supplier : Means a supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under this order.

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2.3 Class-II Local Supplier: Means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under this Order.

2.4 Non-Local supplier : Means a supplier or service provider, whose goods, services or works offered for procurement has local content less than or equal to 20%, as defined under this Order.

2.5 L-1: means the lower tender or lowest bid or the lowest quotation received in a tender bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.

2.6 Margin of purchase preference: Means the maximum extent to which the price quoted by a 'Class-I local supplier' may be above the L-1 for the purpose of purchase preference.

2.7 Nodal Ministry: Means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

2.8 Procuring entity: Means a Ministry or department or attached subordinate office of, or autonomous body controlled by the Government of India and includes Government companies as defined in the Companies Act.

2.9 Works: Means all works as per Rule 130 of GFR-2017, and will also include 'turnkey works'.

3. Eligibility: Eligibility of Class-I local supplier/ Class-II local supplier/Non-local suppliers for different types of procurement.

3.1 In procurement of all goods, services of works in respect of which the Nodal Ministry / Department has communicated that there is sufficient local capacity and local competition, only Class-I local supplier, as defined under the Order, shall be eligible to bid irrespective of purchase value.

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3.2 In procurement of all goods, services of works, not covered by sub-para 3.1 above, and with estimated value of purchases less than Rs.200 Crore, in accordance with Rule 161(iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure. Only 'Class-I local supplier' and 'Class-II local supplier', as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local supplier'.

3.3 For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

4. Purchase Preference:

4.1 Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified here under.

4.2 In the procurements of goods or works, which are covered by para 3.2 above and which are divisible in nature, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i.** Among all qualified bids, the lowest bid will be termed as L-1, If L-1 is 'Class-I local supplier', the contract for full quantity will be awarded to L-1.
- ii.** If L-1 bid is not a 'Class-I local supplier', 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the L-1 price for the remaining 50% quantity subject to

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the Class – I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L-1 price. In case such lowest eligible 'Class-I local supplier' fails to match the L-1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the L-1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L-1 bidder.

4.3 In the procurement of goods or works, which are covered by para 3.2 above and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

- i. Among all qualified bids, the lowest bid will be termed as L-1. If L-1 is 'Class-I local supplier', the contract will be awarded to L-1.
- ii. If L1 is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the L-1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L-1 price.
- iii. In case such lowest eligible 'Class –I local supplier' fails to match the L-1 price. The 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L-1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L-1 price, the contract may be awarded to the L-1 bidder.

4.4 'Class –II local supplier' will not get purchase preference in any procurement undertaken by procuring entities.

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5. Exemption of small purchases: Notwithstanding anything contained in paragraph 3 & 4, procurement where the estimated value to be procured is less than Rs.5 lakhs shall be exempt from this order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this order.

6. Minimum local content: The local content requirement to categorize a supplier as 'Class-I local supplier'/ 'Class-II local supplier'/ 'Non-local supplier' shall be as defined in the Para 2 of this Chapter. No change is permissible on this account. However, if any nodal Ministry/Department finds that for any particular item, pertaining to their nodal ministry/department, the definition of Local Content, as defined in the Order, is not workable/ has limitations, it may notify alternate suitable mechanism for calculation of local content for that particular item.

7. Margin of Purchase Preference: The margin of purchase preference shall be 20%.

8. Requirement for specification in advance: The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

9. Government E-marketplace: In respect of procurement through the Government E-marketplace (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

10. Verification of local content:

10.1 The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for 'Class-I local supplier'/ 'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.

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10.2 In cases of procurement for the value in excess of Rs.10 crores, the 'Class-I local supplier'/ 'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of supplier other than companies) giving the percentage of local content.

10.3 Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.

10.4 Nodal Ministries may constitute committees with internal and external experts for independent verification of self-declarations and auditor's/accountant's certificates on random basis and in the case of complaints.

10.5 Nodal Ministries and procuring entities may prescribe fees for such complaints.

10.6 False declarations will be in breach of the Code of Integrity under Rule 175 (1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151(iii) of the General Financial Rules along with such other actions as may be permissible under law.

10.7 A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 10.8 below.

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10.8 The Department of Expenditure shall issue suitable instructions for the effective and smooth operation of this process, so that:

- i. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member-Convenor of the Standing Committee and the Department of Expenditure through the concerned Ministry/ Department or in some other manner.
- ii. On a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s).
- iii. In respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in such a manner that ongoing procurements are not disrupted.

11. Specifications in Tenders and other procurement solicitations:

- a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.
- b. Procuring entities shall endeavour to see that eligibility conditions, including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of local suppliers who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
- c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.

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- d. If a Nodal Ministry is satisfied that Indian suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign procurement, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and / or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.
- e. For the purpose of sub-paragraph 10 d above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or (ii) a majority of its shareholding or effective control of the entity is exercised from that country; or (iii) more than 50% of the total value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.” 204

12. Assessment of supply base by Nodal Ministries: The Nodal Ministry shall keep in view the domestic manufacturing / supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this Order.

13. Increase in minimum local content: The Nodal Ministry may annually review the local content requirements with a view to increasing them, subject to availability of sufficient local competition with adequate quality.

14. Manufacture under license / technology collaboration agreements with phased indigenization: While notifying the minimum local content, Nodal Ministries may make special provisions for exempting suppliers from meeting the stipulated local content if the product is being manufactured in India under a license from a foreign manufacturer who holds intellectual property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacture of a product developed abroad with clear phasing of increase of local content.



15. Powers to grant exemption and to reduce minimum local content: Ministries / Departments of Government of India and Board of Directors of Government companies or autonomous bodies may, by written order,

- a. reduce the minimum local content below the prescribed level;
- b. reduce the margin of purchase preference below 20%;
- c. exempt any particular item or procuring or supplying entities or class or classes of items or procuring or supplying entities from the operation of this Order or any part of the Order.

A copy of every such order shall be marked to the Member-Convenor of the Standing Committee constituted under this Order.

16. Directions to Government companies: In respect of Government companies and other procuring entities not governed by the General Financial Rules, the administrative Ministry or Department shall issue policy directions requiring compliance with this Order.

17. Standing Committee: A standing committee is hereby constituted with the following membership:

Secretary, Department of Industrial Policy and Promotion – Chairman

Secretary, Commerce – Member

Secretary, Ministry of Electronics and Information Technology – Member

Joint Secretary (Public Procurement), Department of Expenditure – Member

Joint Secretary (DIPP) - Member Convenor.

The Secretary of the Department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may co-opt technical experts as relevant to any issue or class of issue under its consideration.

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18. Functions of the Standing Committee: The Standing Committee shall meet as often as necessary but not less than once in six months. The Committee

- a. shall oversee the implementation of this order and issues arising therefrom, and make recommendations to Nodal Ministries and procuring entities.
- b. shall annually assess and periodically monitor compliance with this order.
- c. Shall identify Nodal Ministries and the allocation of items among them for issue of notifications on minimum local content
- d. may require furnishing of details or returns regarding compliance with this Order and related matters
- e. may, during the annual review or otherwise, assess issues, if any, where it is felt that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures.
- f. may examine cases covered by paragraph 13 above relating to manufacture under license / technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the underlying objective of progressive indigenization.
- g. May consider any other issue relating to this Order which may arise.

19. Removal of difficulties: Ministries/Departments and the Board of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this Order.

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20. Ministries having existing policies: Where any Ministry or Department has its own policy for preference to local content approved by the Cabinet after 1st January 2015, such policies will prevail over the provisions of this Order. All other existing orders on preference to local content shall be reviewed by the Nodal Ministries and revised as needed to conform to this Order, within two months of the issue of this Order.

21. Transitional provision: This Order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before the issue of this Order.

22. Implementation: AVNL & all its units shall abide by the Public Procurement (Preference to Make in India), Order 2017 dated 04.06.2020 (or amended from time to time).

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XXV. CARS

1. Generation and Approval of Research Service Qualitative Requirement (RSQR): The requirement for acquisition for research services will be raised through a statement of case, internal to Unit/ODC, by those who need that service. The requirement shall be in the form of a Research Service Qualitative Requirement (RSQR). The RSQR will be approved by Head of Unit/ODC.

2. Solicitation of offers for provision of Research Services Provider (RSP) : The approved RSQR will be sent to potential providers of research services (IITs/NITs/Govt Educational Institutions/Private Educational Institutions/Govt Labs/DRDO/Private Research Institutions/Private Industry having R&D Lab), as identified by the approver of the RSQR, and formal offers solicited from them. To ensure continuity of work which is expected to last more than eighteen (18) months, RSPs should be asked to identify at least two key personnel who will be engaged in the work. The selection of RSP (Govt. Institution/Private Institution) and associated financial authority shall be governed by the DoFP.

2.1 The task of identifying the potential providers of research services is exclusively matter of technical judgment alone based on the knowledge and experience of the approver of the RSQR. This judgment will be exercised by the approver in the light, inter alia, of previous experience with pedigree of intellectual resources of, uniqueness of facilities and quality and technical merit of research personnel available at the institution(s) solicited to provide the research service.

2.2 The offers of provision of research services, and their revisions, from such solicited RSPs shall be made by them in the standard format.

2.3 The validity of an Offer from an academic institution for the provision of research services shall not be invalidated merely on account of the date of its receipt by Unit/ODC.

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3. Selection and nomination of RSP: Selection and nomination of RSP based on the offer made by each potential Research Service Provider (RSP) will be made by the competent authority. Reasons for nomination will be recorded on the file.

4. Placement of Contract for Acquisition of Research Services (CARS): The Contract for Acquisition of Research Services shall be placed by the Unit/ODC on the nominated RSP, following acceptance of its Offer by the competent authority.

5. Acceptance of CARS by Academic Institution: The Contract for Acquisition of Research Services as placed by the Unit/ODC on the institution, shall be deemed accepted by the Institution when a copy of Contract for Acquisition of Research Services is returned to issuing Unit/ODC by the RSP, signed by the latter's competent authority.

6. Amendments to Contract for Acquisition of Research Services: Normally, a need for financial amendments to Contract for Acquisition of Research Services should not arise. However, such amendments can be made in cases in which unforeseen circumstances/events predicate additional expenditure. Approval of such amendments shall be put up by the approver of RSQR to the next higher competent authority with justification for approval.

- i. All amendments to Contract for Acquisition of Research Services shall be in the specified format.
- ii. All amendments to Contract for Acquisition of Research Services shall be authorized by CA (Competent Authority), except that amendments resulting in an increase in the Total Financial Commitment shall require the approval as per 6 (above) to accept an Offer.

7. Financial provisions in Contract for Acquisition of Research Services:

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7.1 Advances, work-in progress and schedule of payments:

- i.** The Unit/ODC may make payments of advances and/or make progress payments for executing the contract. Such payments shall be made against the Contract for Acquisition of Research Services and after certification by the cognizant Financial Authority of the RSP that the money already released against previous demands have been utilized for the purposes for which they were provided.
- ii.** Advances or progress payments are interim payments, which shall be deducted from the total sums due to the research provider institution.
- iii.** Except with the specific written pre-agreement of the Unit/ODC, the research provider institution shall not use for any purposes other than those specified in the Contract for Acquisition of Research Services, any material or services for which advances or progress payments have been made.

7.2 Financial Guarantee: Provisions are as under:

- i.** No bank or other financial guarantees are the requirement for Contract for Acquisition of Research Services.
- ii.** For Work whose estimated time for completion is six (6) months or less, the RSP shall submit only those reports as relate to the purchase of equipment by the RSP, within thirty (30) days of such purchase.
- iii.** For Contract for Acquisition of Research Services in which the estimated time for submission of the final report is more than six (6) months, the research provider institution shall provide the Unit/ODC, not later than thirty (30) days after end of each half-yearly financial statement showing the actual expenditure incurred, against each of the entries in the CARS, for the execution of the contract up to the end of the preceding half-year.

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iv. Books of accounts pertinent to each Contract for Acquisition of Research Services shall be maintained separately by the RSP and those shall be open to the Unit/ODC. The Unit/ODC, or other authority specified by them, may inspect all such books, bills, vouchers and other financial records at any time until the accounts relating to the Contract for Acquisition of Research Services are settled. The research service provider shall supply the Unit/ODC with such financial documents as are necessary for final settlement of claims, without explicit request by the Unit/ODC, within three (3) months after submission of the final report.

8. Delivery schedule: The outcome of the contract (invariably a set of reports/documents/records in hard-copy or machine-readable form/sub-systems etc) shall be delivered at the time or times, and in the manner, specified in the contract.

8.1 The research provider institution shall inform the Unit/ODC promptly of any occurrence that is likely to cause delay in delivery of contracted outcomes. The Unit /ODC shall determine, in the light of circumstances reported, the extent of change(s) required in the delivery schedule of the contract.

8.2 The above covers only unexpected technical difficulties, gross delays in deliveries by suppliers of purchased equipment or consumables, illness or other justifiable cause of unavailability of research personnel and similar unforeseen circumstances.

8.3 An extension of the time limit for execution of the contract, or as a postponement of delivery, shall require the explicit approval of the Competent Authority who has approved the contract.

9. Short-closure of Contract for Acquisition of Research Services : The Contract for Acquisition of Research Services may be short-closed at any time during the currency of its execution if the Unit/ODC feels that no useful purpose will be served by continuing the implementation of contract for Acquisition of Research Services. The short-closure of Contract for Acquisition of Research Services will be approved by the AVNL after receiving justification for the same recorded in the file. This is to

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be put up by the Competent Authority who has approved the contract in form of a Board Paper. The short-closure will be deemed to be effective from the day the short-closure order is received by the institution. Subsequent to this short-closure the RSP will submit a technical report on the work done till short-closure. The amount (Rs) left unspent on the date of receipt of short-closure order by the RSP shall be returned to Unit/ODC. All equipment and unused consumables acquired out of contract amount shall also be returned to Unit/ODC. The Unit/ODC will ensure delivery of any short-closure order to the institutions (with a copy to the investigator(s) within ten (10) working days of the decision to short-close by AVNL Board.

10. Reports:

- i. Reports giving details of the progress of the work shall be sent to the Unit/ODC at intervals as specified in the conditions of the contract.
- ii. On completion of the contract, the RSP will submit a final report (Contractor Report).
- iii. All reports shall be in a format conforming to Indian Standard IS : 1064-1980, bound with Bibliography Description sheet conforming to IS : 9400-1980.

11. Ownership of Intellectual Property: The ownership of intellectual property, whether or not legally protected (e.g. by patent), generated by research performed under a Contract for Acquisition of Research Services shall vest in AVNL. Notwithstanding above, all documents and information detailing the technical performance of Contract for Acquisition of Research Services (including pertinent laboratory notebooks, sketches, photographs, video tapes of experiments, electronic data acquisition records and other similar) shall be the property of AVNL, whether or not in the physical possession of AVNL.

12. Disclosure and use of information by the research provider institution: The research provider institution will ensure that the documents supplied by the Unit/ODC are not disclosed to any person other than a person authorized by the Unit/ODC. Any

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pattern, sample or information supplied by Unit/ODC to the RSP in documentary or other physical form is the property of the Unit/ODC and shall be returned to the Unit/ODC after execution of the contract, unless their disposal is otherwise provided for in the Specific

13. Publicity relating to contracts: The existence of the contracts or the status of their execution shall not be published by the RSP in the media or in its Periodic/ Annual Report except with the written consent of Unit/AVNL.

14. Communications: All communications affecting the performance of the contract, or its terms and conditions, shall be contractually valid only when confirmed by formal amendments to Contract for Acquisition of Research Services made by the original signatories to the contract.

15. Compliance with Law: Notwithstanding anything contained in a Contract for Acquisition of Research Services, the RSP shall be solely responsible for complying with all laws in force in India.

16. Settlement of disputes: All disputes relating to a Contract for Acquisition of Research Services shall be settled mutually between the RSP and agency placing the Contract for Acquisition of Research Services. Any remaining unresolved disputes shall be referred to CMD/AVNL or his authorized representative.

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XXVI. ARBITRATION

1. Introduction: Arbitration is a procedure wherein a dispute is submitted by an agreement between parties, to one or more arbitrators who make a binding decision on the dispute. In choosing arbitration, parties opt for a private settlement procedure instead of going to court directly. It is governed by the Arbitration and Conciliation Act, 1996. The principal characteristics of arbitration are:

- i. Arbitration is consensual - Arbitration can only take place if both parties have agreed to it. In case a dispute arises, parties can incorporate an arbitration clause in the relevant contract. An existing dispute can be referred to arbitration by means of a submission agreement between the parties.
- ii. The parties choose an arbitrator - The parties appoint a sole arbitrator together. In choosing a three member arbitral tribunal, each party appoints one arbitrator, and the two arbitrators will appoint a presiding arbitrator.
- iii. Arbitration is neutral - In addition to appointment of arbitrators, parties are also free to choose important elements like applicable law, language and venue of the arbitration.
- iv. The decision of arbitral tribunal is final and binding upon both parties.

2. Arbitration-A Mechanism: Arbitration and Conciliation is a widely recognized alternative dispute mechanism. It is an alternative to litigation before Courts of law and is given binding sanctity by statutory enactments. The process of arbitration exists as a parallel system of dispute resolution with the established judicial process. It is squarely based on consent and written agreement between parties. The objective of arbitration is to provide fair and impartial resolution of disputes without causing unnecessary delay. With due regard to advantages of arbitration, it is considered as an ideal method for speedy disposal of cases and has proved to be effective in commercial disputes. It is pertinent to mention that arbitrators in principle have more

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flexible schedules than judges and have greater control over the process and schedule. As a result of this, arbitrators are expected to spend more time on a case than judges. This is valuable in complex matters and will result in better decisions. In addition to this, arbitration is a less formal dispute resolution as opposed to litigation which is more adversarial and time consuming. Therefore, in terms of convenience, arbitration has proved to be an useful tool for settling disputes in an amicable manner.

3. Category of Arbitration: Arbitration can be classified into two categories :

- i. **Ad-Hoc Arbitration:** In this category of arbitration, parties agree upon a form of arbitration that is specific to a particular contract or dispute, without referring to an arbitral tribunal. In other words, when parties agree to arbitrate but do not refer to institutional rules, they have an ad-hoc arbitration clause.
- ii. **Institutional Arbitration:** In institutional arbitration, proceedings are conducted according to the rules of an arbitral institution like ICA/ICADR.

4. Arbitration Agreement: An arbitration agreement may be in the form of an arbitration clause in the form of a contract or in the form of a separate agreement and it shall be done in writing. It should be simple and effective. There should not be any ambiguity. It has to demonstrate a consensus between parties to refer the dispute to arbitration. An arbitration clause that is present in a contract will be viewed as a separate and distinct agreement between parties.

5. Arbitration Clause: The following factors have to be borne in mind while drafting an arbitration clause:

- i. Manner of appointment of arbitrators.
- ii. Place of arbitration.
- iii. Applicable law and language.
- iv. Procedure agreed upon between parties to the contract.

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6. Procedure of Ad-Hoc Arbitration: In case the parties want to invoke an ad-hoc arbitration clause, the following procedure can be mutually agreed upon between parties.

6.1 For appointment of sole arbitrator:

“In case a dispute arises between parties in connection with the agreement and all/any terms and conditions hereof, the matter should be resolved through mutual discussion and negotiations.”

However, if the parties are not able to resolve their dispute through mutual discussion and negotiations, such dispute should be resolved through arbitration by a sole arbitrator. The provisions of the Arbitration and Conciliation Act, 1996 shall apply to such dispute, The Place of arbitration shall be _____. The language of arbitration shall be English.

6.2 For appointment of 3 arbitrators:

“In case a dispute arises between parties in connection with the agreement and all/any terms and conditions hereof, the matter should be resolved through mutual discussion and negotiations.”

However, if the parties are not able to resolve their dispute through mutual discussion and negotiations, such dispute should be resolved through arbitration by a panel of three arbitrators. Each party shall appoint one arbitrator, and the two appointed arbitrators shall in turn appoint a presiding arbitrator. The provisions of the Arbitration and Conciliation Act, 1996 shall apply to such dispute. The Place of arbitration shall be _____. The language of arbitration shall be English.

6.3 Institutional Arbitration: In the event it is desirous of invoking an institutional arbitration clause, the following procedure can be followed:

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“In case a dispute arises between parties in connection with the agreement and all/any terms and conditions hereof, the matter should be resolved through mutual discussion and negotiations.”

However, if the parties are not able to resolve their dispute through mutual discussion and negotiations, the dispute can be resolved amicably through arbitration. The provisions of Arbitration and Conciliation, 1996 shall apply to such dispute.

- i. The appointing authority will be _____
[Name of Institution/arbitrator].
- ii. The place of arbitration will be _____
- iii. The language agreed upon parties will be _____

The award passed by the arbitral tribunal will be final and binding upon both parties.

7. Dispute between PSUs: Settlement of disputes between Public Sector enterprises and or Government department will be as per Government guidelines issued from time to time.

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XXVII. ETHICS OF PROCUREMENT

1. Relationship with the suppliers: In all their dealings and transactions, the personnel of the Purchase Departments shall conduct themselves in an exemplary manner in keeping with the best interest, dignity and tradition of the Department/AVNL Company and their profession. In this connection, the 'Code of Conduct & Ethics' adopted by the Indian Institute of Materials Management, which is reproduced below, shall serve to guide their actions.

- i. To consider first, the TOTAL interest of one's organization in all transactions without impairing the dignity and responsibility of one's office.
- ii. To buy without prejudice, seeking to obtain the maximum ultimate value for each Rupee of expenditure.
- iii. To subscribe and work for honest and truth in buying and selling, to denounce all forms and manifestations of commercial bribery, and to eschew anti - social practices.
- iv. To accord a prompt and courteous reception, so far as conditions will permit, to all who call upon a legitimate business mission.
- v. To respect one's obligations and those of one's organization, consistent with good business practices.

1. Filing System: The procurement files are very important and sensitive documents and thus there is a need to have a single file system with proper page numbering. In case of urgency, if opening of the part files is unavoidable, the same should thereafter be merged with the main file. The decisions and deliberations of the individuals or the Tender Committees also need to be properly recorded and well documented. The filing system must ensure accountability.

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XXVIII. GRIEVANCE REDRESSAL

1. Any bidder or prospective bidder aggrieved by any decision, action or omission of the procurement process may within a period of 10 days or such other period specified in the pre-qualification documents, Vendor registration documents or Tender documents, from the date of such decisions, make an application for review to the concerned division clearly giving the specific ground or grounds on which the vendor feels aggrieved. The application for review can be filed only by the bidder or vendor who has participated in the tender.
2. In case of two bid system, application for review related to the financial bid can be filed only by the vendor whose technical bid is found acceptable.
3. The official to whom the application for review has to be addressed shall be indicated in the pre-qualification documents, vendor registration documents or tender documents as the case may be. Based on this application for review, decision on whether the tendering process should be suspended pending disposal of the application should be decided by the procurement agency.
4. After examining the application and the available documents, procurement agency may decide on the relief to be considered appropriate to the applicant and communicate its decision to the applicant and to the other bidders or prospective bidders. The application for review should be dealt as expeditiously as possible.
5. The grievance application should be reviewed at a level of Head of MM or by an Officer nominated by Head of the Unit.
6. In case of CFA is CMD/PSC/ Board, the grievance shall be reviewed by concerned Head of Unit.

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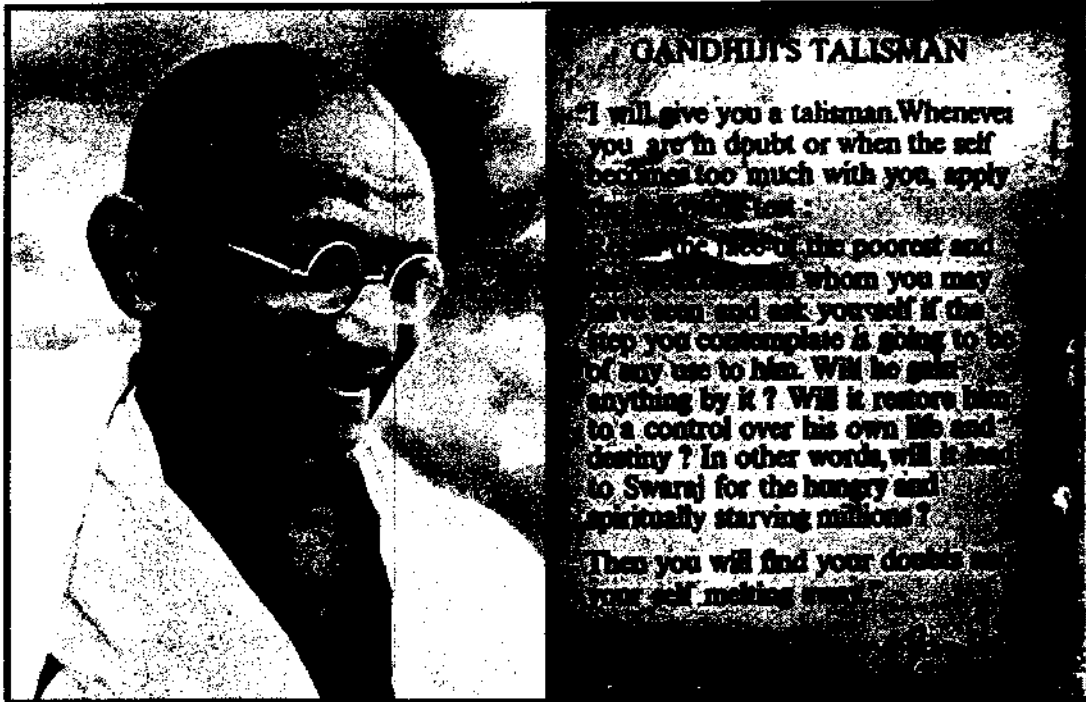
7. Grievance Redressal Committee: If the grievance application is not disposed of within the allowed time, or if the bidder feels aggrieved by the decision, the bidder can file an application for redressal by the concerned procurement redressal committee within 15 Days of expiry of date of receipt of the decision. Redressal committee to be constituted at complex level with Head of Finance, HR from complex and Head of division concerned where CFA is Divisional Head. Redressal committee at corporate level to be constituted with Head of Finance-CO, nominated member from Head of HR-CO and Head of IMM-CO where CFA is CEO/CMD/PSC/Board. The decision of the Grievance redressal committee is final.

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XXIX. CONCLUSION

All can't be worded and written. Tryst with dubiety & uncertainty is imminent. And therefore, nothing more befitting to conclude the manual than this:



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ANNEXURES

Annexures No	Description
A. Standard Formats (Certificates)	
1.	Format for Proprietary Article Certificate
2.	Format for Single Known Source Certificate
B. Standard Formats (Bank Guarantee)	
3.	Bank Guarantee Format for furnishing EMD
4.	Performance Bank Guarantee Format
5.	Format for Bank Guarantee for Advance Payment
6.	Format of Letter to be addressed to Bank for Verification of Bank
7.	Format for Refund of Security Deposit
C. Standard Formats (Pre-Contract Integrity Pact)	
8.	Format for Integrity Pact (5 Cr ≤ Case Value ≤ 100 Cr)
9.	Format for Integrity Pact (100 Cr <Case Value)
D. Standard Formats (ECS)	
10.	Model ECS Mandate Format
E. Standard Formats (Correspondence With Firm)	
11.	Performance Notice for not submitting Advance Sample
12.	Format for Performance Notice
13.	Format For Correspondence with seller after breach of contract
14.	Format For Short Closure and Cancellation of Supply Order
15.	Format for Letter for Final Payment
16.	Format for Certificate of Conformity
17.	Format for Quantity Claim
18.	Format for Quality Claim
F. Standard Formats (CARS)	
19.	Summary Offer of Provision of Research Services
20.	Contract for Acquisition of Research Services
21.	Amendment of Contract for Acquisition of Research Services



G. Guidelines	
22.	Time Frame For Purchase Case (Single Bid)
23.	Time Frame For Purchase Case (Two Bid)
24.	Acronyms
H. Orders (Attachments)	
25.	Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities vide MoD I.DNo.31013/1/2016-D (Vig) Vol.IIdated21.11.2016 & amendment its dated30.12.2016
26.	PublicProcurementPolicyforMSEsOrder2012 & Amendments
27.	Office order regarding PSD

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Annexure-1

(STANDARD FORMAT FOR PAC)

A. Proposal:

Sl No	Description	Remark
1	Categorization of Procurement (Stores/Services)	
2	Description of Stores/Services	
3	Intended Procurement is from OEM/Authorized Dealer	
4	Details of OEM Certificate for having single Authorized Dealer in India <i>Note: Applicable when intended procurement is from Authorized Dealer not from OEM directly</i>	
5	The intended procurement is Manufactured/Provided by	M/s
6	Detailed Justification for resorting to PAC	
7	Estimate Cost of Procurement	Rs
8	Whether approval of competent financial Authority has been obtained (in case approving authority is AVNL)	
9	Any other Remark	
10	Proposed By	

B. Recommendation By:

Controlling Officer (MM)	Group Officer (MM)	Controlling Officer (User)	Group Officer (User)	Finance Member

C. Approved By:

Head of Unit (Sr GM/GM)

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Annexure-2

(FORMAT FOR SKS CERTIFICATE)

A. Proposal:

Sl No	Description	Remark
1	Nomenclature of the Item	
2	Specification (Drg No)	
3	End Use	
4	Total Quantity Proposed for Procurement	
5	Details of Source (Firm)	M/s
5	Details of SD-OTE against which the Firm has been registered as Established Source	
6	Status of current SD-OTE for the same item, if any	
7	Estimate Cost of Procurement	Rs
8	Whether approval of competent financial Authority has been obtained (in case approving authority is AVNL)	
9	Any other Remark	
10	Proposed By	

B. Recommended By:

Controlling Officer (MM)	Group Officer (MM)	Controlling Officer (User)	Group Officer (User)	Finance Member

C. Approved By:

Head of Unit (Sr GM/GM)

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Annexure-3

(BANK GUARANTEE FORMAT FOR FURNISHING EMD)

Whereas.....(herein after called the "tenderer") has submitted their offer datedfor the supply of..... (hereinafter called the "tender" know all men by these presents that we.....of.....ha ving our registered office at..... (hereinafter called the "bank" are bound unto.....in the sumof..... (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.
 - i. If the tenderer fails to furnish the Performance Security for the due performance of the contract.
 - ii. 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 Authority with Seal)

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Annexure-4

(PERFORMANCE BANK GUARANTEE FORMAT)

From:
Bank _____

To,

Unit Head
.....

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 Head of Unit. 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 Head of Unit 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.

3. 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.

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

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

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

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 _____

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Annexure-5

(FORMAT FOR BANKGUARANTEE FOR ADVANCE PAYMENT)

From:

Bank.....

To,

Unit Head

.....

With reference to contract No. _____ dated _____ concluded between the Head of Unit, hereinafter referred to as 'the Purchaser' and M/s _____ hereinafter referred to as 'the Purchaser' and M/s _____ hereinafter referred to as the "the contractor" for the development and supply of _____ as detailed in the above contract which contract is hereinafter referred to as "the Said Contract" and the consideration of the Purchaser having agreed to make an advance payment in accordance with the terms of the Said Contract to the said contractor, we the _____ bank, hereinafter call 'the Bank' hereby irrevocably undertake and guarantee to you that if the Said Contractor would fail to develop and supply the stores in accordance with the terms of the Said Contract for any reason whatsoever or fail to perform the Said Contract in any respect or should whole or part of the said on account of payments at any time become repayable to you for any reason whatsoever, we shall, on demand and without demur pay to you all and any sum up to a maximum of Rs. _____ (Rupees _____ only) paid as advance to the Said Contractor in accordance with the provisions contained in Clause _____ of the Said Contract.

1. We further agree that the Purchaser shall be the sole judge as to whether the contractor has failed to develop and deliver the stores in accordance with the terms of the Said Contract or has failed to perform the said contract in any respect or the whole or part of the advance payment made to Contractor has become repayable to the Purchaser and to the extent and monetary consequences thereof by the Purchaser.

2. We further hereby undertake to pay the amount due and payable under this Guarantee without any demur merely on a demand from the Purchaser stating the amount claimed. Any such demand made on the Bank shall be conclusive and binding upon us as regards the amounts due and payable by us under this Guarantee and without demur. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. _____ (Rupees _____ only).

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3. We further agree that the Guarantee herein contained shall remain in full force and effect for a period of 12 months from the date of the last advance payment was made or for a period of 90 days from the date on which final delivery of the stores after development was made and accepted by the Purchaser whichever falls later unless the Purchaser in his sole discretion discharges the Guarantee earlier.

4. We further agree that any change in the constitution of the Bank or the constitution of the contractor shall not discharge our liability hereunder.

5. We further agree that the Purchaser shall have the fullest liberty without affecting in any way our obligations hereunder with or without our consent or knowledge to vary any of the terms and conditions of the Said Contract or to extend the time of development/delivery from time to time or to postpone for any time or from time to time any of the powers exercisable by the Purchaser against the contractor and either to forbear or enforce any of the terms and conditions relating to the Said Contract and we shall not be relieved from our liability by reason of any such variation or any indulgence or for bearance shown or any act or omission on the Purchaser or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of so relieving us.

6. We lastly undertake not to revoke the Guarantee during the currency of the above said Contract except with the prior consent of the Purchaser in writing.

Yours faithfully,
For _____ Bank
(Authorised Attorney)

Place : _____
Date: _____

Seal of the Bank

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Annexure-6

(VERIFICATION OF BANK GUARANTEE)

To

..... i) Bank concerned

..... ii) Head Office of the Bank

Sub: Bank Guarantee – Verification of.

Sir,

With reference to our Contract No. placed
on a Bank Guarantee
No. dated for
Rs. Issued from Bank located
at (Photostat copy of Bank Guarantee enclosed)
has been received.

2. It is requested that the genuineness of the Bank Guarantee may be verified and intimated to the undersigned at the earliest.

Encl: As above.

Yours faithfully,

(For and on behalf of the Purchaser)



Annexure-7

(FORMAT FOR REFUND OF SECURITY DEPOSIT)

To
The _____
(Purchase Officer)

Sir,
This refund of Performance Security Deposit amounting to Rs. _____
(Rupees only)
against us and therefore its repayment may please be arranged. Necessary receipt duly
stamped is given hereunder in Part-B.

It is certified that I/We, have not received any complaints from the consignees
regarding non-receipt, shortage or defects in the stores supplied under the contract.

(Signature of the Contractor)

PART-B

Received from the sum of Rs. amount in
refund of may / our Performance Security Deposit in full in respect of :

Contract No _____
Station _____
Dated _____

(Contractor's dated signature)

(Revenue stamp for sums exceeding Rs. 5000/- should be affixed)

PART-C

(TO BE FILLED BY THE PURCHASE OFFICER)

It is certified that no demands against the above contractor are outstanding in the
record of this office and that the instant Security Deposit (PSD) is free from the
Government claims in terms of clause _____ of General Conditions of
Contracts as far as A/T No. _____ is concerned and can be
refunded to the Contractor by A/c Payee Cheque.

Signature Designation

PART-D

(FOR USE IN FINANCE OFFICE)

Pay Rs. _____ (Rupees _____ only)

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Annexure-8

(FORMAT FOR INTEGRITY PACT (5 CR ≤ CASE VALUE ≤ 100 CR))

A. General

1. Whereas the AVNL, 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 Public Sector Undertaking and registered under Companies Act 1956.

B. 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.

C. 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.

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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.

D. 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.

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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.

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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.

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- 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.

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- 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) :

12.2 As soon as the Monitor notices, or believes to notice, a violation of this Pact, he will so inform the CMD/AVNL, Chennai.

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.

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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:
AVNL Unit _____

Chief Executive Officer
Name of Firm: _____

Witness Witness

1. _____
2. _____

1. _____
2. _____

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Annexure-9

(FORMAT FOR INTEGRITY PACT (100 CR ≤ CASE VALUE))

A. General

1. Whereas the AVNL, 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 is a Public Sector Undertaking and registered under Companies Act 1956.

B. 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.

C. 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.

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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.

D. 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.

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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. Every bidder, while submitting commercial bid, shall deposit an amount * _____ as Earnest Money/Security Deposit, with the buyer through any of the following instruments:

- i. Bank Draft or a Pay Order in favour of Unit Head of AVNL.

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- ii. A confirmed guarantee by an Indian Nationalized Bank, promising payment of the guaranteed sum to the Buyer, a Departmental Organisation under Ministry of Defence, Government of India, represented by Head of Unit, 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. A model Bank guarantee format is enclosed.
- iii. In case of foreign supplies, the vendor may, if required, furnish the Bank Guarantee from a first class International Bank provided the same is confirmed/verified by the State Bank of India.
- iv. Any other mode or through any other instrument (to be specified in the RFP/TE)

At present, the amount of pre-contract EMD/SD is Rs. 1 Cr in cases where the cost as estimated by the Buyer is "above Rs. 100 Cr & up to Rs. 300 Cr", and Rs. 3 Cr if the cost as estimated by the Buyer is above Rs. 300 Cr.

Note: - The option of all acceptable instruments needs to be retained. However, the Buyer should consider the validity of the instrument and the need for revalidation while obtaining the same.

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.

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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

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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) :

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12.2 As soon as the Monitor notices, or believes to notice, a violation of this Pact, he will so inform the CMD/AVNL, Chennai.

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:
AVNL Unit _____

Chief Executive Officer
Name of Firm: _____

Witness Witness

1. _____
2. _____

1. _____
2. _____



Annexure-10

(MODEL ECS MANDATE FORMAT)

1. Customer's option to receive payments through e-Payment (ECS/ EFT/ DIRECT CREDIT/ RTGS/ NEFT/ Other payment mechanism as approved by RBI.)

2. Credit Clearing Mechanism:

2.1 Customer's Name:

2.2 Particulars of Bank Account:

- i. Bank name
- ii. Branch name
- iii. Address
- iv. Telephone numbers
- v. IFS code
- vi. 9 Digit code number of Bank and Branch appearing on MICR cheque issued by Bank
- vii. Account Type (S.B. Account / Current Account or Cash)
- viii. Ledger number
- ix. Ledger Folio number
- x. Account number as appearing on Cheque Book

3. Please attach a blank canceled 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



Annexure-11

(PERFORMANCE NOTICE FOR NOT SUBMITTING ADVANCE SAMPLE)

SUPPLY ORDER NO:

To,
M/s

Sub :
Ref:

Dear Sir/Madam,

Your attention is invited to the acceptance of Supply Order cited above, according to which advance samples ought to have been submitted by you on or before _____. In spite of the fact that the time for submission of acceptable advance samples stipulated in the supply order is all along of the essence of the contract. It appears that the acceptable advance samples are still outstanding even though the date of submission has expired.

2. Although not bound to do so, I hereby extend the date of submission of acceptable advance samples up to and you are requested to note that the submission of acceptable of advance samples by the said date is of the essence of contract and in the event of your failure to submit the samples within the date as hereby extended the contract shall be canceled and the stores shall be purchased at your risk and cost.

3. Please communicate your acceptance of the aforesaid extension up to _____ and your readiness to act upon it within a week of the receipt of this letter failing which it shall be resumed that you are not interested in performance of the contract and the contract will be canceled at your risk and cost. If having communicated the acceptance of the aforesaid extension, you fail to submit the acceptable advance samples, the contract will be canceled at your risk and cost.

4. All other terms and conditions of the contract remain unaltered and shall be applicable.

Yours faithfully,

For and on behalf of AVNL



Annexure-12

(FORMAT FOR PERFORMANCE NOTICE)

(Registered Acknowledgement Due)

To,

M/s

Sub : Contract No. _____ dated _____ for supply
of _____

Dear Sir/Madam,

Your attention is invited to the Supply Order cited above according to which supplies ought to have been submitted by you on or before _____. In spite of the fact that the time of delivery of goods stipulated in the contract is deemed to be of the essence of the contract. It appears that _____ (details of outstanding goods) are still outstanding even though the date of delivery has expired.

2. Although not bound to do so, the delivery date is hereby extended to _____ and you are requested to note that in the event of your failure to deliver the goods within the delivery period as hereby extended, the contract shall be canceled for the outstanding goods at your risks and cost.

Yours faithfully,
For and on behalf of AVNL

Handwritten signature



Annexure-13

(CORRESPONDENCE WITH SELLER AFTER BREACH OF CONTRACT)

To,

M/s

Sub : Contract No. _____ dated _____ for supply
of _____

Dear Sir/Madam,

The date of delivery of the subject contract expired on _____. As supplies against the same have not yet been completed, there is a breach of the contract on your part. As information is required regarding past supplies against this contract, you are requested to send the particulars regarding the quantity so far supplied and, also, the quantity so far inspected but not yet dispatched and the quantity so far not tendered for inspection before the expiry of the date of records and is not intended to keep the contract alive and does not waive the breach. This is without the prejudice to the rights and remedies available to the Buyer in terms of the contract and law applicable in this behalf.

Yours faithfully,

For and on behalf of AVNL



Annexure-14

(SHORT CLOSER AND CANCELLATION OF CONTRACT)

(Registered Acknowledgement Due)

To,
M/s

Sub : Contract No. _____ dated _____ for supply
of _____

Dear Sir/Madam,

Since you have failed to supply outstanding quantity of _____ of the above store as per subject contract, the contract is hereby cancelled for the balance quantity at your risk and cost in terms of clause no..... of the General terms and conditions of the contract. The amount of recovery involved, if any, as a result of the cancellation will be intimated to you in due course.

This is without the prejudice to the rights of the purchaser in accordance to the terms and conditions of the contract.

Yours faithfully,

For and on behalf of AVNL

Copy to:

1. The Controller of Inspection
- 2.
- 3.

Handwritten signature



Annexure-15

(LETTER OF FINAL PAYMENT)

(Registered Acknowledgement Due)

To,

M/s

Sub : Contract No. _____ dated _____ for supply
of _____

Dear Sir/Madam,

Please furnish the following information to enable this office to finalise the above case for your 5% payment:

- i. Please intimate reasons for delay in supply and furnish details of dispatches.
- ii. Please confirm that you have received payment in full for all quantities supplied by you against the above contract, except 5% referred to above.
- iii. Please certify that you have no claims in connection with on arising out of the said contract by any of duties or otherwise whatsoever. Your reply should reach this office latest by failing which it will be presumed that you have no claims whatsoever in respect of the above contract and the case will be finalized accordingly.

Yours faithfully,

For Unit Head (Designation)



Annexure-16
(CERTIFICATE OF CONFORMITY)

Date :

No :

Product Name :

Product No :

Lot No :

Quantity :

Contract No :

Packaging List No :

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

(Contractor's Signature with Stamp)

12/1/21



Annexure-17

(QUANTITY CLAIM)

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



Annexure-18
(QUALITY CLAIM)

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
part).....

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

h. am



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.

12. 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:

.....
.....

Handwritten signature



Annexure-19

(SUMMARY OFFER OF PROVISION OF RESEARCH SERVICES)

1. Title of Service qualitative Requirement (RSQR):			Office Number:				
			Date received:				
			Revised on:				
2. RSQR Document Ref. Nos.		Date of Issue		Issuing Factory/ ODC:		Remarks of RSQR initiation	
		YY	MM				
3. Name of Research Service Provider (RSP) making this offer: 3. (a) RSP's address for correspondence: Pin code: Telephone: Fax: Email:			4 RSP's Ref. No.		Judgment of OEC:		
			Date:				
			5. (a) Key personnel of RSP to be deployed: 5. (b) RSP's sub-contractors/consultants a) Name: Institute/Company: b) Name: Institutes/Company:				
6. Principal technical feature of offer as related to RSQR:							
7. Equipment that RSP requires to be positioned by Factory/ODC:							
8. Estimated time to complete provision research services and submit Final Report:					Months:		
9.1 Estimated expenditure (as enclosed on revise) on :					Rs. in lakhs		
a) Personal:							
b) Equipment:							
c) Others:							
					Total:		
9.2 Required schedule of payments (Rs. in lakhs)							
a) Initial advance:							
b) at Performance Milestone I of RSQR:							
c) at Performance Milestone II of RSQR:							
d) at Performance Milestone III of RSQR:							
e) On submission of Final Report							
					Total:		
10. Reference rates to R&D work being performed by RSP for Armed Services/DRDO/other S&T (including foreign) agencies:				11. Offer as above valid till date:			
				12. Signature of competent authority of RSP: Name: Designation:			

Ir. Gm



Annexure-20

(CONTRACT FOR ACQUISITION OF RESEARCH SERVICES)

1. Short title of Research Service to be provided:			Contract Number:			
In response to:			Date:			
2. RSQR Document Ref. Nos.	Date of Issue		Issuing Factory/ ODC:		Dates for contract for Acquisition of Research Services Amendments, if any:	
	YY	MM	DD	Lab/Estt/Project:		
3. Name and address of Research Service Provider (RSP):			4. RSP's Ref. No.			
			Date:			
5.(a) This contract will require a formal amendment if the following key professionals are not available to RSP: (b) RSP is authorized to engage these professionals as research consultants (names, institutions/companies):						
6. Principal technical feature of Research service to be provided:						
7. Factory/ODC will make available the following equipment to RSP:						
8. The technical performance of this contract shall be complete when RSP submits the Final Report before (date):						
9.1 Expenditure on items below, shall not exceed sums shown against each					Rs. in lakhs	
a) Personal:						
b) Equipment:						
c) Others:						
Total:						
9.2 Schedule of payments (Rs. in lakhs)				Date	Payment	
a) Initial advance:						
b) at Performance Milestone I:						
c) at Performance Milestone II:						
d) at Performance Milestone III:						
e) On submission of Final Report (Refer also entry 8 above)						
Payments will be made within 45 days of receipt by Factory/ODC				Total:		
10. OFB will deem this contract, including amendments thereto, to have been consummated when signed below by the authority of academic institution (e.g. Registrar) competent to enter into this contract:			11. Signature of Factory/ODC contract administrator:			
Sign over seal			Name:			
			Designation:			
			Address:			
			Telephone:			
Name:			Email:			
Designation:						

12/10/21



Annexure-21

(AMENDMENT OF CONTRACT FOR ACQUISITION OF RESEARCH SERVICES)

1. Short title of Research Service to be provided: In response to:			Contract Number: Date:		
2. RSQR Document Ref. Nos.	Date of Issue			Issuing Factory/ ODC: Lab/Estt/Project:	Dates of amendment of contract for Acquisition of Research Services:
	YY	MM	DD		
3. Name and address of Research Service Provider (RSP):			4. RSP's Ref. No. Date:		
5.(a) Reason for which amendment in the contract is being sought and justification thereof for the amendment:					
9.1 Amended expenditure on items below, shall not exceed sums shown against each					Rs. in lakhs
a) Personal:					
b) Equipment:					
c) Others:					
Total:					
9.2 Amended Schedule of payments (Rs. in lakhs)				Date	Payment
a) Initial advance:					
b) at Performance Milestone I:					
c) at Performance Milestone II:					
d) at Performance Milestone III:					
e) On submission of Final Report (Refer also entry 8 above)					
Payments will be made within 45 days of receipt by Factory/ODC				Total:	
10. OFB will deem this contract, including amendments thereto, to have been consummated when signed below by the authority of academic institution (e.g. Registrar) competent to enter into this contract: Name: Designation: Sign over seal			11. Signature of Factory/ODC contract administrator: Name: Designation: Address: Telephone: Email:		

Handwritten signature



Annexure-22

TIMEFRAME FOR PURCHASE CASE (SINGLE BID)

Sl No	Activities	Time Frame
A. WORKINGOUT& VETTING OF REQUIREMENT(to be taken at Units)		
1.	Preparation and Vetting of SHIS/MPS	2Weeks
2.	Vendor Selection TPC	2Weeks
3.	Approval of TPC members and floating of LTE/STE	1 Week
4.	Preparation of TE and floating of LTE/STE & Notification of Tender through CPP Portal/AVNL E-proc/GeMetc	2Weeks
B. PROCUREMENT ACTION (to be taken at Units)		
5.	Time allowed for submission of offer in a single bid system(Commercial bid only)	3Weeks (or as per manual)
6.	Opening of commercial offers, preparation of CST, Tech vetting etc	1 Week
7.	Proposal for procurement/scheduling of TPC with CFA approval	1 Week
8.	Brief for TPC, Notice for TPC and TPC meetings	1 Week
9.	TPC Minutes and signatures	1 Week (3Weeks in cases of Counter offer/Negotiation)
10.	Finance concurrence and CFA Approval of Purchase Proposal(for cases within GM's power)	1 Week
11.	Sending Proposal including softcopy to AVNL along with relevant papers for cases within AVNL's power	1 Week
C. PROCUREMENT ACTION (to be taken at AVNL) for AVNL cases		
12.	Preparation& distribution of brief at AVNL, holding of TPC at AVNL and issuing approval letter to the concerned Unit	3 Weeks (6Weeks in cases of Counteroffer /Negotiation)
D. PROCUREMENT ACTION (to be taken at Units)		
13.	Preparation of SO and Despatch of SO	1 Week
	Total Time Frame	
	i)Cases within the Power of Unit Head	16-18 wks
	ii)Cases within AVNL's Power	20-25wks

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Annexure-23

TIMEFRAME FOR PURCHASE CASE (TWO BID)

SI No	Activities	Time Frame
A. WORKINGOUT & VETTING OF REQUIREMENT(to be taken at Units)		
1.	Preparation and Vetting of SHIS/MPS	2Weeks
2.	Vendor Selection TPC	2Weeks
3.	Preparation of TE and floating of OTE/GTE & Notification of Tender through CPP Portal/AVNL E-proc/GeMetc	2Weeks
B. PROCUREMENT ACTION (to be taken at Units)		
4.	Time allowed for submission of offers in a Two bid system(Commercial bid and Tech bid)	4 Weeks(OTE) 6 Weeks(GTE)
5.	Opening of Tech Bids and Technical Evaluation by TEC (to be done at the concerned Unit)	3Weeks
6.	Capacity Verification & Registration of firm	13Weeks
7.	Scheduling of TEC, TEC minutes and signature	3Weeks
8.	Sending Proposal including softcopy to AVNL along with relevant papers for cases within AVNL's Power	1 Week
C. PROCUREMENT ACTION (to be taken at AVNL)for AVNL cases		
9.	Preparation& distribution of brief at AVNL, holding of TEC at AVNL and issuing approval letter to for opening of price bid	3Weeks
D. PROCUREMENT ACTION (to be taken at Units)		
10.	Opening of Commercial offers, preparation of CST, Tech Vetting etc.	1 Week
11.	Proposal for Procurement/Scheduling of TPC with CFA approval	1 Week
12.	Brief for TPC, notice for TPC and TPC meetings	1 Week
13.	TPC minutes and signature	1/3 Weeks (3 weeks when negotiation is involved)
14.	FA concurrence and CFA Approval of Purchase Proposal (for cases within GM's power)	1 Week
15.	Sending Proposal including soft copy to AVNL along with relevant papers for cases within AVNL's power-for TPC	1 Week

V. Lakshmi



E. PROCUREMENT ACTION (to be taken at AVNL)for AVNL cases			
16.	Preparation & distribution of brief at AVNL, holding of TPC at AVNL and issuing approval letter	3/6 Weeks(6Weeks in cases negotiation)	
F. PROCUREMENT ACTION (to be taken at Units)			
17.	Preparation of SO and Despatch of SO	1 Week	
	Total Time Frame	OTE Cases	GTE Cases
	i)Cases within the Power of Unit Head	35-37wks	37-39wks
	ii) Cases within AVNL's Power	43-48wks	45-50wks



Annexure-24
(ACRONYMS)

1.	ACASH–Association of Corporations and Apex Societies of Handloom
2.	AHSP–Authority Holding Sealed Particulars
3.	AMC–Annual Maintenance Contract
4.	AON–Acceptance of Necessity
5.	ASSOCHAM–Associated Chambers of Commerce and Industry of India
6.	AVNL- Armoured Vehicles Nigam Limited
7.	AWB- Airway Bill
8.	BC– Base Currency (i.e.INR)
9.	BE – Bill of Entry
10.	BL– Bill of Lading
11.	CC– Cash and Carry
12.	CD– Customs Duty
13.	CFA–Competent Financial Authority
14.	CIF–Cost, Insurance and Freight
15.	CII–Confederation of Indian Industries
16.	CIP–Carriage and Insurance Paid
17.	CMD- Chairman & Managing Director
18.	COTS–Commercially-Off-The-Shelf
19.	CPSUs–Central Public Sector Undertakings
20.	CST– Central Sales Tax
21.	CST–Comparative Statement of Tenders
22.	CVC–Central Vigilance Commission
23.	DAVP–Directorate of Advertisement and Visual Publicity
24.	DBT–Direct bank Transfer
25.	DCF–Discounted Cash Flow
26.	DDO–Direct Demanding Officer
27.	DoFP–Delegation of Financial Powers
28.	DICCI–Dalit Indian Chamber of Commerce and Industry
29.	DP –Delivery Period
30.	DPE– Department of Public Enterprises
31.	DAP-Defence Acquisition Procedure
32.	DRDO–Defence Research and Development Organization
33.	ECS–Electronic Clearance Service
34.	ED–Excise Duty
35.	EFT–Electronic Fund Transfer
36.	EMD–Earnest Money Deposit
37.	EPF–Employees Provident Fund
38.	ERV–Exchange Rate Variation
39.	ESI–Employees State Insurance
40.	FAS–Free Along side Ship
41.	FE– Foreign Exchange

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42.	FICCI–Federation of Indian Chambers of Commerce and Industry
43.	FOB– Free on Board
44.	FOR– Free on Rail
45.	GCC–General Conditions of the Contract
46.	GeM–Government e-Market place
47.	GFR- General Financial Rules
48.	GST–Goods and Services Tax
49.	GTE–Global Tender Enquiry
50.	FA–Financial Advisor
51.	IFD – Inter Factory Demands
52.	INCOTERMS–International Commercial Terms
53.	ITJ–Indian Trade Journal
54.	JRI–Joint Receipt Inspection
55.	JSS–Joint Services Specifications
56.	KVIC–Khadi Village Industries Commission
57.	LC– Letter of Credit
58.	LD–Liquidated Damages
59.	LoI–Letter of Intent
60.	LPC–Local Purchase Committee
61.	LPP –Last Paid Price
62.	LTE–Limited Tender Enquiry
63.	MHA –Ministry of Home Affairs
64.	MIS–Management Information System
65.	MSEs–Micro and Small Enterprises
66.	MSMEs–Micro, Small and Medium Enterprises
67.	MM– Material Management
68.	MoD –Ministry of Defence
69.	MoF- Ministry of Finance
70.	MP –Material Planning
71.	MPS- Material Planning Sheet
72.	MTO–Made to Order
73.	NEFT–National Electronic Fund Transfer
74.	NIC–National Informatics Center
75.	NIT–Notice Inviting Tender
76.	NPV– Net Present Value
77.	NSIC–National Small – scale Industries Corporation Ltd
78.	OC–Option Clause
79.	OEM –Original Equipment Manufacturer
80.	OTE–Open Tender Enquiry
81.	P&MM–Planning & Material Management
82.	PAC– Proprietary Article Certificate

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83.	PBG-Performance Bank Guarantee
84.	PSD- Performance Security Deposit
85.	PSU- Public Sector Undertaking
86.	PV –Price Variation
87.	QA-Quality Assurance
88.	QC- Quality Control
89.	QR–Qualitative Requirements
90.	RC– Rate Contract
91.	RO-Repeat Order Clause
92.	RST- Resultant Single Tender
93.	RTGS–Real Time Gross Settlement
94.	SCC– Special Conditions of the Contract
95.	SD-OTE–Source Development Open Tender Enquiry
96.	SHIS–Store Holders Inability Sheet
97.	SIH-Stores-in-hand
98.	SKS–Single Known Source
99.	SO– Supply Order
100.	SOP-Standard Operating Procedure
101.	STE –Single Tender Enquiry
102.	SWOD –Supplementary Work Order Draft
103.	TAC-Tender Advisory Committee
104.	TE –Tender Enquiry
105.	TEC-Technical Evaluation Committee
106.	ToT - Transfer of Technology
107.	TPC-Tender Purchase Committee
108.	TT–Telegraphic Transfer
109.	TReDS–Trades Receivables Discounting System
110.	VAT –Value Added Tax
111.	VSL-TPC–Vendor Selection TPC
112.	WIP-Work-in-progress
113.	UAM–Udyog Aadhaar Memorandum

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Annexure-25

GUIDELINES OF THE MINISTRY OF DEFENCE FOR PENALTIES IN BUSINESS DEALINGS WITH ENTITIES

(Encl to MoD I.D No. 31013/1/2016 D (Vig) Vol.II dated 21.11.2016)

A. Introduction:

A.1 It is imperative that the highest standards of propriety be maintained throughout the process of procurement of defence equipment.

A.2 The procurement process needs to proceed without loss of credibility and therefore, there is a need to put in place appropriate measures to deal with act of impropriety.

A.3 The following paragraphs lay down the policy and guidelines for Levy of Financial Penalties and/or Suspension/Banning of business dealings with entities seeking to enter into contract with / having entered into a contract for the procurement of goods and services by the Ministry of Defence.

A.4 In applying the measures provided for under the guidelines, the concerned authorities shall be guided by the need to ensure probity, transparency, propriety and compliance in the defence procurement process. Equally, the concerned authorities shall also ensure fairness, impartially, rigour and correctness in dealing with entities, keeping in view the overall security interests of the country.

B. General:

B.1 Ministry of Defence will include Department of Defence, Department of Defence Production, Department of Defence Research & Development, HQ IDS, Armed Forces Headquarters and their attached / subordinate offices.

B.2 "Entities" will include companies, trusts, societies, as well as individuals and their associations with whom the Ministry of Defence has entered into or intends to enter into or could enter into contracts or agreements.

B.3 All firms/companies which come within the sphere of effective influence of the entities shall be treated as its allied firms. In determining this, the following factors may be taken into consideration:

- i. Whether the management is common or the majority interest in the management is held by the partners or directors of the entities.

By EML



- ii. Majority shares are owned by the entity, their directors/shareholders and by virtue of this it has a controlling voice.

B.4 Effect of actions, viz. levy of financial penalties and/or suspension/banning of business dealings with an entity in accordance with these guidelines may, with the approval of competent authority also apply when an entity participates in the procurement process as member of consortium.

B.5 The competent authority for the purpose of these guidelines will be Raksha Mantri.

B.6 The Competent Authority may constitute Committees as necessary, to examine and make recommendations on any matter provided for under the guidelines.

C. Causes for Suspension and Banning of Business Dealings with Entities:

C.1 The competent authority may levy financial penalties and/or suspend/ban business dealings with an entity for one or more of the grounds listed below:-

- a. Violation of Pre-Contract Integrity Pact (PCIP) (where such PCIPs are entered into between the Ministry of Defence and an entity).
- b. Resort to corrupt practices, unfair means and illegal activities during any stage of bid/ contract to secure a contract, even in cases where PCIP is not mandated.
- c. Violation of Standard Clause in the contract of agent/agency commissions.
- d. If national security considerations so warrant.
- e. Non-performance or under performance under the terms and conditions of contract(s) or agreements(s) not covered in grounds listed in (a) to (c) above in accordance with provisions in contract or arrangement.
- f. Any other ground for which the Competent Authority may determine that suspension or banning of business dealings with an entity shall be in the public interest.

D. Suspension:

D.1 Suspension of business dealing with an entity may be ordered by the competent authority pending a full proceedings into allegations or facts related to any grounds enumerated in paragraph C.1(a) to (f) above.

D.2 The competent authority may suspend business dealings with an entity when it refers any complaint against the entity to CBI or any investigating agency or when intimation is received regarding initiation of criminal investigation or enquiry against any entity.



D.3 An order of suspension of business dealings with an entity will be issued for such period as the competent authority may deem fit. The period of suspension shall not ordinarily exceed one year. A review of the Order of suspension of business dealings with an entity shall be undertaken within six months of the issue of such an Order and before expiry of the period specified therein. The suspension of an entity may be extended beyond the period of one year, on the order of the Competent Authority for subsequent periods of six months each. The total period of suspension of business dealings with an entity shall not exceed the maximum period of banning of business dealings with an entity for the same cause of action.

E. Effect of Suspension of Business Dealings with an Entity:

E.1 An order of suspension of business dealings with an entity shall result in immediate ineligibility of the entity from participating in future bids. No RFP will be issued to such an entity.

E.2 Any on-going procurement process where L1 determination has not yet been done will be progressed after excluding the bid involving an entity with which business dealings are suspended. In case there are only two bidders, one being the entity with which business dealings are suspended, the procurement will be progressed as per extant provisions of DDP after excluding such an entity.

E.3 Any on-going procurement process where the lowest bid involves the entity with which business dealings are suspended by order of competent authority, will be held in abeyance till decision of revocation of such order or banning of business dealings with an entity or till expiry of the validity of the existing bid, whichever is earlier. Extension of the validity of the bid involving such entity will not be permitted. On expiry of the bid validity, the procurement process will be terminated and fresh procurement process, if required, may be initiated. In cases of operational urgency, the procurement process may be foreclosed prior to the expiry of the bid validity and a fresh process initiated, excluding the entity with which business dealings are suspended.

E.4 Order of suspension of business dealings with an entity may be extended to its allied firms by specific order of the competent authority.

F. Banning of Business Dealings with an Entity / Debarment of an Entity:

F.1 Banning of business dealings with an entity may be ordered by the competent authority on acceptance of misconduct related to any of the grounds enumerated in paragraph C.1(a) to (f) above by the entity or establishment of such misconduct by a competent court/ tribunal / authority.

F.2 Banning of business dealings with an entity may be ordered by the competent authority on receipt of information regarding filing of charge-sheet in the court of law by CBI or any other investigating agency.

A handwritten signature in blue ink, appearing to be 'V. E. M. V.', located at the bottom right of the page.



F.3 The order of banning of business dealings with an entity will be issued for such specified period as the competent authority may deem fit. For the grounds listed in paragraph C.1(a) to (d) above, the period of banning business dealings with an entity shall not be less than five years. For the grounds listed in paragraph C. 1(e) and (f) above, banning of business dealings may be resorted to if, in the view of the competent authority, the grounds for action are such that continuation of business dealings with an entity would be detrimental to public interest. In such cases, the period of banning of business dealings with an entity shall not ordinarily exceed three years. The period of Banning of business dealings with an entity in both the categories will be inclusive of period of suspension of business dealings with an entity, if any, for the same cause of action. In exceptional cases and those involving national security considerations the competent authority may order a longer period of banning of business dealings with an Entity, as deemed appropriate.

G. Effect of Banning of Business Dealings with an Entity/Debarment of an Entity:

G.1 An order of banning of business dealings with an entity shall result in immediate ineligibility of the entity from participating in future bids for a specified period with effect from the date of such order. No RFP will be issued to such an entity.

G.2 Any on-going procurement process where L1 determination has not yet been done will be progressed after excluding the bid involving entity with which the business dealings are banned. In case there are only two bidders, one being the entity with which business dealings are banned, the procurement will be progressed as per extant provisions of DPP after excluding such an entity.

G.3 Any on-going procurement process where the lowest bidder involves an entity with which business dealings are banned, will be terminated and fresh procurement process, if required, may be initiated.

G.4 Orders of banning of business dealings with an entity may be extended to its allied firms by specific order of the competent authority.

H. Employees / Agents of an Entity:

H.1 Any employee or agent of an entity, who is convicted for any act of impropriety, will not be allowed to engage in any bid process in any capacity with the Ministry of Defence any time in the future.

H.2 Any employee or agent of an entity with which business dealings are suspended or banned and who is involved in a case of alleged impropriety for which investigation or judicial proceedings is in progress, will not be allowed to engage in any bid process in any capacity with the Ministry of Defence even after the expiry of the period of suspension / banning of business dealings with an entity.

A handwritten signature in black ink is located at the bottom right of the page, below the page number.



I. Miscellaneous:

I.1 The entity with which business dealings are suspended or banned may with the approval of competent authority, participate in the future RFPs for spares, upgrades, maintenance etc. for the equipment/weapon systems supplied earlier by it, if the equipment which is the object of the Contract is a proprietary item and there are no available alternate sources of supply.

I.2 In cases wherein Transfer of Technology (ToT)/Licenses production has been taken in the past for manufacturing of equipment/weapon systems in India from the entity with which business dealings are suspended or banned, may with the approval of the competent authority participate in the future RFPs related to components / rotables / additional items of such equipment/weapon systems for which the ToT/Licenses production has been taken.

I.3 Any contract(s) related to the procurement process(es) in connection with which business dealings with an entity have been suspended will be held in abeyance. Any contract(s) related to the procurement process(es) in connection with which business dealings with an entity have been banned shall be cancelled. However, other contracts involving such entity shall continue unless a decision to the contract is taken by the competent authority, on a case to case basis.

I.4 If it becomes necessary on grounds of national security and operational preparedness/export obligations, to deal with an entity with which business dealings have been suspended or banned in a procurement process and which is the only source that can supply/manufacture an equipment/weapon systems, the Competent Authority will be approached for approval of issuance of RFP or conclusion of contract with such an entity. Certificates (as provided in Annexure-I) signed by the Vice Chief of the service concerned / CISC / Additional Secretary (Defence Production) will be placed before the Competent Authority SHQ/ Department of Defence Production may propose special conditions to conclude a contract with such an entity.

I.5 The entity with which business dealings have been suspended or banned will not be permitted to transact contracts or agreements under a different name or division either through a transfer of assets of such an entity to another legal entity or otherwise.

I.6 An updated list of entities with which business dealings have been suspended or banned by the competent authority and/or against which financial penalties have been imposed shall be maintained on the official website of the Ministry of Defence.

J. Application

J.1 These guidelines shall come into force with immediate effect.

A handwritten signature in black ink, appearing to be "H. E. M.", located in the bottom right corner of the page.



Annexure

(Refer I.4 of Guidelines)
CERTIFICATE

1) The
..... (equipment/weapon system) is inescapably required for national security and operational preparedness / export obligations and no other alternative / combination of equipment / weapon system can fulfill the requirement.

2) The
..... (equipment/weapon system) is not available from any other source.

3) It is absolutely necessary to deal with (name of the entity) with which business dealings have been suspended or banned for meeting the instant requirement.

**Certificates as above signed separately by the Vice Chief of the Service concerned /CISC are to be placed before the Competent Authority.

**Certificate for inescapable requirement on account of export obligations, signed by AS(DP) is to be placed before the Competent Authority.



Ministry of Defence
D(Vigilance)

**(Amendment to the guidelines of the Ministry of Defence for
Penalties in Business Dealings with Entities)**

Subject: Amendment to the guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities.

Reference is invited to MoD ID Note of even number dated 21.11.2016 on the subject cited above forwarding the Guidelines of Ministry of Defence for penalties in business dealings with entities for compliance.

2. With the approval of the Competent Authority the following amendment is made to Para F.3 of the said guidelines:

For

Para F.3, 2nd Sentence: For the grounds listed in paragraph C.1(a) to (d) above, the period of banning of business dealings with an entity shall not be less than five years.

Read

Para F.3, 2nd Sentence as: For the grounds listed in paragraph C.1(a) to (d) above, the period of banning of business dealings with an entity shall not be less than five years and not more than ten years.

A handwritten signature in black ink, appearing to read '12 EUN', located in the lower right quadrant of the page.



Annexure-26

(Public Procurement Policy for MSEs Order 2012 & Amendments)

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES

New Delhi, the 23rd March 2012

ORDER

Whereas, the Central Government Ministries, Departments and Public Sector Undertakings shall procure minimum of 20 percent of their annual value of goods or services from Micro and Small Enterprises.

And whereas, the Public Procurement Policy shall apply to Micro and Small Enterprises registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Commission or Khadi or Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small and Medium Enterprises.

And whereas, the Public Procurement Policy rests upon core principles of competitiveness, adhering to sound procurement practices and execution of orders for supply of goods or services in accordance with a system which is fair, equitable, transparent, competitive and cost effective; and

And whereas, for facilitating promotion and development of micro and small enterprises, the Central Government or the State Government, as the case may be, by Order notify from time to time, preference policies in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries or Departments, as the case may be, or its aided institutions and public sector enterprises.

Now, therefore, in exercise of the powers conferred in section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006, the Central Government, by Order, notifies the Public Procurement Policy (hereinafter referred to as the Policy) in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries, Departments and Public Sector Undertakings.

2. Short title and commencement :

(1) This Order is titled as 'Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012'.

(2) It shall be come into force with effect from 1st April 2012.



3. Mandatory procurement from Micro Small and Enterprises:

(1) Every Central Ministry or Department or Public Sector Undertakings shall set an annual goal of procurement from Micro and Small Enterprises from the financial year 2012-13 and onwards, with the objective of achieving an overall procurement of minimum of 20 percent, of total annual purchases of products produced and services rendered by Micro and Small Enterprises in a period of three years.

(2) Annual goal of procurement also include sub-contracts to Micro and Small Enterprises by large enterprises and consortia of Micro and Small Enterprises formed by National Small Industries Corporation.

(3) After a period of three years i.e from 1st April 2015, overall procurement goal of minimum of 20 percent shall be made mandatory.

(4) The Central Ministries, Departments and Public Sector Undertakings which fail to meet the annual goal shall substantiate with reasons to the Review Committee headed by Secretary (MSME), constituted in Ministry of MSME, under this Policy.

4. Special provisions for Micro and Small Enterprises owned by Scheduled Castes or Scheduled Tribes:

Out of 20 percent target of annual procurement from Micro and Small Enterprises, a sub-target of 20 per cent (i.e, 4 per cent out of 20 per cent) shall be earmarked for procurement from Micro and Small Enterprises owned by the Scheduled Caste and Scheduled Tribe entrepreneurs. Provided that, in event of failure of such Micro and Small Enterprises to participate in tender process or meet tender requirements and L1 price, 4 per cent sub-target for procurement earmarked for MSEs owned by Scheduled Caste and Scheduled Tribe entrepreneurs shall be met from other Micro and Small Enterprises.

5. Reporting of targets in Annual Report:

(1) The data on Government procurements from Micro and Small Enterprises is vital for strengthening the Policy and for this purpose, every Central Ministry or Department or Public Sector Undertaking shall report goals set with respect to procurement to be met from MSEs and achievement made thereto in their respective Annual Reports.

(2) The annual reporting shall facilitate in better understanding of support being provided by different Ministries or Departments or Public Sector Undertakings to Micro and Small Enterprises.

12/10/12



6. Price quotation in tenders:

(1) In tender, participating MSEs quoting price within price band of L1+15% per cent shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a Micro and Small Enterprise and such Micro and Small Enterprise shall be allowed to supply up to 20 per cent of total tendered value.

(2) In case of more than one such Micro and Small Enterprise, the supply be shared proportionately (to tendered quantity).

7. Developing Micro and Small Enterprise Vendors: The Central Ministries or Department or Public Sector Undertakings shall take necessary steps to develop appropriate vendors by organizing Vendor Development Programmes or Buyer-Seller Meets and entering into Rate Contracts with Micro and Small Enterprises for a specified period in respect of periodic requirements.

8. Annual Plan for Procurement from Micro and Small Enterprises on Website: The Ministries or Departments or Public Sector Undertakings shall also prepare Annual Procurement Plan for purchases and upload the same on their official website so that Micro and Small Enterprises may get advance information about requirement of procurement agencies.

9. Enhancing participations of Micro and Small Enterprises including those owned by Scheduled Castes or Scheduled Tribes in Government Procurements:

For enhancing participation of Scheduled Castes or Scheduled Tribes in Government procurement, the Central Government Ministries, Departments or Public Sector Undertakings shall take following steps, namely:

a) Special Vendor Development Programmes or Buyer-Seller Meets shall be conducted by Department/Public Sector Undertakings for Scheduled Castes or Scheduled Tribes.

b) Outreach programmes shall be conducted by National Small Industries Corporation to cover more and more Micro and Small Enterprises from Scheduled Castes or Scheduled Tribes under its schemes or consortia formation; and

c) National Small Industries Corporation shall open a special window for Scheduled Castes or Scheduled Tribes under its Single Point Registration Scheme (SPRS).

10. Reduction in transaction cost: To reduce transaction cost of doing business, MSEs shall be facilitated by providing them tender sets free of cost, exempting Micro and Small Enterprises from payment of earnest money, adopting e-procurement to bring in transparency in tendering process and setting up a Grievance Cell in the Ministry of MSME.



11. Reservation of specific items for procurement: To enable wider dispersal of enterprises in the country, particularly in rural areas, the Central Government Ministries or Departments or Public Sector Undertakings shall continue to procure 358 items (Appendix) from Micro and Small Enterprises, which have been reserved for exclusive purchase from them. This will help them in promotion and growth of Micro and Small Enterprises, including Khadi and village industries, which play a crucial role in fostering inclusive growth in the country.

12. Review Committee:

(1) A Review Committee has been constituted under the Chairmanship of Secretary, MoMSME for monitoring and review of Public Procurement Policy for Micro and Small Enterprises vide Order No. 21(1)/2017-MA dated the 21st June 2010.

(2) This Committee shall, inter alia, review list of 358 items reserved for exclusive purchase from Micro and Small Enterprises on a continuous basis, consider requests of the Central Ministries or Departments or Public Sector Undertakings for exemption from 20 per cent target on a case to case basis and monitor achievements under the Policy.

13. Setting up of Grievance Cell: In addition, a 'Grievance Cell' will be set up in MoMSME for redressing grievances of Micro and Small Enterprises for redressing grievances of Micro and Small Enterprises in Government procurement. This cell shall take up issues related to Government procurement raised by Micro and Small Enterprises with Departments or agencies concerned, including imposition of unreasonable conditions in tenders floated by Government Departments or agencies that put Micro and Small Enterprises at a disadvantage.

14. Special Provisions for Defence Procurements: Given their unique nature, defence armament imports shall not be included in computing 20 per cent goal for Ministry of Defence. In addition, defence equipments like weapon systems, missiles etc. shall remain out of purview of such Policy of reservation.

15. Monitoring of Goals : The monitoring of goals set under the Policy shall be done, in so far as they relate to the Defence sector, by Ministry of Defence itself in accordance with suitable procedures to be established by them.

16. Removal of difficulty: Any difficulties experienced during the course of implementation of the above Policy shall be clarified by MoMSME through suitable Press releases which would be kept on the public domain.

[F.No. 21(1)/2011-MA]
AMARENDRA SINHA, Additional Secretary and
Development Commissioner (MSME)



Amendment

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES ORDER

New Delhi, the 9th November, 2018

S.O. 5670 (E) : In exercise of powers conferred by section 11 of the Micro, Small and Medium Enterprises Development Act, 2006 (21 of 2006), the Central Government hereby makes the following amendments to the Public Procurement Policy for the Micro and Small Enterprises (MSEs) Order, 2012 namely :-

1. (i) This Order may be called the Public Procurement Policy for Micro and Small Enterprises (MSEs) Amendment Order, 2018.

(ii) This shall come into force on the date of its publication in the Official Gazette.

2. Throughout the Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012, (hereinafter referred to as the said Order) for the figures and word "20 percent", wherever they occur, the figures and word "25 per cent" shall be substituted.

3. After paragraph 4 of the said Order, the following paragraph shall be inserted, namely:-

"4A. Special provision for Micro and Small Enterprise owned by women. Out of the total annual procurement from Micro and Small Enterprises, 3 per cent from within the 25 per cent target shall be earmarked for procurement from Micro and Small Enterprises owned by women."

[F. No. 21 (22-2018-MA)]

RAM MOHAN MISHRA A, Addl. Secy. & Development Commissioner



**LIST OF ITEMS RESERVED FOR PURCHASE FROM SMALL
SCALE INDUSTRIAL UNITS
INCLUDING HANDICRAFT SECTOR**

In this regard, the updated list (from time to time) shall be referred to from the official website of “**DEVELOPMENT COMMISSIONER (MSME) MINISTRY OF MICRO, SMALL & MEDIUM ENTERPRISES.**

Web-link: <http://dcmsme.gov.in/publications/reserveditems/itemssi.htm>

12/1/2021



Annexure-27

Office Order regarding PSD

AVNL FINANCE O.O. No. AVNL / FIN / POLICY / 2021-22 / PSD DT. 02.12.2021

Sub : Interim Policy on EMD and Security Deposits.

1. The Procurement Manuals of AVNL for Stores Procurement and P&M Procurement are under finalization.
2. In the meanwhile, it has been decided that AVNL Units will follow the below mentioned provisional policy on EMD and Security Deposits.
 - i) AVNL Units will receive EMD and Security Deposits in favour of "ARMOURED VEHICLES NIGAM LIMITED (AVNL)- Unit Name".
 - ii) The forms / instruments authorized for receipt of EMD and Security Deposits are
 - a) Bank Guarantee
 - b) Fixed Deposit Receipt (pledged in the name of AVNL)
 - c) Demand Draft / Banker's Cheque
 - d) Online Payment
 - iii) The Demand Draft, Banker's Cheque and Online Payment will be deposited to respective unit Bank Account (Commercial) and accounting of all transactions on EMD and Security Deposits will be maintained in the respective units.
 - iv) Encashment of BG and FDR for forfeited cases will be credited to Bank Account (Commercial) of respective units.
 - v) Release of any Security Deposits to the vendors in any form will be done in consultation with Finance & Accounts of the Unit.
3. This provisional policy applies to EMD and Security Deposits pertaining to all types of procurement activities.
4. AVNL Units are requested to revert back to AVNL Corporate Office for any further clarifications.

(G. SRINIVASAN)
Offg. GM / Fin
For AVNL