



MAHANAGAR TELEPHONE NIGAM LIMITED

(A Government of India Enterprise)

**MANUAL OF PROCUREMENT
OF
TELECOM EQUIPMENT
AND
STORES**

7th Edition - Updated upto 28.06.2022



FOREWORD

Manual of Procurement of MTNL for procurement of Telecom Equipment and Stores was first brought out in July 2003. The Manual was prepared with a view to streamline & regulate procurement activities by all MTNL concerned units.

Subsequently modifications were carried out from time to time in various provisions contained in the Manual to keep abreast with the latest trend and practice. Major changes have resulted from implementation of e-procurement system in April 2011. Many amendments were put in place since year 2003, on the basis of experience, to further improve upon the procurement procedure. A total of 19 amendments were incorporated in the 2nd edition of Manual of Procurement updated upto 11th July 2012. Further, the 3rd edition of the procurement manual was released by updating all the amendments upto 02nd May 2017. The 4th edition of the procurement manual was released on 24.01.2020. The 5th edition of the procurement manual was released on 25th March 2021 & 6th edition was released on 25.11.2021.

All the amendments till date have been incorporated in this edition i.e. 7th edition of Manual of Procurement and the 7th edition of MTNL Procurement Manual, **updated upto 28.06.2022** is hereby circulated by MM Section, Corporate Office, MTNL New Delhi.

**O/o GM (MM)
MTNL Corporate Office**

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CHAPTER 1

PREAMBLE

MTNL's aim is to procure the material of the specified quality, at the most competitive rates, in a fair, just and transparent manner. Procurement is an important activity in MTNL as about 50% of its budget is used for procurement of materials. A need has been felt to modify the existing procurement procedure being followed by MTNL Corporate Office as well as by Units so as to cut down the procurement time in the present liberalized telecom market. This is all the more necessary as MTNL is facing increasing competition in all types of services and has to respond quickly for procurement of materials as well as its utilization so as not only to keep its market share in the emerging telecom scenario but also to expand and acquire new market segments.

The procurement of materials in MTNL is done by inviting tenders and also through PSUs against their reservation quota. The procurement is done at two levels viz.

MTNL Corporate Office
Delhi/Mumbai/MS Units of MTNL

The procurement of materials in MTNL Corporate Office is done for high value critical equipments such as large size switching equipment, transmission equipment, PIJF U/G Cables, WLL equipment & terminals, new technology equipments etc. A list of items being procured at the MTNL Corporate Office and Units are indicated in Chapter 17.

In a Liberalized Telecom Market where MTNL has to compete with a large number of competitors, it is imperative for MTNL to serve in the competitive environment. For such a scenario, it is essential not only to see the cost of materials being procured but also the time required for its procurement as well as successful implementation so as to make its presence felt among various competitors. Thus, not only the cost and time factor is required to be taken into consideration but at the same time the cost of opportunity lost due to long gestation period of procurement and implementation is also to be taken into consideration i.e., the business opportunity is also one of the most important factors for implementation of any such venture/project. Hence, under such circumstances, it is essential to take an overall view for cost of material, time for procurement, method of procurement as well as business opportunity for any such venture/project. In such a situation, the Management Committee / MTNL Board may decide the methodology to be adopted for such procurement taking into consideration cost, time as well as business opportunities as situation warrants. **In addition to open tendering, the following methodologies can be adopted:**

➤ **Negotiations Route:**

In a situation where the requirement is of an immediate nature and it is necessary to ensure continued supplies from the existing vendors, the MTNL management committee may decide to place repeat orders upto 100% of the quantities contained in the running contract and at a rate negotiated with the existing vendors considering the prevailing market conditions. Depending upon the total value of additional procurement, the negotiation committee can be constituted with the approval of competent authority of MTNL. This route will however be resorted to in exceptional circumstances.

➤ **Limited tender Route:**

There are certain specific provisions for calling the limited tender appearing in para 31 to 36 under Rule 128 in the General Financial Rules (GFRs). The limited tender option has to be exercised in specific circumstances as already provided. In some cases the equipment is sophisticated and requires thorough technical screening, testing and prototype approval by the Telecom Engineering Center/Quality Assurance to ensure that these equipments are of sufficient quality level to be used in public Telecom Network. In such cases an open tender may result in the participation of unknown bidders in open tenders, whose capability in making such equipment is yet to be established. They may submit unrealistic bids which may cause major difficulties in the tender evaluation process. In such cases, it would be necessary to screen out such bidders so that MTNL could interact only with bidders who have intrinsic capability as well as proven track record of supplying such sophisticated equipment. Where such equipments are required, it would be worthwhile restricting Bids by issue of limited tenders only to those parties who have proven expertise in manufacture and supply of such equipment and who have prototype approval and production clearance. In such tenders it is essential that the reasons for limiting the tenders to proven suppliers needs to be brought out in the NIT itself so that such an action would stand justified. The issue of such limited tender should have the concurrence of Financial Advisor and personal approval by the head of the unit.

➤ **Expression of Interest Route:**

In situations where MTNL proposes to induct new technology/equipment/new service and the specifications of the new technology/equipment/new service are not firmed up, MTNL may invite Expression of Interest (EOI) from the available vendors of that technology/equipment/new service. Based on the offers received from the bidders who choose to participate in the EOI, the bidders satisfying the terms of EOI will be short-listed. Before short listing the participants for handing over the tender documents, MTNL may freely interact with them, obtain clarifications and feed back on the delivery of similar equipment/services elsewhere. The short listed bidders will be given the tender document containing detailed technical, commercial and financial conditions. After evaluation by a designated committee, the contract shall be awarded with the approval of competent authority to the successful bidder(s) as per the terms and conditions stipulated in the EOI and the technical, commercial and financial bid.

This manual contains the detailed procedures, guidelines to be followed by MTNL Corporate Office as well as by Units to ensure smoother and faster decision making.

The Procurement Manual is a broad policy document for procurement of telecom equipment & stores. The same may be followed by other units for their tenders by suitably modifying to meet their requirement. However Civil/Electrical tenders may follow the pattern of CPWD procurement manual.

➤ **Tenders with estimated value of Rs. 2 Lakh or more shall be floated through Electronic Procurement System. Exception on account of more participations or any other difficulty may be approved by ED of units/CMD.**

- **INTEGRITY PACT** : Tenders of ` 1 Crore or more value shall be covered under Integrity Pact programme. Circulars / directions issued by corporate office from time to time in this regard may be followed by the tendering units. Format of Integrity Pact document to be signed between MTNL and the bidder is attached at **Annexure-1.1**

- **E-Reverse Auction:**

Tender valued Rs 5 Crore or more shall be considered for e-reverse auction. **Broad guidelines for conducting e-reverse auction shall be as below:-**

- a) While uploading the tender document, the “**Tender cum Auction**” option to be selected on the online portal by tender inviting authority.

E-Reverse Auction would be conducted on **Net Present Value (NPV)** of ‘Net procurement cost’ # to MTNL for bid evaluation, subsequently after the opening of the Financial-Part. The bidder evaluated highest in the financial evaluation (**H-1 rank bidder**) and the bidder(s) whose bid value is more than the price band of **L1+25% during financial evaluation**, shall not be allowed to participate in the e-reverse auction, subject to condition that minimum 3 bidders will be allowed to participate in e-Reverse Auction irrespective of their bid value”.

Note: It may please be noted that presently the CPPP portal of NIC does not have the provision to implement L1+25% elimination criteria mentioned above. Accordingly, till the time, it is implemented by M/s NIC on CPPP portal, the tendering authority may exclude the L1+25% elimination criteria and only H-1 rank bidder will be eliminated for e-RA.

- b) In case of MSME bidder(s) , if the bidder happened to be the highest bidder (H-1 rank bidder) and the quoted price falls within the price band of L1 + 15% during financial evaluation before e-reverse auction, then such MSE bidder shall not be eliminated for e-reverse auction.
- c) Tenders which are covered under Public Procurement (Preference to Make in India) Policy of Govt. of India / DoT, the purchase preference for the local suppliers shall be as per Govt. notification i.e. **the bidder who is registered on the CPPP portal as a local supplier & has submitted the bid under PMI policy and whose finance bid value falls within the purchase preference of 20% specified by the Govt. (i.e. within price band of L1+20%), shall not be eliminated for e-reverse auction. Further, any change in purchase preference as & when notified by Govt. of India shall be applicable.**
- d) For enabling preference to MSE bidders and local suppliers on the online portal as per (c) and (d) above, the tender inviting authority may exercise option “**Allow Preferential bidder**” on the online portal for MSE bidders & Make In India (as applicable).
- e) Further, if 3 or lesser number of bidders are found to be techno-commercially responsive, all such bidders will be allowed to participate in the e-Reverse Auction irrespective of their bid value.

The following would be parameters for e-Reverse Auction:

S. No.	Parameter	Amended Value
1	Date and Time of Reverse-Auction Bidding Event	Will be intimated to Technically Responsive bidders after the opening of Financial-part.
2	Duration of Reverse-Auction Bidding Event	2 Hours
3	Automatic extension of the 'Reverse-Auction Closing Time', if last bid received is within a 'Pre-defined Time-Duration' before the 'Reverse-Auction Closing Time'	Yes
3.1	Pre-defined Time-Duration	5 Minutes
3.2	Time-Duration of Automatic extension	10 minutes
3.3	Maximum number of Auto-Extensions	As long as the bids are received within a 'Pre-defined Time-Duration' before the 'Reverse-Auction Closing Time'.
4	Criteria of Bid-Acceptance	'Beat on Starting last quoted Price', as well as, 'Beat on Rank-1 Bid Value'
5	Entity – Start-Price	Net Present Value (NPV) of 'Net procurement cost' #.
6	Minimum Bid-Decrement	0.25% of Net Present Value (NPV) of 'Net procurement cost' #.
7	Display of 'Pseudo Identity' of Bidders during bidding period	No
8	Display of Bidder's own current Rank	No
9	Display of current L-1 price	To all Bidders participating in e-RA as well as MTNL's officers.
10	Evaluation Criteria after e-Reverse Auction	<p>Evaluation Criteria after e-Reverse Auction : The bidder offering the highest discount in reverse auction on Net Present Value (NPV) of 'Net procurement cost' # as per the initial bid of L-1 bidder shall be declared as successful bidder.</p> <p>Arriving at Individual item rate for successful - Bidder: The item wise rates of successful bidder post reverse auction will be derived by discounting the quoted rate of individual items by a factor of "(Discounted NPV Post Reverse Auction) / (NPV of Net procurement cost</p>

Net Procurement Cost: Total procurement cost including AMC but excluding GST credit eligible to MTNL

Note: Parameters at Sl. No. 5 & 6 shall be confirmed after opening & evaluation of Financial bid parts.

Note: NPV of Net Procurement Cost = Net Price of Equipment + Net Price of Services + Net price of Spares + Net Present Value (NPV) of AMC charges.

➤ **PROCUREMENT THROUGH E-COMMERCE SITES :**

In addition to procurement through quotations, the concerned authority shall have an option to procure the intended item from e-commerce website also like Flipkart, Amazon, E-bay, Snapdeal etc. for which Make/Model/Brand name etc. to be specified by the user. While making procurement from e-commerce websites, price reference may be obtained from at least three e-commerce websites if available (like procurement through quotation route) and /or quotation from open market and the case shall be processed for procurement at the lowest available price. Regarding payment in such cases, the 'Cash-on-Delivery' mode of payment may be adopted for payment upto Rs.10,000/- (Rupees Ten thousand only) in case option is available at e-commerce websites for which advance may be given to concerned officer. In case of procurement is of higher amount (i.e. more than Rs.10,000/-) the payment may be made through credit card by an officer authorized by concerned unit of MTNL by providing credit card officially for the purpose.

The financial power w.r.t. procurement of items through reputed e-commerce websites like Flipkart, Amazon, E-bay, Snapdeal etc. will be as follows initially:

CMD : up to Rs.10 Lakh
ED : up to Rs.2 Lakh
GM : up to Rs.50,000/-

➤ **PROCUREMENT THROUGH GeM PORTAL :**

The financial powers w.r.t. procurement of items through various modes on Government eMarketplace (GeM) portal will be as follows:

S. No.	Mode of Procurement on GeM portal	Revised Financial Powers		
		GM	ED	CMD
1	Through any of the available suppliers on the GeM, meeting the requisite quality, specification and delivery period	Upto Rs 25,000	Upto Rs 25,000	Upto Rs 25,000
2	Through the GeM Seller having lowest price amongst the available sellers, of at least three different manufacturers, on GeM, meeting the requisite quality, specification and delivery period.	Upto Rs. 2 Lakh	Upto Rs 5 Lakh	Upto Rs 5 Lakh
3	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.	Upto Rs 5 Lakh	Upto Rs 50 Lakh	Above Rs 5 Lakh

Note: It will be at the discretion of Tendering Authority to call for online bids, even for lower value of procurements mentioned at Sl. No. 3 above.

Brief guidelines for the procurement through GeM portal are as given below:

- (i) **Goods of what value can be purchased on GeM :** As per rule 149 of GFR 2017, the GeM portal shall be utilized by the Government buyers for direct on-line purchases as under :-
1. **Up to 25,000/-** through any of the available suppliers on the GeM meeting the requisite quality, specification and delivery period. The procuring authorities will certify the reasonability of rates.
 - 2 **Above Rs. 25,000/- and up to Rs. 5,00,000/-** through the GeM Seller having lowest price amongst the available sellers, 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.** The procuring authorities will certify the reasonability of rates.
 3. **Above Rs. 5 Lakh/-** 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.** The procuring authorities will certify the reasonability of rates.
- (ii) In case of direct purchase from any of the available suppliers on the GeM and purchase on three quotation basis through Gem Portal, the MTNL unit 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 and rate of same item(s) in other e-commerce websites etc.
- (iii) **GFR Compliance:** The purchases made on GeM are governed by Rule 149 of GFR 2017 as amended vide Ministry of Finance OM dated 02.04.2019.
- (iv) **Prices:**
- a. **Offer price on GeM portal:** The prices of the offered Goods or Services shall be firm and fixed at any point of time and shall be indicated in INR for each accounting unit. The Seller can choose to offer Goods or Services with uniform all inclusive unit price for deliveries at locations across India on All India basis or for specified locations selected at the time of product listing. As such, for supply of Goods contract, no additional charges such as local levies / transportation / loading unloading charges etc., shall be payable over and above the contract price. For selected freight intensive products, as notified on GeM, the Seller may quote unit price inclusive of GST with delivery charge(s) (including transportation, loading unloading and local levies) payable extra as defined in the relevant categories. In respect of items requiring installation and / or commissioning and other services (as indicated in technical details of the item), the charges for the same shall also be included in the offered price on GeM.

carting period as notified from time to time on GeM, rates for carted quantity, for that buyer, are frozen for the period as specified on the portal against any upward revision by seller. However, advantage of any downward revision in the offer price of carted item shall be automatically provided to the buyer.

- b. **Offer price in e-bidding:** Bidder is required to indicate offer price in the price schedule as provided in the bidding document. Complete breakup of price as required must be indicated. **However evaluation of the bid shall be on the basis of total all inclusive**, landed price at consignee destination (unless otherwise specified in the ATC).
- c. **Offer price in RA:** Bidder is required to indicate total offer price. Evaluation of the bid shall be on the basis of total all inclusive, landed price at consignee destination (unless otherwise specified in the ATC). Successful bidder shall have to provide complete breakup of the quoted price in the required price bid format before award of contract.

(v) Performance Security and Performance:

a) There shall be no Performance security / PBG requirement for contracts:

- I. Placed under Direct Purchase / L-1 Purchase Option under Para (i) and (ii) of GFR rule 149;
- II. Placed through Bids / RA with estimated bid value up to Rs 5 Lakh (in case of Goods contracts); and
- III. Placed through Bids / RA with estimated bid value up to Rs 5 Lakh (in case of Services contracts)

- b) In case of contracts placed following e-Bidding / RA, Performance Security / Performance Bank Guarantee (PBG) (in format provided on GeM) **valid for 2 months beyond the date of completion of all contractual obligations including warrantee obligations**, will be obtained from the successful Bidder, for ensuring due performance of the contract. The quantum of Performance Security shall be @ 5% of the value of contract. In case of any extension of contract obligation period, the seller shall be liable to suitably extend the validity of the Performance Security.
- c) Such Performance Bank Guarantee, in prescribed format, from a scheduled commercial bank must be submitted by Seller to MTNL within 15 days of award of contract on GeM. The payments to the seller shall become due only after receipt of Performance Bank Guarantee by MTNL and verification of its genuineness.
- d) If the Seller fails or neglects to observe or perform any of his obligations under the contract it shall be lawful for the Buyer to forfeit either in whole or in part, the Performance Security furnished by the Seller.
- e) If the Seller duly performs and completes the contract in all respects MTNL shall, refund the Performance Security to the Seller within 30 days of completion of all contractual obligations by the Seller.

(vi) Payment Authority and Payment Terms:

- a. **For Goods:** In case of goods, 100% payment will be released within ten (10) days of issue of consignee receipt-cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.
- b. **For Services:** In case of services, 100% payments on the basis of monthly (unless otherwise specified) bills will be paid within ten (10) days of issue of consignee receipt- cum-acceptance certificate (CRAC) and on-line submission of bills unless otherwise specified in STC / ATC.

(vii) Splitting of Demand: Splitting of demand and creating multiple Bids/RAs is strictly prohibited on GeM. If noticed, necessary action will be taken from GeM like blocking such Bids/RAs.

(viii) Bid Splitting: In case of critical / vital / safety / security nature of the item, and / or large quantity under procurement and / or urgent delivery requirements and / or inadequate vendor capacity, Buyer may decide to have more than one source of supply. In such cases Buyer may opt for Bid Splitting while creating the bid on GeM, clearly indicating the Bid Splitting ratio in which order will be split among L-1, L-2, L-3 etc as per ratio of splitting pre-disclosed in the bid . After technical and financial evaluation, before splitting the quantity, it should be ensured by the Buyer that the L1 price is reasonable. After deciding the acceptable reasonable price, L1 would be awarded contract for at least the first / highest percentage indicated in the bid splitting ratio. For the rest of the bid quantity, the L-1 rates / lowest accepted rate will be counter offered to the next higher quoting bidder(s) for price matching. On acceptance of the counter offer, the order will be placed on next higher quoting bidder(s) for the respective percentage. In case of non-acceptance of the counter offer by the next higher quoting bidder(s), a similar offer shall be made to L3 and L4, and so on. In case counter offered rates are not accepted for ratio of splitting quantity as per bid document by any of the subsequent bidders, the left over quantity will be divided between bidders who have accepted the rates in the ratio of their originally allocated quantities subject to their confirmation and after getting consent on mutually agreed delivery schedule for the additional quantity.

(ix) GeM is a dynamic online marketplace. The product/service listings across the existing categories are dynamic. Moreover, new categories of products/services are continuously being added on GeM. In situations where there is only one offer available in a product/ service category and/or there is offer from only one Seller after filter based search, the buyer should not select such offer for buying. Efforts should be made by Buyer to get their past suppliers and prospective Sellers on-boarded on GeM so as to ensure availability of sufficient Sellers on GeM. This however will not apply for PAC procurement.

(x) The buyer reserves the right to accept/reject any bid including the lowest bid received through e-bid and/or annul the e-bidding process without assigning any reasons.

(xi) Handling warranty, quality assurance / SLA: For Services there is a provision of including SLAs. For the Product, the users can stipulate SLA conditions while creating bids . All the buyers are free to appoint their own quality assurance team or

a third party agency. GeM is also engaging third party inspection/ Certifying agencies to carry out such function.

- (xii) **Two Bid systems:** To improve the user experience, two bid systems has been introduced .in the GeM i.e. Opening Technical bid first and then Financial Bid.
- (xiii) **Liquidated Damages:** If the Seller fails to deliver any or all of the Goods/Services within the original/re-fixed delivery period(s) specified in the contract, the Buyer will be entitled to deduct/recover the Liquidated Damages for the delay, unless covered under Force Majeure conditions aforesaid, @ 0.5% per week or part of the week of delayed period as pre-estimated damages not exceeding 10% of the contract value without any controversy/dispute of any sort whatsoever.
- (xiv) **Extension of Delivery Period:** MTNL may, on the request of the Seller or otherwise, extend the delivery date suitably subject to the following conditions:
 - i. The original Delivery Period may be re-fixed by the Buyer without any Liquidated damages subject to Force Majeure conditions mentioned below and also on the ground/reasons of delay attributable to the Buyer / Consignee.
 - ii. For other cases, provided the price trend is not lower, the Delivery Period may be suitably extended for which an amount equal to the Liquidated Damages for the extended period(s) for delay in the supply of the Goods/Services after the expiry of contract delivery period /re-fixed delivery period, shall be recovered from the Seller as mentioned hereinafter for the extended period. No increase in price on any ground after the original/re-fixed delivery date shall be admissible during such extended period(s). Nevertheless the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in GST taking place during extended delivery period.
- (xv) Since GeM is a standard platform approved by Government of India; therefore in case of purchase through GeM, the policy as mentioned/modified/applicable as per duly notified procedures of GeM will only be applicable.

CHAPTER 2

FORECAST

Need

The starting point of the procurement process for any item is estimation or forecast of its requirements to be reflected in the tender documents. The price of the item has a bearing on the quantity being tendered for example, higher the quantity, more the chances of price being lower for the same item.

Forecasting Methods

For all items being procured by MM Cell, the forecast of the equipment is obtained from the concerned user branches who plan for the induction of such equipment into the network. The requirement of the equipment against each project or by each Unit is worked out after discussion with the concerned Head of the Unit and finalized by the Planning Branch. Some of the parameters based on which the forecast is made are as follows.

- a) Target of gross DELs, WLL, Cellular Mobile to be provided.
- b) Target of gross switching equipment, WLL, Cellular Mobile equipment to be installed.
- c) Requirement of transmission media, Power Plants, Batteries and Terminal Equipment.
- d) Requirement under “New Programs/Services”.
- e) Special up-gradation requirements, especially where electronic exchanges or digital transmission systems are planned.
- f) Maintenance Requirements.
- g) Spares.

The lead time for procurement has an important bearing in these requirements e.g. items having longer lead time need to be procured for requirement over a longer time frame whereas items having very short lead time can be procured for commensurately shorter period of requirements.

While forecasting the requirements, it is necessary to keep in mind the necessity of ensuring that the projects covered in the requirements are planned projects which have been approved by the competent authorities, for which funds are provided and are backed-up by estimates sanctioned by the competent authorities.

In the cases where the supplier of the equipment or the production of equipment depends on imported components, it is necessary to have an accurate forecast so that the cost of equipment is shielded from rapid changes in the exchange rate over a longer period of time.

CHAPTER 3

BID DOCUMENTS

SECTION I -NOTICE INVITING TENDER

MAHANAGAR TELEPHONE NIGAM LIMITED
(A Government of India Enterprise)

TENDER NO. & DATE:

DUE DATE OF RECEIPT:TIME UPTO 12.00 HOURS

DATE OF OPENING:..... TIME AT 12.30 HOURS

ON BEHALF OF CHAIRMAN AND MANAGING DIRECTOR, MAHANAGAR
TELEPHONE NIGAM LIMITED, SEALED TENDERS ARE INVITED FOR SUPPLY OF
.....

THE INDIAN COMPANIES REGISTERED TO MANUFACTURE THE TENDERED
ITEM IN INDIA, HAVING VALID TYPE APPROVAL FOR THE TENDERED ITEM AND
HAVE EXECUTED EDUCATIONAL/COMMERCIAL ORDERS BY MTNL/BSNL ARE
ELIGIBLE TO PARTICIPATE IN THE TENDER.

THE ELIGIBILITY CONDITIONS FOR THE BIDDERS ARE DETAILED IN CLAUSE-2
OF SECTION-II OF TENDER DOCUMENT.

BID SECURITY IN THE FORM OF BANK GUARANTEE WILL BE RS..... /-
(RUPEES

.....). THE BID SECURITY SHALL BE SUBMITTED
BEFORE THE SCHEDULED DATE AND TIME OF OPENING OF THE BIDS. A SCAN
COPY OF THE BID SECURITY SHALL BE UPLOADED ALONGWITH THE TECHNO-
COMMERCIAL BID.

INTENDING BIDDERS MAY DOWNLOAD THE TENDER DOCUMENT FROM THE
WEBSITE. THE COST OF TENDER DOCUMENT CAN BE PAID OFF-LINE IN THE
FORM OF DD/PAY ORDER OF Rs. BEFORE SCHEDULED DATE AND TIME OF
OPENING OF BIDS.

The Tender Enquiry / Notice Inviting Tender (NIT) issued by MTNL Delhi, Mumbai
& CO shall be published on Central Public Procurement Portal (CPPP) i.e.
www.eprocure.gov.in, GeM Portal (If applicable) and on the website of MTNL i.e.
www.mtnl.net.in & www.mtnldelhi.in under "Tenders" and "What's New" sections. Further,
for wider circulation of the tender / NIT, a communication shall also be made by the
tendering authority to all the known prospective bidders through written letter or E-Mail.

SECTION II

INSTRUCTIONS TO BIDDERS

A INTRODUCTION

1. DEFINITIONS

“The Purchaser” means the MAHANAGAR TELEPHONE NIGAM LIMITED

“The Bidder” means the individual or firm who participates in the tender and submits its bid. “The Supplier” means the individual or firm supplying the goods under the contract.

“The Goods” means all equipment, machinery, and/or other materials which the Supplier is required to supply to the Purchaser under the contract.

“The Advance Purchase Order” means the intention of the Purchaser to place the Purchase order on the bidder.

“The Purchase Order” means the order placed by the purchaser on the Supplier signed by the Purchaser including all attachments and appendices thereto and all documents incorporated by reference therein. The purchase order shall be deemed as “Contract” appearing in the document.

“The Contract Price” means the price payable to the Supplier under the purchase order for the full and proper performance of its contractual obligations.

“Validation” is a process of testing the equipment as per the specifications including requirements for use in MTNL network. Validation is carried out in simulated field environment and includes stability, reliability and environmental tests.

2. ELIGIBLE BIDDERS

The eligible bidders should be Indian companies registered to manufacture the tendered item in India, having obtained clearance from Reserve Bank of India wherever applicable. In addition, they should have obtained valid Type Approval Certificate from Department of Telecom (Telecom Engineering Centre) for the tendered item against Technical Specifications given in the bid document and should have successfully executed Educational/Commercial orders issued by BSNL/MTNL. The proof of manufacturing in India, Type Approval Certificate and successful execution of educational/ commercial orders shall form part of the bid.

[Hint: The eligibility conditions for procurement of different types of equipment should be decided on case-to-case basis taking into account:

Type of equipment

First procurement or repetitive
procurement Available base of type
approved vendors
Status of commercial/Educational order execution.

The eligibility conditions need to be clearly defined as follows:

1. That bidders having type approval of the specified GR are eligible to participate in the tender.
2. The bidders having type approval of the old GR for the same equipment are also eligible to participate. Such bidders have to obtain Type Approval Certificate or get their equipment validated before placement of APO/PO as the case may be. However, the successful bidder will have to supply the equipment as per the technical specifications given in the bid document.
3. A special condition will be included in Section-IV of the bid document specifying the time frame for obtaining TAC/completion of validation. This will be decided on case-to-case basis.
4. **For the items, which are being procured for the first time where no vender or very few venders have obtained type approval so far, the eligibility conditions may be defined as follows:**
 - I. **The bidder or his collaborator should have supplied 25% of the tendered quantity to any other telecom service provider and a certificate given by the competent authority to be enclosed along with the bid.**
 - II. In addition, he shall have to get the offered equipment Type Approved/Validated against the specified GR in a time frame to be defined in the bid document.
 - III. In a tender, either the Indian agent on behalf of the Principal/OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same item/product in the same tender.
 - IV. If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.
5. **The experience requirement of the bidders under eligibility criteria shall be as per below:-**

A. For Supply of Goods Contracts:

“The bidder or his collaborator or authorized dealer should have experience of supply of 25% of the tendered quantity as on the date of submission of bid and a certificate given by the competent authority to be enclosed along with the bid .

B. For Works Contracts:

The bidder should have—

Three similar completed works in last 3 Financial Years each of value **not less than 30%** of estimated cost of one year.

OR

Two similar completed works in last 3 Financial Years each of value **not less than 50%** of estimated cost of one year.

OR

One similar completed work in last 3 Financial Years of value **not less than 70%** of estimated cost of one year.

Similar works means the scope of work defined in the tender document

6. Wherever consortium participation is allowed in the tender, following will be the eligibility requirements:-

- i. Bidder / Lead bidder in case of consortium should be Indian Registered Company.
- ii. The bidder / lead bidder of consortium shall be an OEM/System Integrator/ITES/Channel Partner of OEM.
- iii. The bidder / lead bidder shall have the back to back agreements for clear role and responsibilities with each consortium partner, in respect of commitment to fulfill contractual obligations and shall be submitted along with the bid. The agreement shall also cover the case of dispute of any nature (insolvency, acquisitions, commercial or financial) of any consortium partner.
- iv. **Turn over requirement:** For the purpose of meeting Turn over requirement of the tender, the annual turnover of lead bidder or any of the consortium partners shall be considered.
- v. **Experience requirement:** For the purpose of meeting experience requirement of the tender, the experience of lead bidder or any of the consortium partners shall be considered.
- vi. It shall not be allowed to withdraw / exit by any of the member from consortium, during the contract period.

7. Pursuant to Office Memorandum No 6/18/2019-PPD, Dated 23.07.2020 issued by Ministry of Finance, Dept. of expenditure i.r.o. restrictions under rule 144 (xi) of General Financial Rule (GFR) 2017, provisions as per Chapter-18 shall be kept in all the tenders/procurements whether of goods, services (including consultancy services and non-consultancy services) or works (including turn key projects) etc. under Eligibility Conditions.

8. OTHER TENDERING GUIDELINES:-

- (I) On Eligibility, Turnover & Other requirements of the tenders having Package wise bidding & Evaluation / Ordering-** In case of tenders which are having Package-wise procurement i.e. there are different packages wherein bidder is free to bid for any or all the package(s) and bid evaluation & Ordering is also done package-

wise, all concerned units handling such type of procurement should frame eligibility criterion considering estimated cost of individual package instead of total estimated cost of all packages in the tender under a single Notice Inviting Tender and also the condition for turnover requirement should be in line with CVC guidelines.

- (II) **Regarding On line submission of bids** - For the tenders, which are issued online through e-procurement portal or GeM portal, only the online bids shall be invited and considered for evaluation. All tendering units to explicitly incorporate conditions that only online bids shall be considered for evaluation. Any bid(s) received offline shall not be considered and returned back to the bidder without opening.
- (III) **Regarding Synchronization of procurement of Inter-dependent components in a big project so as to issue Purchase Orders timely as per MTNL manual schedules-** All units shall ensure that procurement processes for inter-dependent component / items in a big project should be synchronized, so that Purchase Orders are placed timely as per the timelines specified in MTNL Procurement manual.
- (IV) **Regarding Quality Assurance Testing requirements-** The concerned planning unit handling the procurement should carefully prepare the list of 'Quality Assurance tests' after extensive evaluation of the need for Quality Assurance tests requirement in respect of various tendered items as per schedule of requirement of the tender. Further, the items which are to be exempted/non-exempted from Quality Assurance testing should be explicitly mentioned in the tender / Purchase Order document. Further, the concerned planning units shall also clearly decide proper sampling plan while mentioning description of each Item to be offered for Quality Assurance meant for dispatch by the vendor

Note: MTNL may give relaxation w.r.t. conditions of prior turnover and prior experience in to all Start-ups [whether Micro & Small Enterprises (MSEs) or otherwise] subject to meeting of quality and technical specifications in accordance with the relevant provisions of tender requirement.

However, there may be circumstances (like procurement of items related to public safety, health, critical security operations and equipments, etc.) where MTNL may prefer the vendors to have prior experience rather than giving orders to new entities. For such procurements, wherever adequate justification exists, the MTNL may not relax the criteria of prior experience/ turnover for the Startups.

The eligible Micro & Small Enterprises (MSEs) shall be given the preferences as detailed in Chapter 15.

3. COST OF BIDDING

The bidder shall bear all costs associated with the preparation and submission of the bid. The Purchaser will, in no case, be responsible or liable for these costs, regardless of the conduct or outcome of the bidding process.

B. THE BID DOCUMENTS

4. DOCUMENTS REQUIRED

- 4.1** The goods required to be supplied; bidding procedures and contract terms and conditions are prescribed in the Bid Documents. The Bid documents include :
- a)** Notice Inviting Tender
 - b)** Instructions to Bidders
 - c)** General (Commercial) Conditions of Contract
 - d)** Special conditions of Contract, if any
 - e)** Schedule of Requirements
 - f)** Technical Specifications
 - g)** Bid Form and Price Schedules
 - h)** Bid Security Form
 - i)** Performance Security Bond Form
 - j)** Letter of authorization to attend bid opening.
- 4.2** The Bidder is expected to examine all instructions, forms, terms and specifications in the Bid Documents. Failure to furnish all information required as per the Bid Documents or submission of the bids not substantially responsive to the Bid Documents in every respect will be at the bidder's risk and may result in rejection of the bid.

5. CLARIFICATION OF BID DOCUMENTS

- 5.1** A prospective bidder, requiring any clarification on the Bid Documents shall notify the Purchaser on line by using the E-Procurement site of MTNL. The Purchaser shall respond in writing to any request for the clarification of the Bid Documents, which it receives latest by The query (without identifying the source) and clarifications by the Purchaser shall be posted on MTNL's website for information of all the prospective bidders.
- 5.2** Any clarification issued by MTNL in response to query raised by prospective bidders shall form an integral part of bid documents and it may amount to an amendment of relevant clauses of the bid documents.
- 5.3** The bidders are required to keep a watch on the MTNL Website w.r.t. any amendment to the tender document or to clarification to the queries raised by the bidders till a day prior to the opening of the tender. MTNL reserves the right for rejection of bids if the bids are submitted without taking into account these amendments/clarifications. Further, bidder will be fully responsible for downloading of the tender document and amendments for their completeness.
- 5.4** Pre-bid conference, if required, shall be held and the minutes circulated.

6. AMENDMENT TO BID DOCUMENTS

- 6.1** At any time, prior to the date of submission of Bids, the Purchaser may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, modify bid documents by amendments.
- 6.2** The amendments shall be displayed on MTNL's website and these amendments shall be binding on all the bidders.
- 6.3** In order to afford prospective bidders a reasonable time to take the amendment into account in preparing their bids, the purchaser may, at its discretion, extend the deadline for submission of bids, suitably.

C. PREPARATION OF BIDS

7. DOCUMENTS COMPRISING THE BID

- 7.1** The bid prepared by the bidder shall comprise the following components:

- (a)** Documentary evidence established in accordance with the clause 2 & 10 that the bidder is eligible to bid and is qualified to perform the contract if his bid is accepted.
- (b)** Bid Security furnished in accordance with clause 12.
- (c)** A Clause by Clause compliance as per clause 11.2 (c)
- (d)** A Bid form and price schedule completed in accordance with clause 8 & 9.

7.2 LANGUAGE OF BID:

The bid prepared by the bidder and all correspondence and documents relating to the bid exchanged by the bidder and the purchaser shall be written in English language, provided that any printed literature furnished by the bidder may be written in another language but it is to be accompanied by an English translation of its pertinent passage(s) duly signed and verified as true English translation. The responsibility for the correctness of the translation will be solely and completely on the bidder and MTNL shall not be responsible for any loss/likely loss due to error in translation whatsoever. In such cases, for the purpose of interpretation of the bid, the English translation shall only govern.

8. BID FORM

- 8.1** The bidder shall complete the bid form and appropriate Price Schedule furnished in the Bid Documents, indicating the goods to be supplied, brief description of the goods, quantity and prices as per section VII.

9. BID PRICES

- 9.1** The bidder shall quote the price CIF-destination inclusive of all costs and charges

including all costs towards Packing, forwarding, freight, insurance, commission, unloading or any other incidental charges. GST shall be quoted separately. The offer shall be firm in Indian Rupees. No Foreign exchange will be made available by the purchaser

Price CIF- Destination or CIF-Destination Price used interchangeably anywhere in this document means price of product inclusive of all costs and charges including all costs towards packing, forwarding, freight, insurance, loading/unloading or any other incidental charges involved for supplying product at designated place (consignee address) of MTNL but excluding GST, as applicable.

- 9.2** The supplier shall quote as per price schedule given in Section VII for all the items given in schedule of requirement.
- 9.3** The Basic Unit Price CIF-destination (excluding GST credit eligible amount) quoted by the bidder shall remain firm during the entire period of contract and shall not be subject to variation on any account. Any change in incidental charges will not alter the basic prices during the contract period. A bid submitted with an adjustable price quotation will be treated as non - responsive and rejected.
- 9.4** “DISCOUNT, if any, offered by the bidders shall not be considered unless specifically indicated in the price schedule of the bid. Bidders offering discount shall therefore modify their offers suitably while quoting and shall quote clearly net price taking all such factors like Discount, free supply etc. into account”.

In addition to above, in case the discount is not quoted in price schedule separately and discount is provided to the purchaser post supply then the same will be considered as value of supply and accordingly supplier shall raise a credit note to MTNL. In case supplier fails to raise credit note in time then MTNL shall be authorised to raise a debit note against such discount plus applicable GST. Such credit/debit note shall be issued before September 30th of following end of financial year in which such supply was made.

- 9.5 (a)** Benefit in custom duty, if any, on account of “infrastructure projects” shall be passed on to MTNL. The bidder is expected to take action for arranging infrastructure benefits available for telecom sector. It is the responsibility of the bidder to avail the reduced rate of custom duty as applicable.
- (b)** The goods may be shipped in the name of MTNL. The vendor shall be responsible for custom clearance, insurance and transportation till the commissioning and handing over of the system to MTNL etc. on behalf of MTNL, including payment of custom duty, insurance, freight and other charges, if any. MTNL will issue necessary letter of authorization, if required, for the purpose of claiming concessional custom duty as per 9.5(a) whenever applicable.
- 9.6** Changes, if any, requested by the bidders for supply of indigenous items in place of imported items and vice versa, quoted in the bids, may be considered only on the lower of the two rates.

10. DOCUMENTS ESTABLISHING BIDDER'S ELIGIBILITY AND QUALIFICATION

10.1 The bidder shall furnish, as part of the bid documents establishing the bidder's eligibility, the following documents or whichever is required as per terms and conditions of Bid Documents.

- (i) Certificate of incorporation.
- (ii) Memorandum of Association & Article of Association or partnership deed or proprietorship deed as the case may be.
- (iii) Registration certificate from State Director of Industries or from Secretariat for Industrial Approval (SIA), Ministry of Industries, Government of India.
- (iv) Approval from Reserve Bank of India/SIA in case of foreign collaboration.
- (v) Latest and valid NSIC Certificate duly certified by NSIC, if applicable.
- (vi) Type Approval Certificate given by Telecom Engineering Centre (TEC).
- (vii) Inspection Certificate issued by BSNL/MTNL (QA) for execution of Educational/ Commercial Order.
- (viii) MOU / Joint undertaking in accordance with the requirements of eligibility clauses under clause 3 of section-II, as applicable.
- (ix) Bidder should furnish audited balance sheets and audited financial statements for the last 3 years for assessing their financial strength in terms of their fulfilling the eligibility criteria of turnover.
- (x) Authorization to sign the bid on behalf of the bidder.
- (xi) Certificates required under Eligibility requirement as per clause 3 of section-II.
- (xii) Valid PAN.
- (xiii) Valid Goods and Services Tax Identification Number (GSTIN). If bidder has opted Composition Scheme under GST, it should be clearly mentioned by bidder in bid document. In case the bidder intend to supply goods and services from multiple state locations then Goods and Services Tax Identification Number (GSTIN) of all the states where from the supplies are planned to be made should be provided.
- (xiv) A self-declaration along with the evidence that the bidder is not black listed by GST or erstwhile indirect tax authorities.
- (xv) In case the supplier gets black-listed during the tenure of MTNL contract, then in such cases the vendor will indemnify to MTNL for any loss of eligible GST credit as quoted in the bid. Further in such cases MTNL reserve the right to revise the unit price in such a manner that total cost to MTNL post GST creditable amount remain the same after taking into account the loss of GST eligible credit amount.
- (xvi) In case the bidder is registered under composite scheme, then bidder has to submit declaration to this effect along with bid document. After submission of bid, if bidder either become ineligible for composition scheme (Business turnover cross the Rs 75 lakhs annual limit) or voluntarily opt out of composition scheme then he should submit such declaration to MTNL immediately on occurrence of this event along with proof of approval from GST authorities in this regard.
- (xvii) Documents/ Undertaking in support of meeting the various technical requirements as per **Section-VI** of the tender document, wherever applicable.

10.2 (i) The bidder shall furnish Annual Report and /or a certificate from its bankers

as an evidence that he has financial capability to perform the contract.

(ii) The bidder shall furnish documentary evidence about technical and production capability necessary to perform the contract.

10.3 In order to enable the Purchaser to assess the provenness of the system offered, the bidder shall provide documentary evidence regarding the system being offered by him.

10.4 The offered product has to be type approved. For this purpose, the supplier shall submit a sample type for evaluation. The sample would be evaluated for its ability to meet the technical specifications, manufacturability, reliability, testability, ease of installation, maintainability etc.

Necessary documents to substantiate these attributes will have to be submitted at the time of application for approval by the supplier for obtaining type approval.

Or

In case goods offered have already been type approved/validated by the Purchaser, documentary evidence to this effect shall be submitted by the bidder.

10.5 Guidelines for submission of Tender Fee, Bid Security and other documents such as Power of Attorney, Integrity Pact, Bid Form, security agreement etc by the bidder :-

10.5.1 Tender Fee & EMD/Bid Security (if applicable), is required to be submitted by the bidder **preferably through online payment mode** as per the Bank/Beneficiary Details provided in the DNIT/Tender Enquiry document. In case of MSE (Micro & Small Enterprise) bidder, valid MSE Certificate / Udyam Registration certificate, broadly covering the tendered item/equipment/ services, for claiming exemption of Tender Fee / EMD shall be required to be submitted.

However, scanned copies of the following documents (which ever applicable) are to be mandatorily uploaded by the bidder in their online Technical bid part (1st electronic Envelope i.e. Technical Envelope) on e-tender portal failing which the tender bid shall be archived unopened / rejected on e-tender portal at bid opening stage :-

i) Bank Transaction details with UTR Number towards the successful e- payment for Tender Fee/ EMD

ii) Demand Draft/ Banker Cheque or Bank Guarantee (if opted for EMD)

iii) valid MSME Certificate /Udyam Registration certificate (for Micro & Small Enterprise claiming exemptions from Tender Fee/ EMD)

10.5.2 If the Tender fee & EMD /Bid Security are **not submitted by the bidder through online / e-payment mode**; in such case, scanned copy of these instruments shall be uploaded by the bidder alongwith the technical bid and Originals of bank instruments such as Demand Draft or EMBG towards Tender Fee, EMD/ Bid Security respectively, shall be submitted by the bidder **on any date before or within 5 days of bid submission end date**; failing which the tender bid (if already

opened on the basis of scanned copies uploaded in 1st electronic Envelope i.e. Technical Envelope, shall be rejected.

10.5.3 Further, if the required originals of bank instruments for Tender Fee, EMD/Bid Security (if not submitted through e-payment mode), whose scanned copies are uploaded by the bidder & available in 1st electronic Envelope i.e. Technical Envelope, are not received within the stipulated time (any date before or within 5 days of bid submission end date) or any discrepancy found in the original offline document, the same will be brought to the notice of CET/Tender Evaluation Committee (TEC) without any delay by the tender inviting sections.

10.5.4 During tender process, tender inviting authority may ask the bidder to produce/submit original copy of any document such as Power of Attorney, Integrity Pact, Bid Form, security agreement. MSME/Udyam registration Certificate (if applicable) submitted as scanned copy, in Technical bid part on e-tender portal (1st electronic Envelope), which the bidder will have to comply with.

11. DOCUMENTS ESTABLISHING GOOD'S CONFORMITY TO BID DOCUMENTS

11.1 Pursuant to clause 7, the bidder shall furnish, as part of his bid, documents establishing the conformity of his bid to the Bid Documents of all goods and services which he proposes to supply under the contract.

11.2 The documentary evidences of the "goods and services" conformity to the Bid Documents may be, in the form of literature, drawings, data etc. and the bidder shall furnish:

(a) a detailed description of goods with essential technical and performance characteristics;

(b) a list, giving full particulars including available sources and current prices of all spare parts, special tools, etc., necessary for the proper and continuous functioning of the goods for a period of three years following commencement of use of the goods by the purchaser, and

(c) a clause-by-clause compliance on the purchaser's Technical Specifications and Commercial Conditions demonstrating substantial responsiveness to the Technical Specifications and Commercial Conditions. In case of deviations, a statement of the deviations and exception to the provision of the Technical Specifications and Commercial Conditions shall be given by the bidder. A bid without clause-by-clause compliance of the Technical Specifications (Section VI), Commercial Conditions (Section III) and Special Conditions (Section IV) shall not be considered.

11.3 For the purpose of compliance to be furnished pursuant to the clause 11.2(c) above, the bidder shall note that the standards for the workmanship, material and equipment and reference to the brand names or catalogue number, designated by the Purchaser in its Technical specifications are intended to be descriptive only and not restrictive.

12. BID SECURITY

- 12.1** Pursuant to clause 7, the bidder shall furnish, as part of his bid, a bid security in the form of Bank Guarantee for an amount of Rs. The bidders (small scale units) who are registered with National Small Scale Industries Corporation UNDER SINGLE POINT REGISTRATION SCHEME are exempted from payment of bid security up to the amount equal to their monetary limit. In case of bidders having monetary limit as “NO LIMIT”, “WITHOUT LIMIT” or ‘MORE THAN Rs. 50 Lakhs”, the exemption will be limited to Rs.50,00,000/- (Rupees Fifty Lakhs) only. A proof regarding current registration with NSIC for the TENDERED ITEMS will have to be attached along with the bid. For details of return/adjustment and forfeiting refer to clause 12.5, 12.6 and 12.7 below.

The MSEs(Micro & Small Enterprises) units/bidders registered with MSME bodies shall be given exemption from payment of Bid Security deposit provided the tendered item is listed in the Registration Certificate of MSME, subject to following:-

- a) A proof regarding current registration for the tendered items will have to be attached alongwith the bid.
- b) The enlistment certificate issued by MSME bodies should be current & valid on the date of opening of bid.

The scanned copy of the bank guarantee for bid security and NSIC/MSME certificate shall be enclosed by the bidder in its bid and original copy of bank guarantee shall be submitted to DGM (MM), MTNL Corporate Office, Room No. 5304, Mahanagar Door Sanchar Sadan, 9 CGO Complex Lodhi, New Delhi – 110003, before scheduled date and time of opening of the bids.

- 12.2** The bid security is required to protect the purchaser against the risk of bidder's conduct, which would warrant the forfeiture of bid security pursuant to para 12.7.
- 12.3** The bid security shall be in the form of a bank Guarantee issued by a scheduled bank in favour of the purchaser, valid for a period of 180 days from the date of tender opening.
- 12.4** The bid not secured in accordance with para 12.1 & 12.3 shall be rejected by the Purchaser being non-responsive at the bid opening stage and returned to the bidder unopened.
- 12.5** The bid security of the unsuccessful bidder will be discharged/ returned as promptly as possible but not later than 30 days after the expiry of the period of the bid validity prescribed by the purchaser pursuant to clause 13.
- 12.6** The successful bidder's bid security will be discharged upon the bidder's acceptance of the advance purchase order satisfactorily in accordance with clause 27 and furnishing the performance security.
- 12.7** The bid security may be forfeited:

- (a) If the bidder withdraws his bid during the period of bid validity specified by

the bidder in the Bid form or

- (b) In the case of successful bidder, if the bidder fails:
 - (i) to sign the contract in accordance with clause 28 or
 - (ii) to furnish performance security in accordance with clause 27.
- (c) .(i) In both the above cases, i.e. 12.7(a) & (b), the bidder will not be eligible to participate in the MTNL tender for **any item / product** for one year from the date of issue of APO. The bidder will not approach the court against the decision of MTNL in this regard.
- (ii) Further, if the said bidder is MSE / SSI unit registered with NSIC / MSME bodies, in addition to action as mentioned under (c)(i) above, such bidder will also be deprived off from exemption in tender fee, exemption from payment of Earnest Money (Bid Security) and exemption from payment of Performance Security Deposit for next one year after they become eligible to participate in MTNL tenders

[Hint: Refer Chapter 5 for Detailed Guidelines]

13. PERIOD OF VALIDITY OF BIDS

- 13.1 Bid shall remain valid for 150 days from the date of opening of bids prescribed by the purchaser pursuant to clause 19.1. **A bid valid for a shorter period shall be rejected by the purchaser being non-responsive.**
- 13.2 In exceptional circumstances, the purchaser may request the consent of the bidder for an extension to the period of bid validity. The request and the response thereto shall be made in writing. The bid security provided under clause 12 shall also be suitably extended. The bidder may refuse the request without forfeiting his bid security. **A bidder accepting the request and granting extension will not be permitted to modify his bid.**

14. FORMAT AND SIGNING OF BID

The bid shall be typed or printed, numbered sequentially and digitally signed by the bidder or a person or persons duly authorized to bind the bidder to the contract. An index of various documents and page no. where it is available shall be given. The letter of authorization shall be indicated by written power of attorney. The copy of power of attorney shall be enclosed along with the bid and original power of attorney shall be submitted along with the Bid Security to DGM (MM), MTNL Corporate Office, Room No. 5304, Mahanagar Doorsanchar Sadan, CGO Complex, Lodhi Road, New Delhi-110003..

D. SUBMISSION OF BIDS

15. SEALING AND MARKING OF BIDS

15.1 Bids along with documents as indicated in clause 7 shall be digitally submitted in the format prescribed by MTNL. The supporting documents shall be suitably mapped along with the format.

15.2 Tender Opening: Tender will be opened online by the designated tender opening committee of MTNL on the scheduled date and time of opening of the bids. The representatives of the bidders may attend the bid opening either on line after logging on to the MTNL's eps portal or at MTNL premises.

16. SUBMISSION OF BIDS

16.1 Bids must be received by the Purchaser not later than 15.00 hours on due date.

16.2 The Purchaser may, at its discretion, extend this deadline for the submission of bids by amending the Bid Documents in accordance with clause 6 in which case all rights and obligations of the purchaser and bidders previously subject to the deadline will thereafter be subjected to the deadline as extended.

16.3 The bidder shall submit his bid offer against a set of bid documents downloaded by him for all or some of the systems/equipment as per requirement of the Bid Documents. He may include alternate offer, if permissible as per the bid. However, not more than one independent and complete offer shall be permitted from the bidder.

16.4 For the tenders, which are issued online through e-procurement portal or GeM portal, only the online bids shall be invited and considered for evaluation. In such cases, only online bids shall be considered for evaluation. Any bid(s) received offline shall not be considered and returned back to the bidder without opening.

17. LATE BIDS

E-Procurement system is date and time locked. The system will not accept any bid after the scheduled date and time of submission of the bids.

18. MODIFICATION AND WITHDRAWAL OF BIDS

18.1 The bidder may modify or withdraw his bid after submission prior to the deadline prescribed for submission of the bids.

18.2 No bid shall be modified subsequent to the deadline for submission of bids.

18.3 Subject to clause 20, no bid shall be modified subsequent to the deadline for submission of bids.

E. BID OPENING AND EVALUATION

19. OPENING OF BIDS BY PURCHASER

19.1 The purchaser shall open bids at 12.00 hrs. on the due date. The bidder's representatives (maximum two) who choose to be physically present at MTNL

premises shall sign in an attendance register. Authority letter to this effect shall be submitted by the bidders before they are allowed to participate in bid opening.

- 19.2 If the date fixed for opening of bids, is subsequently declared as holiday by MTNL, a revised date of opening will be notified. However, in absence of such notification, the bids will be opened on next working day, time and venue remaining unaltered.
- 19.3 The bidder's names, Bid prices, modifications, bid withdrawals and such other details as the purchaser, at its discretion, may consider appropriate will be announced at the time of opening.
- 19.4 The date fixed for opening of bids, if subsequently declared as holiday by the MTNL, the revised date of schedule will be notified. However, in absence of such notification, the bids will be opened on next working day, time and venue remaining unaltered.

20. CLARIFICATION OF BIDS

To assist in the examination, evaluation and comparison of bids, the purchaser may, at its discretion ask the bidder for the clarification of its bid. The request for the clarification and the response shall be on line. However, no post bid clarification at the initiative of the bidder shall be entertained

During bid evaluation, seeking shortfall of documents from the bidder(s) shall be allowed against those clauses which have been complied by the bidder in the bid. However, while seeking shortfall documents from the bidder, following should be ensured:-

- I. Subsequent document(s) shall not affect the price schedule in any manner.
- II. The documents relating eligibility shall not be later than the date of bid opening date.

21. PRELIMINARY EVALUATION

- 21.1 Purchaser shall evaluate the bids to determine whether they are complete, whether any **arithmetical** errors have been made, whether required sureties have been furnished, whether the documents have been properly signed and whether the bids are generally in order.
 - 21.1.1 If the sum of components of the unit price adds up to an amount different from the quoted unit price, still the quoted unit price will be taken into account for evaluation. However, lower of the two prices i.e. quoted unit price or sum of the components of unit price shall be considered for ordering.
- 21.2 Arithmetical errors shall be rectified on the following basis. If there is a discrepancy between the unit price and total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected by the purchaser. If there is a discrepancy between words and figures, the amount

in words shall prevail. If the supplier does not accept the correction of the errors, his bid shall be rejected.

- 21.3** Prior to the detailed evaluation pursuant to clause 22, the Purchaser will determine the substantial responsiveness of each bid to the Bid Document. For purposes of these clauses, a substantially responsive bid is one which confirms to all the terms and conditions of the Bid Documents without material deviations. The purchaser's determination of bid's responsiveness shall be based on the contents of the bid itself without recourse to extrinsic evidence.
- 21.4** A bid, determined as substantially non-responsive will be rejected by the purchaser and shall not subsequent to the bid opening be made responsive by the bidder by correction of the non- conformity.
- 21.5** The Purchaser may waive any minor infirmity or non-conformity or irregularity in a bid which doesn't constitute a material deviation, provided such waiver doesn't prejudice or effect the relative ranking of any bidder.
- 21.6** "If a firm quotes 'Nil' charges/consideration, the bid shall be treated as non-responsive and will not be considered."

Note: A firm may quote 'NIL' charges for certain item(s) in the break up, but must have a financial consideration at over all bid level.

22. EVALUATION AND COMPARISON OF SUBSTANTIALLY RESPONSIVE BIDS

- 22.1** The Purchaser shall evaluate in detail and compare the bids previously determined to be substantially responsive pursuant to clause 21.
- 22.2** The evaluation and comparison of responsive bids shall be done on the basis of Net cost to MTNL excluding GST Credit-eligible Amount (as given in price schedule of Section-VII Part-II of the bid document). .

23. CONTACTING THE PURCHASER

- 23.1** Subject to Clause 20, no bidder shall try to influence the Purchaser on any matter relating to its bid, from the time of the bid opening till the time the contract is awarded.
- 23.2** Any effort by a bidder to modify his bid or influence the purchaser in the purchaser's bid evaluation, bid comparison or contract award decision shall result in the rejection of the bid.

F. AWARD OF CONTRACT

24. PLACEMENT OF ORDER

The Purchaser shall consider placement of orders for commercial supplies only on those eligible bidders whose offers have been found technically,

commercially and financially acceptable and whose goods have been type approved/validated by the purchaser. The Purchaser reserves the right to counter offer price(s) against price(s) quoted by any bidder.

25. PURCHASER'S RIGHT TO VARY QUANTITIES

- a. MTNL reserves the right to increase or decrease up to **25% of the quantity of goods and services specified in the schedule of requirements** without any change in the unit price or other terms and conditions at the time of award of contract.
- b. MTNL also reserves the right for placement of additional order or **up to 50% of the additional quantities of goods and services contained in the running tender/ contract within a period of twelve months from the date of acceptance of first APO** in the tender at the same rate or a rate negotiated (downwardly) with the existing venders considering the reasonability of rates based on prevailing market conditions and the impact of reduction in duties and taxes etc and supplies to be obtained within delivery period scheduled afresh.
- c. In exceptional situation where the requirement is of an emergent nature and it is necessary to ensure continued supplies from the existing venders, the purchaser reserves the right to place repeat order **up to 100% of the quantities of goods and services contained in the running tender /contract within a period of twelve months from the date of acceptance of first APO** in the tender at the same rate or a rate negotiated (downwardly) with the existing venders considering the reasonability of rates based on prevailing market conditions and the impact of reduction in duties and taxes etc. **Exceptional situation and emergent nature should be spelt out clearly detailing the justification as well as benefits accrued out of it and loss incurred in case this provision is not invoked and approved by the authority competent to accord administrative and financial approval for the procurement calculated on the basis of total procurement i.e. initial and proposed add-on quantity**

26. PURCHASER'S RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS

The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to award of contract without assigning any reason whatsoever and without thereby incurring any liability to the affected bidder or bidders on the grounds of purchaser's action.

27. ISSUE OF ADVANCE PURCHASE ORDER

- 27.1** The issue of an Advance Purchase Order shall constitute the intention of the Purchaser to enter into contract with the bidder.
- 27.2** The bidder shall within 14 days of issue of the advance purchase order, give his acceptance along with performance security in conformity with section IX provided with the bid document.

28. SIGNING OF CONTRACT

28.1 The issue of Purchase order shall constitute the award of contract on the bidder.

28.2 Upon the successful bidder furnishing performance security pursuant to clause 27, the Purchaser shall discharge the bid security in pursuant to clause 12.

29. ANNULMENT OF AWARD

Failure of the successful bidder to comply with the requirement of clause 28 shall constitute sufficient ground for the annulment of the award and the forfeiture of the bid security in which event the Purchaser may make the award to any other bidder at the discretion of the purchaser or call for new bids.

30. QUALITY ASSURANCE REQUIREMENTS

The supplier shall have Quality Management System supported and evidenced by the following:

- A Quality Policy.
- A management representative with authority and responsibility for fulfilling QA requirements and for interfacing with purchaser in the matters of Quality.
- Procedure for controlling design/production engineering, materials, choice of components/ vendors, manufacturing and packaging process for supplying quality products.
- System of Inward Good Inspection.
- System to calibrate and maintain required measuring and test equipment.
- System for tracing the cause for non-conformance (traceability) and segregating product which don't conform to specifications.
- Configuration management and change-control mechanism.
- A quality plan for the product.
- Periodical internal quality audits.
- A 'Quality Manual' detailing the above Or
- Infrastructure assessment certificate and Type Approval Certificate issued by "TEC" shall be furnished.

31. While all the conditions specified in the Bid documents are critical and are to be complied, special attention of bidder is invited to the following clauses of the bid documents. Non-compliance to any one of these clauses **may** result in **rejection** of the bid..

- (i) **Clause 15.1 of Section II:** The bids will be recorded/ returned unopened if covers are not properly sealed with 'OFFICIAL SEAL/STAMP' of the bidder.
- (ii) **Clauses 12.1, 12.3 & 13.1 of Section II:** Submission of Bid /Bid Security Bank Guarantee validity for shorter period of time or Bid security not in the desired format etc. shall be treated as minor infirmity and may not lead to outright rejection of bid. Clarification to this effect may be sought from the concerned bidder(s) during Tender Evaluation.

However, the bid shall be rejected, if the bidder fails to submit EMD/Bid Security (or MSME / Udyam Registration certificate towards claim of exemption from EMD/Bid Security), at all, as per clause 10.5 of Section-II above.

- (iii) **Clause 2 & 10 of Section II:** If the eligibility condition as per clause 2 of Section II is not met and/or documents prescribed to establish the eligibility as per Clause 10 of section II are not enclosed, the bids will be rejected without further evaluation.
- (iv) **Clause 11.2 (c) of Section II:** If clause-by-clause compliance and deviation statements as prescribed are not given, the bid will be rejected at the stage of primary evaluation. In case of no deviations, a statement to that effect must be given.
- (v) **Section III Commercial conditions, Section IV Special Conditions of Contract & Section VI Technical Specifications:** Compliance if given using ambiguous words like “Noted”, “Understood”, “Noted & Understood” shall not be accepted as complied. Mere “Complied” will also be not sufficient, reference to the enclosed documents showing compliances must be given.
- (vi) **Section VII Price Schedule:** Prices are not filled in as prescribed in price schedule.
- (vii) **Section II clause 9.4 on discount of which relevant part is reproduced below:**

“Discount, if any, offered by the bidder shall not be considered unless specifically indicated in the price schedule. Bidders desiring to offer discount shall therefore modify their offer suitably while quoting and shall quote clearly net price taking all such factors like Discount, free supply etc. into account”.

- (viii) Before outright rejection of the Bid by Bid-opening team for non-compliance of any of the provisions mentioned in clause 31(i), 31(ii) of Section II and clause 2 (ii) of Section IV though, the bidder company is given opportunity to explain their position, however if the person representing the company is not satisfied with the decision of the Bid opening team, he/they can submit the representation to the Bid opening team immediately but in no case after closing of the tender process with full justification quoting specifically the violation of tender condition, if any.

Bid opening team will not return the bids submitted by the bidders on the date of tender opening even if it is liable for rejection and will preserve the bids in sealed cover as submitted by taking the signatures of some of the desirous representatives of the participating bidder/companies present on the occasion.

The in-charge of Bid opening team will mention the number of bids with the name of the company found unsuitable for further processing on the date of tender opening and number of representations received in Bid opening Minutes and if Bid opening team is satisfied with the argument of the bidder/company mentioned in their representation and feel that there is prima-facie fact for consideration, the in-charge of the bid opening team will submit the case for review to the competent authority (ED for Units and Director (Tech.) in Corporate Office) as early as possible preferably on next working day and decision to this effect should be communicated to the bidder company within a week positively. Bids found liable for rejection and kept preserved on the date of tender opening will be returned to the bidders after issue of P.O. against the instant tender.

If the reviewing officer finds it fit to open the bid of the petitioner, this should be done by giving three (working) days notice to all the participating bidders to give opportunity to desirous participants to be present on the occasion.

32. Purchaser reserves the right to disqualify the supplier for a suitable period who habitually failed to supply the equipment in time. Further, the suppliers whose equipment do not perform satisfactory in the field in accordance with the specifications may also be disqualified for a suitable period as decided by the purchaser.
33. Purchaser reserves the right to blacklist a bidder for a suitable period in case he fails to honour his bid without sufficient grounds.
34. **Near Relative Certificate :-** The bidder should give a certificate that none of his/her near relative is working in the units as defined below where he is going to apply for the tender. In case of proprietorship firm certificate will be given by the proprietor. For partnership firm certificate will be given by all the partners and in case of limited company by all the Directors of the company excluding Government of India/Financial institution nominees and independent non-Official part time Directors appointed by Govt. of India or the Governor of the state. Due to any breach of these conditions by the company or firm or any other person the tender will be cancelled and Bid Security will be forfeited at any stage whenever it is noticed and MTNL will not pay any damage to the company or firm or the concerned person.

The company or firm or the person will also be debarred for further participation in the concerned unit. The near relatives for this purpose are defined as:-

- (a) Members of a Hindu undivided family.
- (b) They are husband and wife.
- (c) The one is related to the other in the manner as father, mother, son(s) & Son's wife (daughter in law), Daughter(s) and daughter's husband (son in law), brother(s) and brother's wife, sister(s) and sister's husband (brother in law).

The format of the certificate to be given is given below :-

“I.....s/o.....r/o.....hereby certify that none of my relative(s) as defined in the tender document is/are employed in MTNL unit as per details given in tender document. In case at any stage, it is found that the information given by me is false / incorrect, MTNL shall have the absolute right to take any action as deemed fit / without any prior intimation to me.”

SECTION III

GENERAL (COMMERCIAL) CONDITIONS OF CONTRACT

1. APPLICATION

The general condition shall apply in contracts made by the purchaser for the procurement of goods.

2. STANDARDS

The goods supplied under this contract shall conform to the standards prescribed in the Technical Specifications mentioned in Section VI.

3. PATENT RIGHTS

The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of the goods or any part thereof in Indian Telecom Network.

4. PERFORMANCE SECURITY

- (i) The supplier shall furnish performance security to the purchaser for an amount equal to 5% of the value of purchase order within 14 days from the date of issue of Advance Purchase Order by the Purchaser. The suppliers (small scale units) who are registered with National Small Scale Industries Corporation UNDER SINGLE POINT REGISTRATION SCHEME are exempted from payment of performance security up to the amount equal to their monetary limit. In case of suppliers having monetary limit as “NO LIMIT”, “WITHOUT LIMIT”, or “MORE THAN Rs. 50 LAKHS”, the exemption will be limited to Rs.50,00,000/- (Rupees Fifty Lakhs) only. A proof regarding current registration with NSIC for the TENDERED ITEMS will have to be attached along with the bid.

- (ii) The proceeds of the performance security shall be payable to the Purchaser for any deficiency in performance of contract and /or the supplier's failure to complete its obligations under the contract

In case of adjustment of any amount from performance security with respect to supplier's failure in performance of contractor or deficiency in performance of contract then, Supplier shall raise a credit note to MTNL. In case supplier fails to raise credit note in time then MTNL shall be authorised to raise a invoice / debit note to vendor against such adjusted amount plus applicable GST. Such credit/debit note shall be issued before September 30th of following end of financial year in which such supply was made.

- (iii) The performance security bond shall be in the form of Bank Guarantee issued by a scheduled Bank and in the form provided in 'Section IX' of this Bid Document.

- (iv) The performance security bond will be discharged by the Purchaser after

completion of the supplier's performance obligations including any warranty obligations under the contract.

5. INSPECTION AND TESTS

- (i) The Purchaser or his representative shall have the right to inspect and test the goods as per prescribed test schedules for their conformity to the specifications. Where the Purchaser decides to conduct such tests on the premises of the supplier or its subcontractor(s), all reasonable facilities and assistance like Testing instruments and other test gadget including access to drawings and production data shall be furnished to the inspectors at no charge to the purchaser.
- (ii) Should any inspected or tested goods fail to conform to the specifications the purchaser may reject them and the supplier shall either replace the rejected goods or make all alterations necessary to meet Specification requirements free of cost to the purchaser. Notwithstanding the pre-supply tests and inspections prescribed in clause 5.1 & 5.2 above, the equipment and accessories on receipt in the Purchaser's premises will also be tested during and after installation before "take over" and if any equipment or part thereof is found defective, the same shall be replaced free of all cost to the purchaser as laid down in clause 5.4 below.
- (iii) If any equipment or any part thereof, before it is taken over under clause 5.5, is found defective or fails to fulfill the requirements of the contract, the inspector shall give the Supplier notice setting forth details of such defects or failure and the supplier shall make the defective equipment good, or alter the same to make it comply with the requirements of the contract forthwith and in any case within a period not exceeding three months of the initial report. These replacements shall be made by the supplier free of all charges at site. Should it fail to do so within this time, the purchaser reserves the discretion to reject and replace at the cost of the supplier the whole or any portion of equipment as the case may be, which is defective or fails to fulfill the requirements of the contract. The cost of any such replacement made by the purchaser shall be deducted from the amount payable to the supplier.
- (iv) When the performance tests called for have been successfully carried out, the inspector/ ultimate consignee will forthwith issue a Taking Over Certificate. The inspector/ultimate consignee shall not delay the issue of any "Taking Over Certificate" contemplated by this clause on account of minor defects in the equipment which do not materially affect the commercial use thereof provided that the supplier shall undertake to make good the same in a time period not exceeding six months. The Taking Over Certificate shall be issued by the ultimate consignee within six weeks of successful completion of tests. In this case, BCPC (Bills Copy Payable Challan) shall be equivalent to "Taking Over Certificate", issuance of which shall certify receipt of goods in safe and sound condition. However, they shall not discharge the supplier of their warranty obligation. BCPC in respect of last consignment against the purchase order will be equivalent to "Taking Over Certificate".

- (v) Nothing in clause 5 shall in any way release the Supplier from any warranty or other obligations under this contract.
- (vi) Inspection and testing shall be as per provisions in the Technical Specifications.
- (vii) Unless specified otherwise, inspecting authorities shall be MTNL or any other agency authorized by MTNL.
- (viii) **Payment to BSNL QA for testing of equipment:**
 - (i) If the QA testing is carried out by BSNL QA, then the suppliers of MTNL shall make payment to BSNL QA on behalf of MTNL @ 0.5% of ex-factory value of equipment + applicable Goods & Service Tax. BSNL QA shall issue a receipt in the name of MTNL for the testing charges clearly mentioning the details of PO, equipment description etc.
 - (ii) The supplier shall submit the above receipt in original to MTNL for reimbursement of the payment after the equipment has been delivered to MTNL.

NOTE FOR PLANNING UNIT : *The concerned planning unit handling the procurement should carefully prepare the list of 'Quality Assurance tests' after extensive evaluation of the need for Quality Assurance tests requirement in respect of various tendered items as per schedule of requirement of the tender. Further, the items which are to be exempted/non-exempted from Quality Assurance testing should be explicitly mentioned in the tender / Purchase Order document. Further, the concerned planning units shall also clearly decide proper sampling plan while mentioning description of each item to be offered for Quality Assurance meant for dispatch by the vendor.*

6. DELIVERY AND DOCUMENTS

- (i) Delivery of the goods and documents shall be made by the supplier in accordance with the terms specified by the purchaser in its schedule of requirements and special conditions of contracts, and the goods shall remain at the risk of the supplier until delivery has been completed. The delivery of the equipment shall be to the ultimate consignee as given in the purchase order.
- (ii) The delivery of the goods and documents shall be completed within 6 months from the date of issue of Purchase Order. First two months are for lead period and evenly distributed supplies are expected in remaining four months. The actual delivery schedule will be given in purchase order.
- (iii) All Technical assistance for installation, commissioning and monitoring of the equipment shall be provided by the Supplier at no extra cost during laboratory evaluation, validation/ type approval and field trial, if any.

Hint: Generally six months delivery time is envisaged. The delivery period will be decided on case-to-case basis considering TAC & PQT requirement as well as requirements of MTNL in the competitive environment. The delivery period for procurement will be four months for store items where TAC & PQT are available,

six months where TAC is available but PQT is required. The PQT shall be completed in maximum period of two months. This will be in addition to six month time for delivery of materials. CGM QA will certify additional time taken if any for PQT to be added to delivery period. The delivery period will be eight months in case validation of new technology equipment are involved.

7. TRAINING

- (i) The bidder shall provide training for installation and maintenance staff of the purchaser free of cost where required.
- (ii) The bidder shall specify in his bid the number of trainees, quantum of proposed training, pre- training qualifications required of the trainees and duration of the proposed training.
- (iii) The bidder shall provide all training material and documents.
- (iv) Conduct of training of the purchaser's personnel shall be at the suppliers' plant and/or on-site in assembly start-up operation, maintenance and/or repair of the supplied goods.

8. INCIDENTAL SERVICES

- (i) The supplier may be required to provide any or all of the following services:
 - (a) Performance or supervision of on-site assembly and/or start-up of the supplied Goods;
 - (b) Furnishing of tools required for assembly and/or maintenance of supplied Goods;
 - (c) Performance of supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties provided that this service shall not relieve the supplier of any warranty obligations under this contract.

9. SPARES

- (i) The supplier shall be required to provide a list of the following material and notifications pertaining to spare parts manufactured or distributed by the supplier of spares including cost and quantity considered for arriving at the price of spares in Sec. II, Clause 9.
 - (a) Such spare parts as the purchaser may elect to purchase from the supplier provided that such purchase shall not relieve the supplier of any warranty obligation under the contract.
 - (b) In the event of termination of production of the spare parts, the supplier shall
 - i) give advance notification to the purchaser pending termination (not less than 2 years), in sufficient time to enable the purchaser to procure life time spare; and

- ii) follow such advance intimation of termination, furnish at no cost to the purchaser, the blue prints, drawings and specifications of spare parts, if and when requested.

Over a period of three years starting from the date of final acceptance, the supplier shall supply, at his own cost, all necessary spares which have not been included in the offer as part of the requirement. These spares should be supplied within a maximum period of 30 days from the notification by the purchaser of his need.

10. WARRANTY

- (i) The supplier shall warrant that the stores to be supplied shall be new and free from all defects and faults in materials used, workmanship and manufacture and shall be of the highest grade and consistent with the established and generally accepted standards for materials of the type ordered and shall perform in full conformity with the specifications and drawings. The supplier shall be responsible for any defect that may develop under the conditions provided by the contract and under proper use, arising from faulty material, design or workmanship such as corrosion of the equipment, inadequate quantity of material to meet equipment requirements, inadequate contact protection, deficiencies in circuit design and/or otherwise and shall remedy such defects at his own cost when called upon to do so by the Purchaser who shall state in writing in what respect the stores are faulty. This warranty shall survive inspection or payment for / and acceptance of goods, but shall expire (except in respect of complaints notified prior to such date) twelve months after the stores have been taken over under clause 5.5 above.
- (ii) If it becomes necessary for the Supplier to replace or renew any defective portion(s) of the equipment under this clause, the provisions of the clause 10.1 shall apply to the portion(s) of the equipment so replaced or renewed or until the end of the above mentioned period of twelve months, whichever may be later. If any defect is not remedied by the supplier within a reasonable time, the Purchaser may proceed to get the defects remedied from other supplier etc., at the supplier's risk and expenses, but without prejudice to any other rights which the purchaser may have against the supplier in respect of such defects.
- (iii) Replacement under warranty clause shall be made by the supplier free of all charges at site including freight, insurance and other incidental charges.

11. PAYMENT TERMS

A. For Supply And / Or Service only Contracts:-

- (i) The vendor would raise the invoice of gross value mentioning the HSN Code. However, the vendor would be liable to maintain a non-interest bearing security deposit equivalent to 5% value of the Goods supplied (excluding GST component) or for the value as mentioned in the Bid Document/ Purchase Order valid for the period as mentioned in Bid Document/ Purchase Order. Accordingly, the purchaser would make the net payment of gross invoice value reduced by the security deposit

alongwith 100% GST amount as per invoice and transfer the balance amount in the security deposit account of the vendor. Once the prescribed time has lapsed and the vendor has complied fully towards the performance of the contract, the security deposit would be refunded back to the vendor. However, in case of deficiency in performance of the contract including late delivery of goods, services, installation, commissioning etc., MTNL shall adjust the recoverable amount before releasing the security deposit.

Note: The actual payment conditions for new products or procurements having installation and AMC services may be decided on case to case basis and incorporated in special conditions of the contract.

- (ii) 100% payment (without retaining of 5% amount as security deposit) may be made on delivery, provided that an additional Bank Guarantee for an amount equivalent to 5% of the value of supplies valid for a minimum period of nine months is furnished by the supplier along with an undertaking that the equipment/stores supplied shall be free from damages/shortages. In those cases, where such shortages/damages are intimated to the supplier in writing, the Bank Guarantee shall be extended without fail by the supplier for a suitable period at the request of purchaser in writing. Failure to do so shall result in forfeiture of Bank Guarantee. The Bank Guarantee shall be accepted at Unit Head Quarter and shall be released only after the cases are settled in accordance with the provisions available in the Bid Document/Purchase Order. In case, where the additional Bank Guarantee for 5% is not provided, then the payment will be settled as per clauses 11.1(i) mentioned above.

11.2 For claiming this payment the following documents are to be submitted to the paying authority.

- I. Invoice clearly indicating break up Price CIF-destination and GST.
- II. Delivery Challan
- III. Supplier certificate for dispatch
- IV. Inspection Certificate of QA (Payable copy in original)
- V. The E-waybill as prescribed in the GST law in case of movement of goods (for both intra-state and inter-state movement)
- VI. Proof of payment of GST, if applicable.
- VII. Consignee receipt.

- 11.3
- (i) Necessary declaration, statutory forms (if any) shall be provided by MTNL to avail concessional rate of tax wherever applicable.
 - (ii) No payment will be made for goods rejected at the site on testing. For goods rejected at the site on testing the credit note shall be issued by the supplier, failing which the purchaser shall adjust the amount to be recovered by issuing an invoice/debit note for the corresponding amount at the risk and cost to the supplier including applicable GST, if any.
 - (iii) Payment of GST/Custom duty shall be released on production of necessary supporting documents i.e. GST/customs invoices etc.. If the supplier fails to

furnish necessary supporting documents i.e. GST invoice/Customs invoices etc., the amount pertaining to such Duties/Taxes will not be paid. Tax amount will be payable to the supplier only after supplier declares the details of the invoices in its GSTR-1 and GSTR-3 and the same is reflected in GSTR-2A of MTNL on GSTN portal.

- (iv) Wherever domestic reverse charge is applicable on MTNL or in case vendor is un-registered under GST Act, vendor shall not charge tax on invoice. It shall be the liability of MTNL to pay tax under reverse charge mechanism.
- (v) No payment of GST shall be made to those bidders, who are either not registered for GST or who are registered under Composition Scheme of GST.
- (vi) If status of a bidder who was initially registered on GST under Composition Scheme at the time of submission of financial bid, subsequently his status changes to normal GST registered vendor any time before delivery of Goods (raising invoice against delivery of Goods), under such circumstance, his unit price will be discounted by the applicable Tax rate as applicable under the composition scheme. In such cases if the vendor furnishes necessary supporting documents regarding GST payment and which is also GST credit eligible amount to MTNL in such cases the GST payment will be reimbursed.
- (vii) Entire payment of invoice shall be paid by MTNL only after the credit of the GST portion in the invoice is selected in the GSTN portal i.e. the outward return in GSTR 1 is uploaded by the supplier by 10th of the subsequent month and duly reflected in MTNL account on GSTN portal.
- (viii) TDS/ TCS shall be deducted at the prescribed rate, if any (as the case may be)

Note: The above payment terms are for Type Approved equipment with 100% payment with retention of 5% amount as security deposit initially which will be subject to release after taking over certificate and completion of all contractual obligations as per bid in timely manner. However, the actual payment conditions for new products or procurements having installation and AMC charges may be decided on case to case basis and incorporated in special conditions of contract.

B. For Turn-Key Projects:

Payment shall be made in Indian Rupees. Payment Terms shall be as follows:

11.1

- a. The vendor shall issue invoice for supplies on actual basis as per Delivery Schedule mentioned in the APO/PO.
- b. The First milestone payment for each invoice alongwith 100% GST amount on invoice value shall be released through RTGS and the balance payment (excluding of GST) will be withheld and converted into interest free Refundable Security Deposit to ensure satisfactory performance of contract as per P.O. terms and conditions including timely delivery of goods and services and

commissioning and installation.

- c. Payment due on subsequent stages shall be released by way of releasing the due amount from Refundable Security Deposit on attaining the various milestones mentioned in clause 11.2(b) & (c) below subject to satisfactory performance of contract as per P.O. terms and conditions.
- d. Any claim of MTNL arising out of any penalty, LD or any other claim of MTNL arising out of the contract shall be recovered from the First mile stone payment or while refund of Security Deposit in subsequent stages.

- 11.2 (a)** 50% of Equipment cost(alongwith GST on 100% invoice value) will be paid on supply of ordered equipments/ items including all associated accessories required for their successful installation & commissioning including integration in the network.
- (b)** 30% of the Equipment Cost (excluding GST) and 80% of Services Cost(alongwith GST on 100% invoice value) of the ordered equipment/ items will be released from security deposit after deducting any penalty, L.D. or other claim of MTNL on successful installation & commissioning of ordered equipment/ items alongwith their integration in the network and successful completion of their AT (without any critical/ major pending points).
- (c)** 20% of the Equipment Cost(excluding GST) and 20% of Services Cost(excluding GST) of the ordered equipment/ items will be released from security deposit (after deducting any penalty, L.D. or other claim of MTNL) after successful completion of their AT/VT and closure of all pending AT/VT points as per due procedure.

Note: The actual payment conditions for new products of procurements having installation & AMC services may be decided on case to case basis and incorporated in special condition of the contract.

- 11.3** The AMC payment shall be invoiced quarterly in arrears and payments (including GST) shall be released subject to successful execution of work under the AMC Agreement (as per Annexure-I of Section-IV).

11.4

- i. Necessary declaration, statutory forms (if any) shall be provided by MTNL to avail concessional rate of tax wherever applicable.
- ii. No payment will be made for goods rejected at the site on testing .For goods rejected at the site on testing the credit note shall be issued by the supplier, failing which the purchaser shall adjust the amount to be recovered by issuing an invoice/debit note for the corresponding amount at the risk and cost to the supplier including applicable GST, if any.
- iii. Payment of GST/Custom duty shall be released on production of necessary supporting documents i.e. GST/customs invoices etc. If the supplier fails to furnish necessary supporting documents i.e. GST invoice/Customs invoices etc.,

the amount pertaining to such Duties/Taxes will not be paid. Tax amount will be payable to the supplier only after supplier declares the details of the invoices in its GSTR-1 and GSTR-3 and the same is reflected in GSTR-2A of MTNL on GSTN portal.

- iv. Wherever domestic reverse charge is applicable on MTNL or in case vendor is un-registered under GST Act, vendor shall not charge tax on invoice. It shall be the liability of MTNL to pay tax under reverse charge mechanism.
- v. No payment of GST shall be made to those bidders, who are either not registered for GST or who are registered under Composition Scheme of GST.
- vi. If status of a bidder who was initially registered on GST under Composition Scheme at the time of submission of financial bid, subsequently his status changes to normal GST registered vendor any time before delivery of Goods (raising invoice against delivery of Goods), under such circumstance, his unit price will be discounted by the applicable Tax rate as applicable under the composition scheme. In such cases if the vendor furnishes necessary supporting documents regarding GST payment and which is also GST credit eligible amount to MTNL in such cases the GST payment will be reimbursed.
- vii. Entire payment of invoice shall be paid by MTNL only after the credit of the GST portion in the invoice is selected in the GSTN portal i.e. the outward return in GSTR 1 is uploaded by the supplier by 10th of the subsequent month and duly reflected in MTNL account on GSTN portal.
- viii. TDS/ TCS shall be deducted at the prescribed rate, if any (as the case may be)

11.5 For claiming this payment the following documents are to be submitted to the paying authority.

- i. Invoice clearly indicating break up Price CIF-destination and GST.
- ii. Delivery Challan
- iii. Supplier certificate for dispatch
- iv. Inspection Certificate of QA (Payable copy in original)
- v. The E-waybill as prescribed in the GST law in case of movement of goods (for both intra-state and inter-state movement)
- vi. Proof of payment of GST, if applicable.
- vii. Consignee receipt.

12. PRICES

12.1 (i) (a) Prices charged by the supplier for goods delivered and services performed under the contract shall not be higher than the prices quoted by the Supplier in his Bid.

(b) In the case of revision of non-Creditable Statutory Levies/Taxes during the MTNL Procurement Manual-7th edition updated upto 28th June 2022

finalization period of tender, the Purchaser reserves the right to ask for reduction in the prices. However, no increase shall be permitted.

(ii) (a) Prices mentioned in Col. 13 of Table-I & Col.15 of Table-2 of the Price Schedule in Section-VII Part-II of the Bid Document once fixed will remain valid during the scheduled delivery period. Increase and decrease of non-Creditable Taxes will not affect the price during this period. The revision of Creditable Taxes (both increase & decrease) shall be allowed while reimbursing the same due to change in tax rate as per Government orders.

(b) Any increase in taxes and other statutory non Creditable duties/levies after the expiry of the delivery date shall be to the supplier's account. However, benefit of any decrease in these taxes/duties shall be passed on to the Purchaser by the supplier. The revision of Creditable duties (both increase & decrease) shall be allowed while reimbursing the same in extended delivery period.

12.2 (i) Vendors should furnish the correct HSN classification under GST/Customs tariff Head in the Price Schedule. If the credit for Duties and Taxes under CGST Act read with ITC rules is found to be not admissible at any stage subsequently owing to wrong furnishing of HSN/Tariff Head or any other reason, then the vendors will refund such non-admissible amount, if already paid along with penalty and interest, if any charged by the concerned authority.

(ii) In case the Duties & Taxes which are non- Creditable as per the quotes indicated in the Price Schedule by the vendors and subsequently at any stage it is found that Credit for such Duties & Taxes is admissible as per CGST Act read with ITC rules, then the supplier is to submit necessary documents in this regard which may enable the purchaser to avail the Input credit provided such credit is still available for the amount so paid as per CGST Act read with ITC rules. However, in case the input Credit is not available for this amount, then the vendors will refund the amount equivalent to such Duties & Taxes if already paid to them

(iii) The purchaser reserves the right to ask the bidders to submit documentary proof confirming the correct HSN/Tariff Head from the GST/Customs authority where the HSN/Tariff Head furnished against the particular tendered item by different bidders differs from each other or the same is found apparently not furnished in accordance with GST/Customs Tariff notifications

(iv) The Unit prices of items for any requirement for add-on orders shall remain firm. The duties/taxes shall be paid as per rates applicable at the time of placement of add-on orders (Both Creditable & Non-Creditable)..

13. CHANGES IN PURCHASE ORDERS

13.1 The purchaser may, at any time, by a written order given to a supplier, make changes within the general scope of the contract in any one or more of the

following:

- (i) drawings, designs or specifications, where goods to be supplied under the contract are to be specifically manufactured for the Purchaser;
- (ii) the method of transportation or packing;
- (iii) the place of delivery; or
- (iv) the services to be provided by the supplier.

13.2 If any such change causes an increase or decrease in the cost of, or the time required for the execution of the contract an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall accordingly be amended. Any proposal by the supplier for adjustment under this clause must be made within thirty days from the date of the receipt of the change in order.

14. SUBCONTRACTS

The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this contract if not already specified in his bid. Such notification, in his original bid or later shall not relieve the supplier from any liability or obligation under the Contract.

15. DELAYS IN THE SUPPLIER'S PERFORMANCE

15.1 Delivery of the Goods and performance of the services shall be made by the Supplier in accordance with the time schedule specified by the purchaser in its purchase order. In case the supply is not completed in the stipulated delivery period, as indicated in the Purchase Order, purchaser reserves the right either to short-close/cancel this purchase order and/or recover liquidated damage charges. The cancellation/short closing of the order shall be at the risk and responsibility of the supplier and purchaser reserves the right to purchase balance unsupplied item at the risk and cost of the defaulting vendors.

15.2 Delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to any or all of the following sanctions: forfeiture of its performance security, imposition of liquidated damages and/or termination of the contract for default.

15.3(a) If at any time during the performance of the contract, the supplier encounters condition impending timely delivery of the goods and performance of service, the supplier shall promptly notify to the Purchaser in writing the fact of delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the period of performance of the contract subject to furnishing of additional bank guarantee in the format provided in Section – IX-A, by the supplier @ 5% of the total value of the Purchase Order.

(b) The vendor has to submit their request for extension along with the required additional BG, undertaking as per Clause 24 Section-III (Fall Clause). The decision regarding extension shall be communicated within two weeks of the

receipt of request.

- (c) The initial validity of Additional Bank Guarantee shall be one year for supply of goods and 1½ years for turnkey project. The validity of Bank Guarantee may be extended if required.
- (d) The additional Bank Guarantee shall be released after three months from the date on which the equipment is supplied in case tender envisages only supply of goods. In case of turn-key projects where the scope of work includes supply, installation and commissioning of equipment, the additional Bank Guarantee shall be released after three months from the date of successful commissioning/ continued satisfactory commercial use for three months, whichever is earlier.

Note: In exceptional circumstances, where it becomes necessary to grant Delivery Period Extension beyond 20 weeks, the same shall be granted by ED concerned in case of Purchase Orders issued by units and by CMD MTNL in case of Purchase Orders issued by Corporate Office.

Hint: Each case of delivery extension shall have to be examined afresh vis-à-vis the prevailing market prices.

- 15.4** If the supplies are not completed in the extended delivery period, the Purchase Order shall be short- closed and the performance security and additional bank guarantee shall be forfeited.

16. LIQUIDATED DAMAGES

Liquidated Damages, wherever referred under this Tender/Agreement, shall mean and refer to the damages, not in the nature of penalty, which the supplier agrees to pay in the event of delay in delivery of stores, installation, commissioning, breach of contract etc. as the case may be. Liquidated Damages is not a penalty but is a sum which is agreed by the parties as a reasonable and genuine pre-estimate of damages which will be suffered by the purchaser on account of delay/breach on the part of the supplier.

- 16.1** The date of delivery of the stores and Installation and/or Commissioning stipulated in the acceptance of the tender should be deemed to be the essence of the contract and delivery must be completed not later than the dates specified therein. Extension will not be given except in exceptional circumstances subject to conditions as enumerated in the contract/tender including levying of Liquidated Damages in terms of Clause 16.2 below.
- 16.2** While granting extension of delivery period as per clause 15, the liquidated damages shall be levied as follows:
- (a)(i) **For delivery of stores:** Should the supplier fails to deliver the store or any consignment thereof within the period prescribed and agreed for delivery, the purchaser, without prejudice to other remedies available to the purchaser shall be entitled to recover Liquidated Damages, for breach of contract, a sum equivalent to 0.5% of the value of the delayed supply and/ or undelivered

material/ supply for each week of delay or part thereof for a period up to 10 (TEN) weeks, and thereafter at the rate of 0.7% of the value of the delayed supply and/ or undelivered material/ supply for each week of delay or part thereof for another TEN weeks of delay.

- (ii) **Installation & Commissioning:** Should the supplier fail to install and commissioning the project with the stipulated time the purchaser shall be entitled to recover Liquidated Damages, 0.5% of the value of the purchase order for each week of delay or part thereof or a period upto 10(TEN) weeks and thereafter @0.7% of the value of the purchase order for each week of delay or part thereof or another 10(TEN) weeks of delay. In cases where the delay affects installation/commissioning of only a part of the project and part of the equipment is already in commercial use, then in such cases, LD shall be levied on the affected part of the project.
- (iii) Provisions contained in clause 16.2(a) (i) shall not be applicable for durations (periods) which attract L.D. against clause 16.2(a) (ii) above.
 - (b) DP extension beyond 20 weeks would not be generally allowed. The extension beyond 20 weeks may be decided in most exceptional circumstances on case to case basis, by the Executive Director, or any other officer, looking after the work of Executive Director/CGM concerned, in case of tenders floated by Units and by the CMD in case of tenders floated by Corporate Office, stating reasons and justifications for grant of extension of delivery period beyond 20 weeks.
 - (c) In the case of package supply/ turnkey projects when the delayed portion of the supply materially hampers installation and commissioning of the systems, LD charges shall be levied as above on the total value of the concerned package of the Purchase Order.
 - (d) Quantum of liquidated damages assessed and levied by the purchaser and decision of the purchaser thereon shall be final and binding on the supplier, further the same shall not be challenged by the supplier either before Arbitration tribunal or before the court. The same shall stand specifically excluded from the purview of the arbitration clause, as such shall not be referable to arbitration.
 - (e) The total value of the liquidated damages as per above sub-clauses shall be limited to a maximum of 12% (Twelve percent) i.e. LD shall be levied up to 20 weeks only as per provision at Para (a).
 - (f) The Liquidated Damages shall be calculated on the all inclusive Price CIF-destination inclusive of Freight, Forwarding Packing, insurance, any other incidental charges and other non-creditable taxes after discount, if any but excluding GST and other creditable taxes
 - (g) If the deliveries are made after expiry of the contracted delivery period, without prior concurrence of the purchaser and accepted by the consignee, such delivery will not deprive the purchaser of its right to recover liquidated damages under clause 16.2 above.

- 16.3** In cases where the scheduled delivery period is distributed month-wise or is in installments, the liquidated damages shall be imposed for delay in each scheduled month/ installment. Liquidated damages shall be calculated separately for quantities to be supplied in every month/ installment and the corresponding delay. If the supplier supplies full quantity before the expiry of the scheduled delivery period of the last month/ installment but there is delay in month-wise/ installment-wise supply, then also liquidated damages shall be levied on the supplies against the earlier months/ installments that have been delayed. Twenty (20) weeks for the purpose of additional BG and grant of DP extension shall be counted from the last month/ installment.
- 16.4.1** Notwithstanding anything contained in this Agreement or any other agreement between the parties, the Purchaser may, without prejudice to its right to effect recovery by any other method, deduct the amount of Liquidated Damages from any money belonging to the supplier in its hand in relation to this or any other contract between the parties (which includes purchaser's right to claim such amount against invoices raised by the supplier or Bank Guarantees submitted by the supplier under this Contract or any other contract) or which may become due to the supplier. Any such recovery of Liquidated Damages shall not in any way relieve the supplier from any of its obligations to complete the Works or from any other obligation and liabilities under the Contract.
- 16.4.2** To facilitate recovery of Liquidated Damages from the invoices raised by the supplier, the Credit Note shall be issued by the supplier, failing which the purchaser shall adjust the amount to be recovered from the pending payments by issuing an invoice/debit note for the corresponding amount, at the risk and cost to the supplier including applicable GST, interest and penalty, if any.

17. FORCE MAJEURE

If, at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract is prevented or delayed by reasons of any war or hostility, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts or act of God (hereinafter referred to as events) provided notice of happenings of any such eventuality is given by either party to the other within 21 days from the date of occurrence thereof, neither party shall by reason of such event be entitled to terminate this contract nor shall either party have any claim for damages against other in respect of such non-performance or delay in performance, and deliveries under the contract shall be resumed as soon as practicable after such an event come to an end or cease to exist, and the decision of the Purchaser as to whether the deliveries have been so resumed or not shall be final and conclusive. Further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reasons of any such event for a period exceeding 60 days, either party may, at its option, terminate the contract.

Provided, also that if the contract is terminated under this clause, the Purchaser shall be at liberty to take over from the Supplier at a price to be fixed by the

purchaser, which shall be final, all unused, undamaged and acceptable materials, bought out components and stores in course of manufacture which may be in possession of the Supplier at the time of such termination or such portion thereof as the purchaser may deem fit, except such materials, bought out components and stores as the Supplier may with the concurrence of the purchaser elect to retain.

18. TERMINATION FOR DEFAULT

18.1 The Purchaser may, without prejudice to any other remedy for breach of contract, by written notice of default, sent to the supplier, terminate this contract in whole or in part

- a) if the supplier fails to deliver any or all of the goods within the time period(s) specified in the contract, or any extension thereof granted by the purchaser pursuant to clause 15;
- b) if the supplier fails to perform any other obligation(s) under the Contract; and
- c) if the supplier, in either of the above circumstances, does not remedy his failure within a period of 15 days (or such longer period as the purchaser may authorize in writing) after receipt of the default notice from the purchaser.

18.2 In the event the purchaser terminates the contract in whole or in part pursuant to para 18.1 the purchaser may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered and the supplier shall be liable to the Purchaser for any excess cost for such similar goods. However the supplier shall continue the performance of the contract to the extent not terminated.

19. TERMINATION FOR INSOLVENCY

The Purchaser may at any time terminate the Contract by giving written notice to the Supplier, without compensation to the supplier. If the supplier becomes bankrupt or otherwise insolvent as declared by the competent court 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.

20. DISPUTE RESOLUTION, ARBITRATION, APPLICABLE LAW AND JURISDICTION

The parties shall endeavour to resolve any dispute under the Agreement through mutual discussions and negotiations. However, If, after thirty (30) days from the commencement of such negotiations, the efforts to resolve all or any of the disputes through negotiations fails, in that event, such disputes or differences, whatsoever arising between the parties in respect of this Agreement/contract shall be referred to Arbitration, unless the matter is time barred as per the Limitation Act, in accordance with the following provisions:

- (a) For this purpose the Purchaser/MTNL shall publish a Panel of Arbitrator, meeting the requirements of the Arbitration and Conciliation Act as amended from time to time, consisting of eminent persons having wide experience in Telecom, Telecom Finance, Civil and Electrical fields. This panel will be of serving or retired officers of Government Departments or of Public Sector Undertakings of the rank of Joint Secretary to Govt. of India or above.
- (b) Matters to be arbitrated upon shall be referred to the sole Arbitrator where the total value of claims does not exceed Rs. 20 crores. Beyond the claim limit of Rs.20 crores, there shall be a panel of three Arbitrators.
- (c) For the disputes to be decided by the sole Arbitrator, the party invoking the Arbitration Clause shall submit a list of three Arbitrators from the aforesaid Panel along with the letter invoking the Arbitration. The other Party shall convey its consent for the one name as an Arbitrator out of three names within 15 days of receipt of such request.
- (d) For the disputes to be decided by a Panel of three Arbitrators, the party invoking the Arbitration Clause shall submit one name from the aforesaid Panel, as its Nominee, along with the letter invoking the Arbitration. The other Party shall also convey the name of its nominee from the aforesaid Panel to the Party invoking the Arbitration, within 15 days of receipt of such request. Both the nominated Arbitrators shall nominate a third Arbitrator from the aforesaid Panel, who shall act as the presiding Arbitrator.
- e) Thereafter, the appointment order of the sole arbitrator/panel of three Arbitrators will be issued by ED Delhi/Mumbai /CMD, MTNL or any other officer on his behalf. In case, the office of ED Delhi/Mumbai /CMD, MTNL becomes non-existent due to restructuring or any other reason whatsoever, the officer who shall look after the works of ED Delhi/Mumbai /CMD shall issue the appointment order.
- (f) Payment terms for Arbitration fees and transport allowance will be as per the MTNL guidelines. Other arbitration proceedings shall be in accordance with the Arbitration and Conciliation Act 1996, as amended from time to time, and the rules made there under shall be applicable. The Arbitration proceedings shall be held in Delhi/Mumbai.
- (g) In the event of such an Arbitrator, to whom the matter is originally referred, being vacating his office or neglecting his work or being unable to act for any reason whatsoever, the new Arbitrator(s) shall be appointed after following the procedure as enumerated hereinabove. The person(s) so appointed shall be entitled to proceed from the stage at which it was left out by his predecessors.
- (h) No person other than the Empanelled Arbitrators of MTNL shall be appointed as an Arbitrator to adjudicate the dispute.
- (i) The Arbitration proceedings shall be in English language.
- (j) The law of land as promulgated/modified /amended or replaced from time to time shall govern this agreement. The agreement shall be subject to exclusive jurisdiction of courts at Delhi/Mumbai.

20.1 ARBITRATION CLAUSE- FOR COMMERCIAL CONTRACTS WITH OTHER CPSES AND GOVERNMENT DEPARTMENTS/ ORGANISATIONS.

“In the event of any dispute or difference relating to the interpretation and application of the provisions of this Commercial contract(s)/ agreement, between the Central Public Sector Enterprises (CPSEs)/ Port Trust Inter se and also between CPSEs and Government Departments/Organisations (excluding disputes concerning Railways, Income Tax, Customs & Excise Departments), such dispute or difference shall be taken up by the either party for resolution through AMRCD as mentioned in DPE OM No. 4(1)/2013-DPE(CM)/FTS-1835 dated 22/05/2018”.

The court at Delhi/Mumbai shall have the exclusive Jurisdiction to entertain any dispute or claim arising out of contract.

NOTE: “The above Arbitration clause may also be suitably amended by respective unit(s) to delete the part not applicable (see underlined portion) in respect of appointing authority and jurisdiction.”

21. SET OFF

Any sum of money due and payable to the supplier (including security deposit refundable to him) under this contract may be appropriated by the purchaser or the MTNL or any other person(s) contracting through the MTNL and set off the same against any claim of the Purchaser or MTNL or such other person or person(s) for payment of a sum of money arising out of this contract or under any other contract made by the supplier with the Purchaser or MTNL or such other person(s) contracting through the MTNL.

In case of Set off the claims by purchaser from dues of supplier against any other contract, the Purchaser reserves the right to recover the claims from the Invoices raised by the supplier for which the Credit Note shall be issued by the supplier, failing which the purchaser shall adjust the amount to be recovered from the pending payments by issuing an invoice/debit note for the corresponding amount, at the risk and cost to the supplier including applicable GST, if any.

- 22.** The bidders, who are given Purchase Orders, must give the details of the supplies made against all the Purchase Orders every month on the first working day of the following month to MM and the concerned Planning Branches of MTNL (Corporate Office).

- 23.** The bidder should furnish the name of its collaborator (if applicable), brand name, model number, type of the products and HSN classification under GST and Customs law offered in this tender. The technical literatures of the products should also be submitted.

24. Fall Clause

- 24.1** The prices will be governed as per provisions in Clause 12.1 of Section III. Further, if at any time during the contract;

- (a) It comes to the notice of purchaser regarding reduction of price for the same or similar equipment/service;
And/Or

- (b) The prices received in a new tender for the same or similar equipment/service are less than the prices chargeable under the contract.

The purchaser, for the purpose of delivery period extension, if any, will determine and intimate the new price, taking into account various related aspects such as quantity, geographical location etc. and the date of its effect for the balance quantity/service to the vendor. In case the vendor does not accept the new price to be made applicable during the extended delivery period and the date of its effect, the purchaser shall have the right to terminate the contract without accepting any further supplies. This termination of the contract shall be at the risk and responsibility of the supplier and the purchaser reserves the right to purchase the balance unsupplied quantity/service at the risk and cost of the defaulting vendor besides considering the forfeiture of his performance security and Additional Bank Guarantee.

- 24.2 (a)** The vendor while applying for extension of time for delivery of equipment/services, if any, shall have to provide an undertaking as “We have not reduced the sale price, and/or offered to sell the same or similar equipment/service to any person/organization including Department of central/state Government or any central/state PSU at a price lower than the price chargeable under the contract for scheduled delivery period.”
- (b)** In case undertaking in Clause 24.2 (a) is not applicable, the vendor will give the details of prices, the name(s) of purchaser, quantity etc. to the purchaser, while applying extension of delivery period.

25. GST INVOICE:

Tax Invoice terms:

- (a)** All the details of supplier (name, address, GSTIN/ unregistered supplier, place of supply, SAC/ HSN code etc.) and other mandatory details shall be mentioned on the invoice.
- (b)** Invoice/DN/CN/Supplementary invoice/Receipt Voucher need to be issued in compliant format and timely within the time prescribed under GST law.
- (c)** In case of any deficient supply, MTNL shall convey the same within a reasonable time to enable the supplier to issue credit note and take tax adjustment. In case supplier fails to raise credit note in time then MTNL shall be authorised to raise a debit note against such L.D. charges plus applicable GST. Such credit/debit note shall be issued before September 30th of following end of financial year in which such supply was made.
- (d)** It would be the responsibility of the supplier to declare correct information on invoice and GSTN viz. the amount, the place of supply, rate of tax etc. In case, the eligibility of input tax credit is questioned or denied to MTNL on account of default by the supplier, the same would be recovered by MTNL from the supplier along with the applicable interest and penalty, if any.

- (e) Registered location of the both the parties i.e. MTNL and supplier should be mentioned in the agreement with GSTIN No. Further, supplier should raise invoices at the registered premise of MTNL for availing the credit.
- (f) MTNL could at any time instruct the supplier to raise its invoices at a particular location of MTNL
- (g) Supplier should raise invoices at the registered premise of MTNL for availing the credit and ensure that the place of supply as per GST law is same as registered premise. It shall be the responsibility of supplier to raise invoice within the prescribed timelines
- (h) In case the supply involves construction of civil structure and/ or supply of telecommunication towers along with supply of other goods/ services, separate invoices should be raised for construction of civil structure and/ or supply of telecommunication towers.
- (i) In case of supply of goods, place of supply shall be every such place where goods are delivered. Even in a scenario wherein goods are collected by MTNL from vendor's warehouse/factory gate, the place of delivery shall be the location(s) of MTNL as mentioned in the PO.
- (j) "It shall be the responsibility of the supplier to mention State of place of supply of goods/ services in the invoice issued to MTNL"

26. GST COMPLIANCES

- (a) It is the responsibility of the supplier to ensure that outward supply return (GSTR-1) would be filed correctly. If not, then cost i.e. taxes, interest and/or penalty would be borne by supplier.
- (b) Reporting of correct outward supply by supplier in the outward return (GSTR-1) is the responsibility of the supplier. Supplier needs to ensure the following points:
 - (1) Uploading appropriate invoice details on the GSTN within the stipulated time;
 - (2) Issuing GST compliant invoice / CN/ DN. PO issued by MTNL should be referred by supplier for capturing information on the invoice.
 - (3) Supplier needs to pay the entire self-assessed tax on timely basis.
 - (4) Where invoice not uploaded or incorrect upload of invoicing detail on GSTN by supplier then credit on such invoice will be given provisionally subject to matching. So, acceptance of changes made by MTNL on GSTN on account of non-upload or incorrect upload of details on GSTN w.r.t. the mis-match are required to be accepted by supplier within the time limit prescribed under the GST law. It should be noted that in case supplier does not accept such changes within the time limit prescribed under GST law, the loss of input tax credit, interest paid and penalty levied, if any would be recovered from the supplier.
 - (5) In case of mismatch because of supplier's fault, prompt amendments must be made by the supplier else supplier would be required to indemnify MTNL for the losses of credit and interest paid due to mis-match.
 - (6) Supplier to issue all necessary documentation and perform all necessary compliances for MTNL to be eligible to claim the input tax credit of GST tax to them. In case MTNL is unable to claim the input tax credit, the amount w.r.t. GST charged by the supplier would be recovered from the supplier along with any applicable interest and/or penalty, if any as applicable by GST law.

- (7) A self-declaration along with evidence that the bidder is not black listed by GST authorities. In case the supplier gets black-listed during the tenure of MTNL contract, then indemnity clause 27 shall be applicable to ensure that no loss of credit is borne by MTNL due to a default of supplier.

27. TAX INDEMNITY CLAUSE

MTNL has the right to recover tax loss suffered by it due to any mis-declaration on invoice by the supplier along with any applicable interest and/or penalty, if any as applicable by GST law.

28. JOB WORK

It may be noted that in case of goods sent to supplier for repair and maintenance qualifies as job work, it shall be supplier's responsibility to send back the goods within prescribed timelines i.e. 1 year for goods held as stock and 3 years for capital goods

29. MOVEMENT OF GOODS

It shall be supplier's (registered under GST) responsibility to issue GST compliant E-way bill for movement of goods by way of supply or otherwise. As per GST law, E-way bill (wherever applicable) along with prescribed documents are to be carried by the person-in-charge of conveyance. In case supplier fails to issue E-way bill (wherever applicable) due to non-compliance or default or due to lack of diligence on his part, it shall indemnify MTNL for the consequential loss suffered by it, if any till the supplies are delivered in good condition.

In case of movement of goods other than by way of supply (for instance return of goods sent by MTNL at supplier's premises for repairs) from supplier's premises to the registered premises of MTNL, Vendor/contractor shall be required to move goods under a GST compliant delivery challan.

In case of procurement from unregistered vendor/supplier, the supplier is required to select the transporter who can issue an E-way bill (wherever applicable) as per GST law.

30. ***The decision of MTNL in respect of levy of Penalty shall be final and binding. Any dispute in relation to imposition of penalty or quantum thereof shall not be arbitrable and the clause of Dispute Resolution shall not be applicable."***

SECTION IV A

SPECIAL CONDITIONS OF CONTRACT

1. The special conditions of contract shall supplement the '**Instructions to the Bidders**' as contained in Section II & "**General (Commercial) Conditions of the Contract**" as contained in Section III and wherever there is a conflict, the provisions herein shall prevail over those in Section II and Section III.
2.
 - (i) The bank guarantee for bid security as prescribed in clauses 12.1 & 12.3 of Section II of the bid document shall be submitted to DGM (MM-II) before the scheduled date and time of opening of the bids. The bank guarantee so submitted shall be as per the format given in Section VIII on prescribed judicial paper with stamps of proper value and should contain full address of the issuing branch of the bank with its telephone number and FAX number.
 - (ii) In case where the document of bid security is not submitted in the manner prescribed under clause 2 (i) above, the Techno-commercial and financial offers SHALL NOT BE OPENED AND THE BID SHALL BE REJECTED UNOPENED.
 - (iii) Bids along with required documents shall be submitted on-line before the due date and time of submission of the bids.
 - (iv) In case at any stage, if it is found that the document in support of qualification to tender conditions is forged or tampered with or manipulated to take undue advantage, then the concerned bidder shall be liable for forfeiture of Bid Security or Performance Security and/or debarring/blacklisting from participation in any of the tenders of MTNL for at least one year.
3. The small scale industries registered with National Small Scale Industries Corporation (NSIC) for the tendered item under single point registration scheme and desirous of claiming concessions available to such units inclusive of bid security should submit their latest NSIC certificates and documents in respect of their monetary limit and financial capability duly certified by NSIC.
4.
 - (i) The supply will be accepted only after quality assurance tests are carried out by the Quality Assurance Wing of MTNL as per prescribed schedule and material passing the test successfully and after authenticated by appropriated authority.
 - (ii) The QA units of MTNL while clearing the equipment/stores will strictly adhere to the package discipline as described in Purchase Order. Supplies made in full, as per Purchase Order, of all the packages during delivery period only will be deemed to have been supplied within the scheduled delivery period.

Hint: Generally equipment (indigenous or imported), upon completion of TAC / Validation, shall have to be supplied after successful testing by Quality Assurance Wing of MTNL. However, MTNL Board may relax this condition on case-to-case basis.

5. (i) The Purchaser intends to limit the number of technically and commercially responsive bidders to () from the list of such bidders arranged in increasing order of their evaluated prices starting from the lowest for the purpose of ordering against this tender. The bidder with the lowest evaluated price will be considered for about (....)% of the tendered quantity and the balance quantity will be ordered on the remaining selected bidders inversely proportional to their quoted prices. However, the purchaser reserves the right for the placement of order of entire tendered quantity on the bidder with the lowest evaluated price.
- (ii) In the event of any of the eligible bidder(s) not agreeing to supply the equipment or not being considered by MTNL for ordering the equipment, inter-se ranking of the bidders below the aforesaid bidder(s) will be recast to fill up the vacated slot(s). This will be done to ensure that the number of bidders supplying the equipment remains same as earlier.

Hint: See guidelines for distribution of quantity in **Annex-9.1**.

6. **Spares:**

Hint: The clause regarding spares may be included considering the following aspects:

- (i) The supplier shall be required to provide a list of spare parts recommended for maintenance for three years along with rates at card/ module level. The purchaser may elect to purchase the recommended spares from the supplier at any time including at the end of warranty/ AMC, provided that such purchase shall not relieve the supplier from any warranty/ AMC obligations under the contract.
- (ii) The cost of spares shall be discounted @ 15% over warranty/ AMC period (if there is a provision for AMC in the contract) to arrive at the final price of the equipment for the purpose of tender evaluation.
- (iii) Over a period of three years starting from the date of final acceptance of the equipment or after the procurement of spares, supplier shall supply at his own cost, spare parts needed which have not been included in the offer. These spares should be supplied within a maximum period of thirty days from the notification by the purchaser of his need, without demur.
- (iv) In the event of termination of production of the equipment/ spare parts, the supplier shall notify the purchaser at least two years in advance of the impending termination to enable the purchaser to procure life time spares. The supplier shall also provide at his own cost to the purchaser, the blue print drawings and specifications of spare parts if and when requested.
- (v) Period warranty & AMC (if any) shall also be prescribed.

7. Repair of faulty equipment and setting up of Repair Facilities:

Hint: The clause regarding repair of faulty equipment and setting up of Repair Facilities may be included considering the following aspects:

- (i) The supplier shall establish adequate repair facilities for repair of faulty equipment in India within a period six months from the date of purchase order. The number and location of repair facilities should be such as to meet the requirement of repairs and turn around time provided in the special conditions in Section IV. The performance bank guarantee shall not be released until the purchaser is satisfied that sufficient repair facilities have been established in addition to the fulfillment of other conditions of the contract. The purchaser reserves the right to blacklist a supplier who does not meet the repair obligation as per the conditions of contract.
 - (ii) The supplier shall quote rates for repair of each card/ module in schedule VII as a percentage of the cost of that module and also in value in rupees. Total cost of repair for each type of module shall be loaded for the purpose of evaluation.
8. The bidder should submit the technology, make and model in respect of each item including name and version of the software for which the offer has been given. The technical documentation supplied in support of compliance shall relate only to such technology, make & model for equipment and name & version of software. MTNL at its discretion, in exceptional cases, after opening the tender with reasons recorded in writing with the approval of CMD, may allow changes provided that the changed equipment is of equal or higher version/capacity than the offered product in the tender.
9. **Flexibility due to Technological changes:** Provisions on flexibility to accept advance produce/services/software due to change in technology, software either at the same price or lesser price at the discretion of MTNL/ Committee.

Other clauses may be defined as per the need.

SECTION IV B

ANNUAL MAINTENANCE CONTRACT

Following clauses are a guiding factor for award of AMC and are aimed to achieve smooth and proper working of the equipment during its predicted life span with practical workable approach without increasing the cost considerably. The terms and conditions may undergo change as per requirement of the procurement. The concerned Planning Cell of Corporate Office/ field unit preparing tender conditions should also include the agreement for Comprehensive Annual Maintenance Contract detailing the post warranty maintenance obligations as well as scope of work. The riders/ figures mentioned in different clauses, or left blank or starred (*), may undergo suitable changes as justified by Planning Unit(s), with the approval of competent authority.

- 1.1 It shall be mandatory for the bidders to undertake the Annual maintenance contract for ____ years* to be signed at the time of acceptance of APO for entire quantity proposed to be ordered. The selected bidder has to submit a signed copy of the AMC agreement along with the A.P.O. acceptance letter.*
- 1.2 In all tenders related to procurement of Apparatus & Equipments, wherever AMC is required, the Quote shall be asked for a 9 year period post 1 year warranty. It shall be mandatory for the bidders to undertake the Annual maintenance contract for 9 years to be signed at the time of acceptance of APO for entire quantity proposed to be ordered. The selected bidder has to submit a signed copy of the AMC agreement along with the A.P.O. acceptance letter.*
- 1.3 Any equipment de-loaded during the AMC period reflecting in reduced capitalization will reduce the AMC amount proportionately.*
- 1.4 However MTNL shall reserve its right to terminate AMC in any of following situations-*
 - (i) Equipment getting de-commissioned.*
 - (ii) MTNL decide not to continue with AMC*

In both situation as above, a three month notice shall be given by MTNL to the bidder to terminate/discontinue the AMC.

2. For this purpose the bidder shall quote all inclusive Comprehensive AMC charges for each year, year-wise for Nine* years (or as defined) which shall become effective at the end of the warranty period. The cost shall be quoted as a lump sum including visits of the engineers or attending to faults and repairs and supply of spare parts etc. However, Goods & Service tax (GST) shall be paid extra as applicable. AMC charges shall be included in evaluation of price bid, by applying discounting factor of 10% per year to arrive at the NPV (Net Present Value).
- 2.1 The quote for AMC should be as a % (percent) of equipment cost and it is mandatory to quote yearly charge in Rs. in price bid form of tender document.

- 2.2.1** *The yearly AMC prices quoted by the bidder(s) in percentage of equipment cost shall be worked out & transformed in NPV, for entire AMC period, subject to minimum of 3 % per year, for the purpose of evaluation.*
- 2.2.2** *Whenever a vendor quotes less than 3% AMC rate post warranty, his bid will be evaluated assuming minimum 3% AMC quote but payment will be made as per rates actually quoted and simultaneously MTNL shall withhold the payment of equipment to bidder equivalent to difference in AMC value at 3% rate and quoted rate for all those years where AMC quote is less than 3%. This differential amount withheld for AMC shall be released on completion of AMC period for a particular year.*
- 3.** The Performance Bank Guarantee against the P.O. will be released only after submission of PBG against AMC in each field unit and fulfillment of other obligations of AMC or P.O. which are pre- requisite for release of the PBG.
- 4.** Any Unit neither returned during the turn-around time period nor declared as RNP (Repair Not Possible) within 60 days of its handing over to the designated courier/agency/center, an amount equivalent to 1.5 times the cost of equipment/unit shall be recovered from the supplier. This cost will not be counted as penalty, for the purpose of 25% cap on penalty as mentioned later in clause 7.0 (iii) & 7.0 (vi).
- 4.1** Not more than 1% of the total equipment/units sent in a year (of AMC) for repair will be declared as RNP (Repair Not Possible) by the supplier.
- 4.2** RNP equipment/cards shall not include burnt out and/or physically damaged units.
- 4.3** For each RNP unit, as well as burnt out/damaged unit, a joint inspection report format shall be signed by supplier's and MTNL's representatives. This format shall also contain identified/ probable causes of damage and suggested preventive actions.
- 4.4** MTNL shall reimburse upto a maximum of 1% of the cost of equipment sent for repair against replacement cost of equipment declared as RNP.
- 4.5** The consumables shall not be part of AMC except the large capacity batteries supplied, if any, with the BSCs/BTSs etc. in WLL/GSM tenders in future.
- 4.6** However, if MTNL so desires, the supplier shall be bound to provide these items at the itemized price in their bids for initial currency period of AMC.
- 5.** The bidder shall, at the time of submitting the bid, submit the proposal specifying the fault control centers' locations and how the bidder proposes to carry out repair under AMC. The bidder shall also indicate what spares will be kept in different locations. The infrastructure planned to be created by the bidder to fulfill his obligations under AMC and his action plan to deal with various situations arising out of hardware and software faults shall be clearly indicated.
- 6.** The selected bidder shall submit a bank guarantee against AMC, valid for a period of AMC plus eight months, two months before the ongoing date of expiry of the PBG submitted against the P.O. Purchaser reserves the right to forfeit the main P.O.-PBG if the BG against AMC is not submitted in time.

- 6.1 Amount of Bank Guarantee will be equal to the highest of the yearly AMC charges. For any additional equipment, the amount of PBG shall be increased proportionately, or an additional PBG submitted for the additional amount, within a time period of one month from the date of such equipment getting covered under AMC.
- 6.2 The validity of the AMC-PBG shall have to be extended by the bidder to cover the whole period of AMC plus six months, if for any reason the date of start of AMC changes.
- 6.3 Operating field units will be the recipients and custodian for the relevant bank guarantee(s) against AMC and same unit(s) shall enter in to AMC agreement.

7. FAULTS: SEVERITY LEVELS, RESTORATION TIME & PENALTIES

- (i) Amount of penalty per day on the basis of severity level of fault shall be decided by Technical/Planning/IT Section.
- (ii) A system of dispatch and receipt of challans shall be worked out between MTNL and the supplier within three months of the placement of Purchase Order in order to account for the delay. Decision of MTNL as to how the system is designed shall be final.
- (iii) **Penalty(s) shall be deducted from the quarterly bills. The maximum value of penalty for faults/card repairs etc. shall not exceed 25% of AMC amount in that year, provided reasonable AMC has been carried out.**

If MTNL is not satisfied with the performance of the supplier during AMC, it reserves the right to term the AMC execution as unreasonable, and communicate the same formally to the supplier through letters/phones/emails/SMSs during currency of the AMC. MTNL's view in this regard shall be final.

- (iv) If the supplier fails to restore the fault within the time limit stipulated in the AMC,

and/or

If the supplier is unable to meet the deadline for repair/replacement of faulty equipment stipulated in the AMC,

Penalties as shown below shall be applicable:

- a) The penalty will be applicable per site basis even if there is a commonality of fault at any point in the network causing failure of full or part of service.
- b) (*) For major failure(s), penalty(s) need to be specified & shall not be part

of capping. For example, any failures affecting the availability of service to more than 20% of working subscribers in the whole network at a time, shall entitle MTNL to deduct 1% of the quarterly bill for each occasion of such failure in that quarter. Failure occasion shall be counted as one occasion for failure of every two* hours or part of two hours. For example, failure of 4* hours 12 minutes shall be treated as three (3) occasions of failure.* Also, above stated penalty(s) shall be capped at 50% (Fifty percent) of annual AMC cost, and shall be in addition to penalty(s) imposed due to delays in card/equipment repairs/replacements as stated in clause 7.0 (iii).

8 End of Life or End of Service Equipment

Vendor shall ensure that equipment being procured must be supported for minimum 10 year post warranty period. OEM should give an Undertaking in this regard and tender should specifically state that MTNL will also have the right to seek AMC support from OEM beyond 10 year if OEM is supporting such equipment anywhere globally.

- 9** *Bidder will be bound to offer AMC post 9th year in case OEM is supporting such equipment anywhere globally. In case OEM is not offering support anywhere globally during period after 9 years of AMC, bidder has to submit a certificate from OEM that no support is being offered anywhere globally by OEM for such version/type of equipment.*

ANNEXURE I to SECTION IV B

ANNUAL MAINTENANCE CONTRACT AGREEMENT FORMAT

(It is a general format which may be modified from tender to tender as per the suggestions of Technical/User Groups of MTNL with the approval of Competent Authority)

This agreement is made on the ____ day of ____ (Month), ____ (year) to be effective from

____ (Date) between M/s Mahanagar Telephone Nigam Limited a company registered under the Companies Act 1956 having its registered office at 5th Floor, Mahanagar Doorsanchar Sadan, 9 CGO Complex, Lodhi Road, New Delhi -110003 (hereinafter called MTNL) of the ONE PART **and**

____ a company registered under the Companies Act 1956 and having its registered office at ____ (hereinafter called SUPPLIER which expression shall unless repugnant to the context, include its successors in business, legal representatives and administrators or permitted assigns) of the OTHER PART.

WHEREAS, MTNL has placed the purchase order on the SUPPLIER vide No. ____ dated ____ for supply, installation, commissioning and Annual Maintenance of ____ equipment against tender No. ____ dated ____.

WHEREAS the SUPPLIER has made the offer to duly comply with all the provisions of the Tender/Bid Document, including those pertaining to Post Warranty Annual Maintenance Contract, after making himself fully aware and understanding fully the implications of the terms and conditions and specifications mentioned therein and which has been accepted by MTNL on the terms and conditions mentioned hereafter and after ascertaining that the SUPPLIER is fully capable of complying with the aforesaid terms of the Bid Document.

NOW the AGREEMENT WITNESSETH as follows:

1. PERIOD OF VALIDITY OF THE AGREEMENT.

- 1.1 This Agreement shall remain in force for ____ from the date of completion of ____ year warranty, while at the same time the terms and conditions of this agreement except for payment of charges to the SUPPLIER shall also apply during warranty period.
- 1.2 Extension of this Agreement shall be negotiable for the second term depending on the performance of the SUPPLIER during the period of the initial term.
2. In addition to complying with all the terms and conditions recorded in the Tender/Bid Document, the SUPPLIER hereby agrees and unequivocally undertakes to fully comply with all the terms and conditions stipulated in this Agreement and without any deviation or reservations of any kind.

3. Unless otherwise mentioned or appearing from the context, the Tender (Bid) Document and any clarifications thereof and the purchase order shall form part and parcel of this agreement, provided that in case of conflict or inconsistency on any issue relating to this Agreement, the terms set out in the body of this agreement with schedules and Annexure thereto shall prevail.
4. During the period of AMC the SUPPLIER shall inter alia (see note below)
 - (i) Diagnose the hardware and software faults.
 - (ii) Rectify the hardware/software faults detected.
 - (iii) Repair and replace the faulty equipments.
 - (iv) Carry out the periodic preventive maintenance.
 - (v) Upkeep and upgrade the software periodically for ensuring trouble free/bug free/fault free performance of the supplied systems/ equipment.
 - (vi) Flexibility for creating customized reports.
 - (vii) Provide full and time bound integration with eMS system
 - (viii) AMC shall be inclusive of cost of spares, labour and all other costs.
5. The supplier shall prepare the schedule of preventive maintenance for each quarter and shall submit the same to MTNL in advance. The preventive maintenance shall not affect the normal functioning of the system.
6. The SUPPLIER shall provide all the latest Software Updates, upgrades and/or patches (including incidental hardware upgrades such as DRAM and Flash memory etc) along with required hardware for ensuring trouble free/ bug free /fault free performance & maintenance of the supplied systems/equipment to MTNL on free of cost basis as a part of the AMC as well the maintenance of these upgrades.
7. The SUPPLIER shall be solely responsible for the maintenance, repair & up gradation of the software/hardware systems, equipments and parts thereof and MTNL shall not be liable to interact with any of the partners/ collaborators or subcontractors of the SUPPLIER.
8. **REPAIR AND MAINTENANCE (see note below)**
 - 8.1 **TECHNICAL SUPPORT & SERVICE CENTRE**
 - 8.1.1 The SUPPLIER shall have Technical Support & Service Centres at least one each in Delhi/NCR, Mumbai. The SUPPLIER may set up more such centres to meet the criteria for fault restoration/faulty unit repair times as mentioned in the AMC. The SUPPLIER shall furnish the names, locations, complete postal address, Telephone numbers and FAX numbers of all Technical Support & Service Centres at the time of signing this Agreement
 - 8.1.2 The SUPPLIER shall also provide the name of alternate contact person or Technical Support & Service Center with address & telephone /FAX no. which may be contacted by MTNL staff for support in case of no response/poor response from the designated Technical Support & Service center. This,

however, shall not preclude MTNL from imposing the penalties, if any, as applicable as per the terms & conditions of this agreement.

- 8.2** Any change in Address, Phone number, FAX Number, GSTIN etc shall have to be intimated in writing by the SUPPLIER to the concerned In-charge of the MTNL unit as well as the concerned head of MTNL unit at the earliest. If the unit in charge of the MTNL unit is unable to report the faults to the normally assigned Technical Support & Service Center due to the change of phone number etc. the fault will be reported (as per provision of 8.1.1 above) and the SUPPLIER shall be responsible for rendering all the maintenance support services to the affected station as per the terms and conditions of this Agreement.

8.3 RESPONSIBILITIES OF TECHNICAL SUPPORT & SERVICE CENTER

- 8.3.1** The SUPPLIER shall ensure that all the Technical support & service centers are manned by fully competent and responsible Engineers and are capable of giving all types of necessary technical guidance/ assistance over phone to the respective officers of MTNL for fast troubleshooting & rectification of faults.
- 8.3.2** The SUPPLIER shall also ensure that Technical support Centres are manned and are able to provide service to MTNL round the clock, all the seven days of the week throughout the year. The level of service provided to MTNL shall not go down during night time or due to any day being holiday, or for any other reason.
- 8.3.3** The Technical support Centers shall receive the faulty cards/ units/ PCBs from MTNL sites and repair / replace them with good ones during the period of AMC.
- 8.3.4** One or more of the Technical Support Center (s) shall also work as repair center(s) and it shall be responsible for repairing the faulty cards/ units/ PCBs. Such repair Center shall also maintain a requisite minimum stock of such cards/equipment often going faulty, in order to keep the down time within limits as envisaged in this agreement. The SUPPLIER shall be at liberty to distribute spares to the nodes as deemed fit or keep them at the designated Technical Support Centres.
- 8.3.5** The Technical support Center shall regularly obtain feedback about the health of the systems under its jurisdiction from the officer of MTNL on monthly basis (or even more frequently) and maintain a proper record of such feedback. These shall be made available to the technical experts nominated by the SUPPLIER for analysis and such technical expert in turn shall give adequate and proper guidelines / technical advice to the officers of MTNL for taking necessary preventive measure for reducing the frequency of such faults and also for preventing such faults from re- occurring. This shall, however, not absolve the SUPPLIER from fulfilling his obligations under this agreement.
- 9.** The SUPPLIER shall set up at least one repair center each in Delhi/NCR, Mumbai within 3 months from the date of purchase order, with the facilities for repair of all types of _____ supplied by it.

10. SUPPLIER may either carry out the repair on his own or through the facilities of third party. MTNL shall, however, interface only with this SUPPLIER in all cases.
11. The first line maintenance shall be done by authorized staff of MTNL by replacement of the faulty/affected module with a readily available good module, stocked at the site by the SUPPLIER at his (SUPPLIER's) cost or out of the spare capacity, if available in that node, if no spares at site have been made available by the SUPPLIER. Decision whether the module/ cards at any node can be made spare or not shall rest with MTNL. It shall not absolve the SUPPLIER from his responsibilities under this agreement for restoration of fault etc. All such changing/ replacement of faulty/affected modules shall be done by MTNL staff as per telephonic (or otherwise) instructions of the technical support centre.
12. The faulty module shall be sent by MTNL to the SUPPLIER's designated Repair Center / Technical support Center within the shortest possible time.
13. The SUPPLIER shall arrange and ensure repair or replacement of the faulty equipment, to the concerned site of MTNL within 15 days of dispatch of the faulty module by MTNL to the SUPPLIER's designated Technical support Center. While the responsibility of delivering the faulty module /Card / PCB / equipments to the SUPPLIER's premises will lie with MTNL, the responsibility of repairing and sending back the same to the respective MTNL location will be with the SUPPLIER.
14. 15 days time shall be calculated from the date of dispatch of faulty equipment at the SUPPLIER's designated Repair Center/Technical support Center to the date of receiving back of the repaired/replacement of the same at the concerned MTNL site. Wherever sub-rack or other equipment is brought by the representative of the SUPPLIER at site for replacement, the faulty unit/ sub-rack equipment shall be taken back by the said representative for further repair etc. at the cost of SUPPLIER.
15. **TECHNICAL SUPPORT PROCEDURE (see note below)**
 - 15.1 The SUPPLIER shall ensure that a **minimum stock of 5%** of__ supplied in the network, are maintained as spare stock. It will be at the option of the SUPPLIER either to maintain the above spare stock of_____at _____ the Technical support Center or to distribute the spare_____over Delhi/Mumbai to meet his obligation under AMC.
 - 15.2. The Supplier shall arrange for and ensure the immediate replacement of the faulty equipment/PCB/modules etc with the good ones as & when the faulty are received at its designated Technical Support Center for repairs.
 - 15.3 The supplier shall furnish the detailed guidelines for each type of__ regarding the identification/ detection/ diagnosis of the faulty_____(s) at the time of supplying the

_____to MTNL sites. The SUPPLIER shall supply one set of detailed guidelines per hundred of _____each type of_.

- 15.4** The training of the representatives of the Purchaser regarding the identification/ detection/ diagnosis of the faulty _____shall be conducted either at the NOC location or at a test site where the_____will be deployed. The purchaser will bear all the expenses related to travel, boarding and lodging, etc. of its representatives. The Supplier shall depute its representative for imparting training as per the program given by the Purchaser.
- 15.5** Each MTNL unit, where_____shall be deployed, shall maintain the records of_____sent for repair/ replacement (quantity sent/ time & date of sending/ date of receiving back, etc.) and shall forward such records on bi-monthly basis to the respective unit In charge.
- 15.6** Each unit In charge shall compile the records received regarding the__from various MTNL Units and will recommend the penalty, if any, in accordance with **clause 19** for delays in receiving back the repaired/ replaced _____within stipulated time frame.
- 15.7** In case of any dispute, the records maintained by MTNL shall have precedence.

16. MAINTENANCE OF HISTORY SHEET AND LOG BOOKS

- 16.1** The SUPPLIER shall supply elaborate maintenance procedures and proforma of the history sheet to every concerned location of MTNL.
- 16.2** The officer of MTNL shall fill up the history sheet containing the statistics about the health of the associated equipment installed at the concerned location and send a report to the Technical Support Center of the SUPPLIER on monthly basis. Based on the History sheet report, the SUPPLIER shall analyze the health record of each location and if something alarming or unusual is noticed, shall advise the field staff of MTNL to take necessary actions for preventive maintenance of such equipments. These instructions for preventive maintenance shall be passed on to MTNL staff at the concerned location in writing and by sending experts to the respective locations when felt necessary. MTNL reserves the right to make changes in the proforma proposed by the SUPPLIER.

17. AMC CHARGES AND PAYMENTS

The charges for AMC will be as given in the purchase order. A copy of the same will be made part of this agreement at the time of signing this agreement.

- 17.1** For fulfilling the above obligations, the following procedure shall be followed for paying the SUPPLIER the charges for the services rendered by the SUPPLIER under this Agreement.
- 17.2** MTNL shall not pay any charges in advance. Bills for AMC shall be paid by MTNL at the end of each quarter, after successful execution of the works under this

Agreement normally within 21 (twenty one) days of the receipt of the duly completed location-wise bills.

- 17.3** All payments shall be made by the Accounts Units concerned based on the fault report received from the concerned MTNL officer, after deducting penalties, if any. For this purpose, MTNL shall designate nodal officers at the respective field units.
- 17.4** MTNL reserves the right to adjust any over-payment of AMC charges in any year, any time during the period of AMC.
- 18. FORCE MAJEURE : This clause shall be as per Clause 17 of Section-III.**
- 19. FAULTS: SEVERITY LEVELS, RESTORATION TIME & PENALTIES** (see note below)
- 19.1** Amount of penalty per day on the basis of severity level of fault shall be decided by Technical Section.
- 19.2** A system of dispatch and receipt challans shall be worked out between MTNL and the supplier within three months of the placement of Purchase Order in order to account for the delay. Decision of MTNL as to how the system is designed shall be final.
- 19.3** **The penalty shall be deducted from the quarterly bills. The maximum value of penalty for faults/card repairs etc. shall not exceed 25% of AMC amount in that year, provided reasonable AMC has been carried out.**
- 19.4** If the supplier fails to restore the fault within the time limit stipulated in the AMC,

and/or

If the supplier is unable to meet the deadline for repair/replacement of faulty equipment stipulated in the AMC, Penalties as shown below shall be applicable.

Example 1: Where severity level may be defined:

Severity Level*	Penalty per hour of delay/ Per Site/per occasion*
A	Rs. 5000/-*
B	Rs. 3000/-*
C	Rs. 1000/-*
(Delay will be counted in steps of one hour) *(Planning/user units may change these figures on need basis, with approval of competent authority, and also keeping in mind provisions of clause 7.0 of section IV B of tender document)	

Example 2: Where severity level may not be defined:

Delay period	Penalty Amount (Rs.)
> 15 days ≤ 30 days	Rs.500/- per day of delay per faulty module/card
> 30 days	Rs.1000/- per day of delay per faulty module/card

19.5 The penalty will be applicable per site basis even if there is a commonality of fault at any point in the network causing failure full or part of service.

19.6 Any failures affecting the availability of service to more than 20% of working subscribers in the whole network at a time, shall entitle MTNL to deduct 1% of the quarterly bill for each occasion of such failure in that quarter. **(Planning/user units may change these figures on need basis, with approval of competent authority, and also keeping in mind provisions of clause 7.0 of section IV B of tender document.*

20. After the expiry of Annual Maintenance Contract, it shall be optional for MTNL not to enter the AMC contract further with the contractor. In such circumstances the contractor will be bound to hand over the spare parts / sub-assemblies /printed circuit boards etc to MTNL.

21. TERMINATION OF AMC:

If MTNL is not satisfied with the performance of the SUPPLIER during AMC, it reserves the right to terminate the AMC during its currency, after giving three months notice to the SUPPLIER and in such an event the vendor will hand over all the spares as indicated above.

22. DISPUTES & ARBITRATION: This clause shall be as per Clause 20 of Section-III.

23. SET OFF: This clause shall be as per Clause 21 of Section-III.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed through their respective authorized representatives on the day and year first above written.

Signed and delivered for and on behalf of MAHANAGAR TELEPHONE NIGAM

LIMITED. By__

Signed on behalf of M/s._____

By Shri_____holder of General Power of Attorney dated_____executed in accordance with the Resolution No._____dated _____passed by Board of Directors.

In the presence of:

Witness: (1) ----- (2) -----

Notes to the AMC Agreement Format:

- (i) Paragraphs No. 4, 8, 15 may be amended/modified/added/deleted from tender to tender in consultation with the concerned Planning/Technical Section.

- (ii) Paragraph 19 is illustrative and not exhaustive and may be modified on case to case basis, in consultation with the concerned Planning/Technical Section.

ANNEXURE II to SECTION IV B

1. GUIDELINES FOR FINALIZATION OF RATES OF ANNUAL MAINTENANCE CONTRACT BEYOND TENDERED AMC PERIOD

- (i) In case of AMC beyond 9 years the average rate of AMC will be worked out for 9 year period and such worked out rate will be taken as middle year rate i.e. 5th year for calculation. The CAGR will be calculated for 9 year period. Increase due to CAGR rate in AMC will be notionally worked out from 6th year onwards upto 9th year based on average rate duly increased by CAGR rate for each year. The 10th, 11th, 12th year and subsequent years thereafter the AMC rate will be worked out by giving enhancement for each year based on CAGR rate as quoted by the bidder for first Nine years.

Calculation of AMC rate from 10th year onwards

Year	tender rate	AMC	average AMC rate	CAGR (%)	Notional AMC rate	actual AMC
1 st	3%					
2 nd	3.5%					
3 rd	4%					
4 th	4.5%					
5 th	5%		5%			
6 th	5.5%				5.49%	5.5%
7 th	6%				6.03%	6%
8 th	6.5%				6.63%	6.5%
9 th	7%			9.87%	7.28%	7%
10 th	-				8%	8%
11 th	-				8.79%	8.80%
12 th	-				9.66%	9.66%

- ❖ Notional AMC rate will be calculated from the 6th year by multiplying annual CAGR (Cumulative Annual Growth Rate) with the average AMC rate in the middle year i.e. 5th year.

Notional AMC Rate for 6th Year= {(9.87*5)/100}+5=5.49

Notional AMC Rate for 7th Year= {(9.87*5.49)/100}+5.49=6.03

and so on

- ❖ For 6th, 7th, 8th & 9th year, the quoted rate will be paid on actual basis.
- ❖ For 10th year onwards, the AMC will be paid @ rate obtained by multiplying by CAGR figure as per the above calculation methodology.
- ❖ Calculation of CAGR:

$$CAGR = \left(\frac{\text{Ending Value}}{\text{Beginning Value}} \right)^{\left(\frac{1}{\# \text{ of years}} \right)} - 1$$

$$CAGR = \left[\left(\frac{\text{9th Year AMC Value}}{\text{1st Year AMC Value}} \right)^{\frac{1}{9}} \right] - 1$$

❖ Calculation of Average AMC:

Average AMC=Sum of AMC of all the nine years/9(i.e. No. of Years of AMC)

- (ii) *For AMC support after 9th year post warranty (10th year onwards) the method for calculation of AMC value may be adopted as above i.e. based on average CAGR of 9 years AMC. Hence AMC rate may be enhanced for 10th year onward based on average CAGR of previous 9 years. However AMC rate beyond 9th year shall not be used for financial evaluation of bid.*
- (iii) *In case of AMC beyond tendered period, AMC will be paid as per the rate worked out in above para which provide mechanism for automatic increase in AMC rate based on CAGR.*

SECTION V
SCHEDULE OF REQUIREMENTS

Sl. No.	Goods / Services	Quantity
1		
2		
3		

SECTION VI

TECHNICAL SPECIFICATIONS

The following Technical Specifications which form part of the bid documents are annexed separately.

Item	Tech. Spec. No.
------	-----------------

.

Hint: Efforts to be made make the specifications generic and vendor neutral, however, after the issue of NIT, Specifications should not be changed.

SECTION VII (PART-I)

BID FORM

Tender No.

Date:

To

DGM (MM)
MAHANAGAR TELEPHONE NIGAM LIMITED,
.....

Dear Sir,

1. Having examined the conditions of contract and specifications including addenda Nos.....the receipt of which is hereby duly acknowledged, we, undersigned, offer to supply and deliver in conformity with the said drawings, conditions of contract and specifications for the sum shown in the schedule of prices attached herewith and made part of this Bid.
2. We undertake, if our Bid is accepted, to commence deliveries within () months and to complete delivery of all the items specified in the contract within () months calculated from the date of issue of your purchase order.
3. If our Bid is accepted, we will obtain the performance guarantees of a Scheduled Bank for a sum @ 5% of the contract value for the due performance of the contract.
4. We agree to abide by this Bid for a period of ----- days from the date fixed for Bid opening and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Until a formal Purchase Order of Contract is prepared and executed, this Bid together with your written acceptance thereof in your notification of award shall constitute a binding contract between us.
6. Bid submitted by us is properly sealed and prepared so as to prevent any subsequent alteration and replacement.
7. We understand that you are not bound to accept the lowest or any bid,

you may receive. Dated this day of 202

Name and Signature -----

In the capacity of -----

Duly authorized to sign the bid for and on behalf of

witness.....

Address.....

SECTION VII (PART-II)

PRICE SCHEDULE FOR INDIGENOUS EQUIPMENT (Table-1)

SI No.	Item Description	HSN Code	Quantity	Basic Unit Price CIF-destination inclusive of Freight, Forwarding Packing, insurance and any other incidental charges	Discount offered if any on Basic unit price	Basic Unit Price CIF-destination inclusive of Freight, Forwarding Packing, insurance and any other incidental charges after discount if any	GST Rate		Unit Price inclusive of GST (7)+(9)	Total Price (4) x (10)	GST Credit Eligible Amount	Net cost to MTNL excluding GST Credit Eligible Amount (11-12)
							%	Amount (Rs)				
1	2	3	4	5	6	7	8	9	10	11	12=4X9	13

NOTE:

1. "We hereby certify that HSN code shown in Col. 3 are correct & Input Tax Credit for the amount shown in Col. (8) and (9) above is admissible as per GST Rules".
2. The bidder shall quote separately for hardware and software as per special conditions of the contract.
3. In case the bidder is registered under composite scheme then no GST shall be payable. Bidder should make declaration in bid document with regard to being a Composition Dealer under GST and fill the amount as "NIL" in the column "GST Credit Eligible" in column 12. The vendor shall mention in the invoice prominently that it is under composition scheme under GST, ACT 2017.
4. The bidder submitting the offer with concessional Goods and Services Tax (GST), shall submit the proof of applicable concessional GST. In case the concessional GST is not creditable to MTNL it shall be included in the price of the goods/services and "NIL" amount be mentioned in the column "GST Credit Eligible" in column 12.

PRICE SCHEDULE FOR IMPORTED EQUIPMENT (Table-2)

Sl. No.	Item Description	CUSTOM TARIFF HEAD	Quantity	Unit Price eligible for basic Custom Duty	Basic Custom Duty component		Basic Unit Price CIF -destination inclusive of Freight, Forwarding, Packing , insurance and any other incidental charges	Discount offered if any	Basic Unit Price CIF -destination inclusive of Freight, Forwarding, Packing , insurance and any other incidental charges after discount if any	IGST		Unit Price inclusive of BCD & IGST	Total Price (4 x 12)	GST Credit Eligible Amount	Net cost to MTNL excluding GST Credit Eligible Amount (13-14)
					%	Amount				%	Amount				
1	2	3	4	5	6a	6b	7	8	9	10	11	12	13	14	15

NOTE:

1. “We hereby certify that Customs Tariff Head shown in Col. 3 are correct and IGST rates and the amount shown in Col. (10), (11) above is correct. The amount as mentioned in Column (14) is admissible as per GST credit Rules”.
2. The bidder shall quote separately for hardware and software as per special conditions of the contract.
3. “The bidder submitting the offer with concessional Integrated Goods and Services Tax (GST) shall submit the proof of applicable concessional IGST. In case the concessional IGST is not creditable to MTNL it shall be included in the price of the goods/services and “NIL” amount be mentioned in the column “GST Credit Eligible” in column 14.
4. In case of bidder registered under Composite Scheme of GST or any rule/notification where the MTNL is not eligible for input tax credit then the bidder should not disclose any amount in column (10) and (11) and also fill the amount as “NIL” in the column “GST Credit Eligible” in column 14.

PRICE SCHEDULE FOR SERVICES (Table-3)

SI No	Item (To be filled as per SOR-Section V)	Basic Price (Rs.)	GST		Price including GST (Rs)	GST Credit Eligible Amount	Net cost to MTNL excluding GST Credit Eligible Amount
			Rate (%)	Amt. (Rs.)			
1	2	3	4	5	6	7	8=(6-7)
	Total						

PRICE SCHEDULE FOR AMC (Nine years after warranty- Hardware & Software) (Table- 4):

Item	%age of Equipment price	Basic Price (Rs.)	GST		Price including GST (Rs.)	GST Credit eligible amount	Net cost to MTNL excluding GST Credit Eligible Amount (Rs.)
			Rate (%)	Amount (Rs.)			
AMC for Year One							
AMC for Year Two							
AMC for Year Three							
AMC for Year Four							
AMC for Year Five							
AMC for Year Six							
AMC for Year Seven							
AMC for Year Eight							
AMC for Year Nine							
TOTAL							

**LIST OF SPARES FOR ONE YEAR ALONG WITH PRICES AFTER WARRANTY/ AMC PERIOD
(Table- 5)**

Item	Quantity	Basic Price (Rs.)	GST		Unit Price including GST (Rs.)	Total Price (2X5)	GST Credit eligible amount	Net cost to MTNL excluding GST Credit Eligible Amount (Rs.) [6-7]
1	2	3	4a	4b	5	6	7	8
			Rate (%)	Amount (Rs.)				

Note: The spares quoted should meet purchaser's requirement of one year. Any deficiency in quoting the spares and if required by purchaser in one year shall be given by bidder free of cost.

FINAL PRICE OF THE PROJECT (Table-6)

Sl. No.	Item	Total Price (after all discounts and all expenses & incidental charges) including all duties & taxes (Rs.)	GST Credit Eligible Amount	Net cost to MTNL excluding GST Credit Eligible Amount
1	2	3	4	5=(3-4)
1	Total equipment price for Indigenous equipment (Table-1)			
2	Total equipment price for Imported equipment (Table-2)			
3	Total cost of services (Table-3)			
4	Total Cost of AMC (Table-4)			
5	Total Cost of Spares (Table-5)			
	Grand Total			

SECTION VIII

BID SECURITY FORM

Whereas (hereinafter called “the Bidder”) has submitted its bid dated.....for the supply of vide Tender No..... dated..... KNOW ALL MEN by these presents that WE OF having our registered office at(hereinafter called “the Bank”) are bound unto MAHANAGAR TELEPHONE NIGAM LIMITED (hereinafter called “the Purchaser”) in the sum of Rs..... for which payment will and truly to be made of the said Purchaser, the Bank binds itself, its successors and assigns by these present.

THE CONDITIONS of the obligation are:

1. If the Bidder withdraws his bid during the period of bid validity specified by the Bidder on the Bid form or
2. If the Bidder, having been notified of the acceptance of his bid by the Purchaser during the period of bid validity
 - (a) fails or refuses to execute the Contract, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the instructions to Bidders.

We undertake to pay to 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 of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force as specified in clauses 12 and 28.2 of section II of the Bid Document up to and including THIRTY (30) days after the Period of bid validity and any demand in respect thereof should reach the Bank not later than the specified date/dates.

Signature of the Bank

Authority. Name

Signed in Capacity of

Name & Signature of witness

Full address of Branch

Address of witness

Tel No. of Branch

Fax No. of Branch

SECTION IX

PERFORMANCE SECURITY GUARANTEE BOND

1. In consideration of the CMD, MTNL (hereinafter called 'MTNL') having agreed to exempt____(hereinafter called 'the said contractor(s)') from the demand under the terms and conditions of an agreement/Advance Purchase Order No _____dated_made between____and____for the supply of (hereinafter called "the said agreement "), of security deposit for the due fulfillment by the said contractor (s) of the terms and conditions contained in the said Agreement, on production of the bank guarantee for__we,
(name _____ of _____ the bank)
(hereinafter refer to as "the bank") at the request of _____(contractor(s)) do hereby undertake to pay to the MTNL an amount not exceeding_____against any loss or damage caused to or suffered or would be caused to or suffered by MTNL by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement.
2. We (name of the bank)_____do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demand from the MTNL by reason of breach by the said contractor(s)' of any of the terms or conditions contained in the said Agreement or by reason of the contractors(s)' failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee where the decision of MTNL in these counts shall be final and binding on the bank. However, our liability under this guarantee shall be restricted to an amount not exceeding _____.
3. We undertake to pay to MTNL any money so demanded notwithstanding any dispute or disputes raised by the contractor(s)/supplier(s) in any suit or proceeding pending before any court or tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the contractor(s)/supplier(s) shall have no claim against us for making such payment.
4. We (name of the bank)_____further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the MTNL under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till _____(office/Department) MTNL certifies that the terms and conditions of the said Agreement have been fully or properly carried out by the said contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the expiry of TWO/TWO AND HALF/THREE YEARS (as specified in P.O) from the date hereof, we shall be discharged from all liabilities under this guarantee thereafter.
5. We (name of the bank)_____further agree with the MTNL that the

MTNL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the MTNL against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the MTNL or any indulgence by the MTNL the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)/supplier(s).
7. We (name of the bank)_____lastly undertake not to revoke this guarantee during its currency except with the prior consent of the MTNL in writing.

Dated the_____day of _____

for _____
(Indicate the name of bank)

SECTION-IX(A)

ADDITIONAL BANK GUARANTEE BOND

To

MTNL

1. In consideration of the Competent Authority, MTNL (hereinafter called 'MTNL') having agreed to exempt____(hereinafter called 'the said contractor(s)') from the demand under the terms and conditions of an agreement/Advance Purchase Order No _____ dated_____made between_____and_____ for the supply of_____(hereinafter called "the said agreement "), of security deposit for the due fulfillment by the said contractor (s) of the terms and conditions related to extension of Delivery Schedule contained in the said Agreement, on production of additional bank guarantee for_____ we,(name of the bank) _____ (hereinafter refer to as "the bank") at the request of _____ (contractor(s)) do hereby undertake to pay to the MTNL an amount not exceeding_____against any loss or damage caused to or suffered or would be caused to or suffered by MTNL by reason of any breach by the said Contractor(s) of any of the terms or conditions related to the Delivery Schedule contained in the said Agreement.
2. We (name of the bank)_____do hereby undertake to pay the amounts due and payable under this guarantee without any demure, merely on a demand from the MTNL by reason of breach by the said contractor(s)' of any of the Delivery Schedule related terms or conditions contained in the said Agreement or by reason of the contractors(s)' failure to perform the said Agreement within the extended delivery schedule. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee where the decision of MTNL in these counts shall be final and binding on the bank. However, our liability under this guarantee shall be restricted to an amount not exceeding _____.
3. We undertake to pay to the MTNL any money so demanded notwithstanding any dispute or disputes raised by the contractor(s)/supplier(s) in any suit or proceeding pending before any court or tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the contractor(s)/supplier(s) shall have no claim against us for making such payment.
4. We(name of the bank)_____further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the Delivery Schedule related obligations against the said Agreement have been fully met or till _____

_____ (office/Department) MTNL certifies that the Delivery Schedule related terms and conditions of the said Agreement have been fully or properly carried out by the said contractor(s) and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the expiry of ONE YEAR (for delivery of goods)/ONE AND HALF YEARS (for turnkey projects) from the date hereof, we shall be discharged from all liabilities under this guarantee thereafter.

5. We (name of the bank) _____ further agree with the MTNL that the MTNL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the MTNL against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the MTNL or any indulgence by the MTNL to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)/supplier(s).
7. We (name of the bank) _____ lastly undertake not to revoke this guarantee during its currency except with the previous consent of the MTNL in writing.

Dated the _____ day of

for _____ (indicate the name of bank)

Witness:

1.....

2.....

CHAPTER 4

CHECK POINTS FOR PREPARATION OF TENDER INQUIRY

While preparing a tender inquiry, it is necessary to check the following points in order to ensure that the tender can be processed smoothly:

Response

S N	Item	Status	Yes/No
1	Standard format		
2	TEC Approved specification (latest) available		
3	Schedule of requirements given		
4	List of potential Bidders who have prototype approval		
5	Projects sanctioned or taken up for sanction		
6	Funds for procurement allocated		
7	Date & time for submission of bids given		
8	Period of validity of bids is specified		
9	Amount of bid Bond		
10	Date, time and venue of opening of bids		
11	Approved commercial document is available		
12	In case of limited tenders, reason for limiting the tender and approval of the competent authority has		
13	In case of short notice Limited tenders, reason for issue and approval of the competent authority has		
14	For open tenders, advertisements should appear in wide circulation newspaper, covering all		
15	NIT given for publication in ITJ		
16	Reasonable time allowed between the date of start of sale of tender documents and date of Bid opening to enable preparation of Bids.		
17	The complete set of Bid documents, comprising of commercial conditions, technical specification & schedule of requirements, drawings if any available in		
18	Tender Inquiry signed for and by the appropriate		
19	Special conditions of tenders, if any, listed out.		
20	Date of last tender, giving quantities tendered &		

CHECK-LIST FOR REQUISITION FOR PROCUREMENT OF MATERIAL

PART A

Information to be given by planning cell along with requisitions for tender to be issued

1. Administrative approval of competent authority
2. Technical specification No(s) (sufficient copies of each Tech. Spec. to be given)
3. Delivery Schedule (in case any specific schedule is desired)
4. Details of items along with quantity
5. Certificate regarding availability of Funds
6. (a) Whether indigenous or import through global Tender
(b) In case of import through global tender
 - (i) Against rupee payment or foreign exchange.
 - (ii) Source of Foreign Exchange Funding (Free or Credit).
7. Concurrence from finance for the quantity to be tendered
8. Evaluation of Tender on package basis/individual item basis (package to be defined in case of package evaluation)
9. Approximate financial implications of procurement.
10. Training requirement: No. of trainees, type of Training, duration of each type of training, place of training, etc.
11. Requirement of spares, tools & testers etc.
12. Any special conditions to be added in the Bid

Document This issues with the Approval of PGM

() / GM ()
()

Signature

DE () / DGM ()

Note:

1. Incomplete requisitions not containing above data will be returned forthwith.
2. This checklist duly filled in and approved by the concerned PGM / GM should be signed by an officer not lower than DE and submitted along with the Requisition by concerned Planning Branch.

CHECK LIST FOR REQUISITIONS FOR PROCUREMENT OF MATERIAL

PART B

Information to be given by planning cell before placement of Purchase Orders

1. Sanction particulars of P/E with date of Sanction
2. Head of Account
3. Particulars of Paying Authority
4. Full details of Consignee/ultimate Consignee with complete address and Pin Code
5. Detailed Material List clearly indicating the Quantity.
6. Certificate regarding availability of Funds

This issues with the Approval of PGM () / GM ()

Signature

DE () / DGM ()

Note:

1. Incomplete Requisition not containing above Data will be returned forthwith.
2. This check list duly filled in and approved by concerned PGM / GM should be signed by an officer not lower than DE and submitted along with the Requisition by concerned Planning Branch.

CHAPTER 5

BID SECURITY BOND

Purpose

The purpose of Bid Security Bond is to get a commitment by the Bidder to honour his bid during the validity of the Bid.

Value

The value of Bid Security will be equal to 2% of the estimated cost of the equipment / stores proposed to be procured from technically and commercially compliant L-1 bidder (V-1 bidder incase vendor rating is used) in the tender subject to a maximum of two crore rupees.

Validity Period

The validity period of the Bid Security Bond is kept 30 days beyond the Bid validity e.g. 150 + 30 = 180 days, if the bid validity period is 150 days.

Extension of Validity

In case, where the letter of intent cannot be placed within the validity period of the bid, then MTNL can request all Bidders to extend the validity of their respective bids and the Bid Security Bonds by a reasonable period. In such cases, extension of validity of Bid Security Bond by 30 days beyond The extended validity date of bids should also be asked for. While MTNL can make the request for extension, the bidder is free to either extend the validity or refuse the request to extend the Validity.

Release of Bid Security Bond

Bid Security Bonds of all unsuccessful Bidders should be released on placement of Advance Purchase Order (APO) on the successful bidders. This should be done within one week of release of Advance Purchase Order.

In case of successful Bidders, the Bid Security Bond is released on receipt of their acceptance of Advance Purchase Order and submitting performance bank guarantee.

Where MTNL requests the Bidder to extend the validity of the Bid beyond the stipulated period given in the Bid documents, and the bidder refuses to extend the validity of his bid, the Bid Bond of such Bidders is returned forthwith.

Encashment of Bid Security Bonds

When MTNL places an Advance Purchase Order on the successful Bidder on his quoted price and he refuses to accept it, MTNL shall encash his Bid Security Bond and the bidder shall not be eligible to participate in the tender for the same item for one year from the date of issue of APO. The bidder will not approach the court against the decision of MTNL in this regard.

Bid Security Bond Register

A record of all Bid Security Bonds should be kept in Bid Security Bond Register in standard format (**Annex – 5.1**).The register should be scrutinized monthly to ensure currency of validity of Bids, extensions asked and acceded by Bidders, Bid encashed, Bid refunded etc.

CHAPTER 6

OPENING OF BIDS

1. Opening of bids

The guidelines for conducting the opening of commercial bids and the various steps to be taken by the tendering authority are given in this chapter. The bid opening is an important occasion when all the bidders, who have participated in the tender, assemble, their bids opened formally in their presence and certain information e.g. price are read out in this open session. Proper bid opening procedure ensures an impartial and fair approach to all bidders so that complaints on this account do not arise. The various steps to ensure these are now described.

- 1 (a) Minimum 4 to 6 weeks for open tender from the date of publishing on website. In exceptional cases, for recorded reasons, 21 days for open tender and 15 days for limited/short-term tender.

2. Formation of Bid opening Team

Since bid opening is an important responsibility, it is necessary that a bid opening team be formed formally, commensurate with the estimated value of the tender. It is recommended that composition of the bid opening team be as follows:

Estimated value of the Tender	Level of the Bid Opening Officer	Other members of the Bid Opening Team
Rs 3 crores and above	Divisional Engineer or equivalent	Members from MM, Finance, User Group
Less than Rs 3 Crore	Assistant Engineer or equivalent	Members from MM, Finance, User Group

For Electronic bid opening, the TOC will comprise of five members, out of which at least one member will be from finance, MM unit and User Unit respectively. The on-line tender opening shall be done by any three out of five members with the finance member invariably participating in the bid opening.

Proposal for formation of bid opening team would be approved by the DGM (MM) in charge of the tendering, well in advance of the bid opening. Any change in the constitution of the Committee would need the approval of GM (MM). The officer nominated for the bid opening is normally different from the officer who has to process the procurement case.

3. Preparations by the Bid Opening Team

The Bid Opening Team should equip itself adequately in advance, to enable it to carry out its function efficiently during bid opening. These advance preparation

would comprise of the following:

- a. Preparing Attendance Register for recording attendance of Bidders.
- b. Preparing list of bidders who have purchased the bid documents.
- c. Providing adequate number of mazdoors for shifting the documents from the point of acceptance to the bid opening venue.
- d. Ensuring security at the bid opening venue.
- e. Making adequate arrangements for issue of passes to enable smooth entry of the bidders to the bid opening venue.
- f. Ensuring provision of public address system to enable the bidders to hear information being read out.
- g. Making suitable sealing arrangements
- h. Making suitable arrangement for receipt, recording and stocking of the documents.
- i. Preparing formats in advance for recording information to be read out at the time of opening of Bids and preparing its minutes.
- j. Preparing direction pointers, notice etc. for display at prominent location to guide bidders to Bid Opening venue.

4. Venue

The Bid Opening would generally be conducted in a hall, which can accommodate comfortably, MTNL officers forming the Bid Opening Team as well as bidders, who participate in the tender. The venue should preferably have an ante-room where the bids can be received from the bidders and certain formalities carried out before the bidders are formally allowed entry into the bid opening hall.

5. Essential Requirements to enable a Bidder to Participate in Bid Opening

The participation of bidders in bid opening would be restricted to those Bidders, who fulfill all the following conditions:

1. Bidders, who have purchased the Bid documents from the source authorized by the Department along with proof of such purchase.
2. Representative of Bidders, who have been authorized in writing by their principals to participate in the bid opening and possess such letters of authorization in original.
3. Bidders, who are submitting/have submitted their Bids, as required by the bid documents.

Those, who do not meet the above conditions would be deemed to be unauthorized and would not be allowed to enter the Bid Opening Venue and participate in the bid opening.

6. Bid Opening Process

- 6.1** The Bid opening process should start at the time/date given in the NIT. The bidder would be asked to enter the ante room first, produce their letters of authorization to enable them to participate in the bid opening and provide proof of having purchased the bid document from the official sources to enable their bids to be accepted. After ensuring these, the bid would be accepted. Suitable entries made in the Bid Receipt Register and the Attendance Register along with the signature of the authorized participating bidders. Passes would then be provided to those bidders, who are entitled to participate in the bid opening, to enable them to enter into the bid opening venue.

For the bidders who submit their bids earlier to the date of bid opening, bids having letter of authorization for submission of the bids and the bids themselves being submitted as required by the bid documents, would be accepted by the, Tendering section and a receipt to this effect issued by him to the bidder. In case such bidders wish to participate in the Bid Opening, the production of this receipt along with the authorization for the participation in the bid would enable the Bid Opening Officer to issue a pass to the Bidders to enable him to participate. In such cases, it is the responsibility of the Bid Opening Officer to ensure that such bids are available, suitably numbered, at the Bid Opening Venue at the time of Bid Opening. Any bids submitted after the due time as per NIT would be returned unopened by the Bid Opening Officer.

6.2 Information to be read out in Bid Opening

The following information should be read out in the bid opening.

- a) Name of the Bidder
- b) Name of the item
- c) Quantities/prices quoted in the bid
- d) Discount, if offered
- e) Taxes and levies

The Bid Opening Official should politely and firmly turn down queries of any other nature from any bidder. No argument should be entertained on this account by the Bid Opening Officer.

- 6.3** Actual process of Opening of Bids should start only after the process of acceptance of Bids has ended and all the accepted bids shifted to the Bid Opening Hall under supervision and responsibility of Bid Opening Officer. Each and every Bid should be numerically and serially numbered, entered in the Bid Opening Register, superscribed on the Bid and this entry entered in red and initialed by the Bid Opening Officer. The bids should be numbered in the sequence of receipt of bids. Entry of the Bidders to the bids opening venue would strictly be regulated by passes and would be the responsibility of the Bids Opening Officer. Entry of unauthorized person to Bid Opening Venue is prohibited. The number of representatives per bidder should not ordinarily be more than two and should be well within the seating capacity of the hall. Where

the response to the tender is very extensive, the Bid opening Officer may restrict entry to the venue to only one representative per bidder. The decision of the Bid Opening Officer would be final.

At the start of the Bid Opening and prior to opening the first bid, the Bid Opening Officer should clearly state the information which will be read out by him and should firmly state that no other information would be read out by him or queries entertained by him.

Bids should be opened in the numerical sequence. The Bid Opening Officer should display the intactness of the seal of the bid being opened, prior to opening it, to all the participant, record this and initial this entry and should thereafter open the Bid. He should check up and ensure that the number of copies and the mode of submission of the bid are as per the Bid Documents. Bids not confirming to this should be rejected then and there and recorded and initialed, giving reasons for such rejection. After opening the Bids, he should read out the information as given in para 7, from the original copy of the bid, record the information read out in the appropriate format, entered the entries in the Bid in red ink and initial these in the Bid before proceeding to the next item to be read out. The Bid should be sealed thereafter and initialed by the Bid Opening Officer.

- 6.4** The bids should be rejected at opening stage itself if bid security is not submitted as per clause 12.1 & 12.3 of Section-II of the Bid Document or bid validity is less than the time prescribed in clause 13.1, Section-II of the Bid Document.

7. Minutes of the Bid Opening

In all cases, it should be ensured that the bid opening is completed on the same calendar day. The bid opening official would be responsible for preparation of the minutes on the same day of the bid opening or maximum the next day to the bid opening, in case the bid opening drags on well beyond the closing hours of the office. In case the minutes are issued the next day, reason should be recorded by the Bid Opening Officer for examination and acceptance by his superior officer.

The bid opening minutes should comprise of the following:

- a. List of participants who attended the bid opening.
- b. Report on the bid opening duly prepared by the bid opening official and signed by him along with other members of the bid opening team certifying that only those bidders who were eligible to participate, were allowed to participate.
- c. Information regarding item read out.
- d. Submission of Bid documents, bidder-wise were as per Bid conditions to be indicated.
- e. Statement that all steps taken to preserve the sanctity of the Bids.
- f. Certificate regarding proper storage of Bids, after the Bid opening, in secured area.

8. Submission of Bid Opening Minutes

The Bid Opening Officer should submit the minutes of the Bid Opening, duly signed by all members of the Bid Opening Team to the DGM in charge of tendering for information, record and follow up action.

9. Making Over of Bids

The Bid Opening officer should make over the complete set of the bids along with the minutes of the bid opening and other documents after the opening of the bids to all the members of the Committee for Evaluation of Tender (CET).

CHAPTER 7

FORMATION OF COMMITTEE FOR EVALUTION OF TENDER

Tenders issued by the MM Cell are evaluated by a Committee called Committee for Evaluation of Tender. Their formation and constitution is covered in this chapter. The Committee for Evaluation of Tender (CET) is constituted for the evaluation of each and every tender. This duly constituted CET evaluates the tender as per the terms and conditions and other clauses stipulated in the tender document. The Committee submits its recommendations in the form of a report. This report is thereafter examined by the procurement branch of the MTNL. The proposals emerging out of the recommendations of the Committee for Evaluation of Tender are submitted to the competent authority for approval.

1. Formation of Committees for Evaluation of Tender

Each tender is evaluated by a Committee for Evaluation of Tender set up for this purpose. The formation of the Tender Evaluation Committee is proposed by the concerned Tender inviting Unit and approved by the tender approving authority. This should be done well in advance of the opening of the Bids.

2. Constitution

A Committee for Evaluation of Tender basically comprises of three members representing the Technical, Commercial and Finance Wings, so that bids could be evaluated technically, commercially and financially. In addition, when the item under procurement is new, a member from the Telecom Engineering Centre is inducted into the committee. Similarly, when the item is likely to have impact on the quality of service, a member from the Operations Branch is inducted.

The Technical Member would be from the concerned User Wing and who would be the Chairman and who would have the prime responsibility for preparation of the report.

The commercial member would be from the MM Cell. The Finance member would be from 'Finance Cell' **Constitution of CET**

Technical	Planning/Service/Technology	Chairman
Commercial	MM cell	Member
Finance	Finance Cell	Member

In addition depending upon the nature of the tender, officer(s) from TEC /Operation Branch could also form part of the Committee for Evaluation of Tender.

3. Level of Committee for Evaluation of Tender

The level of the Committee for Evaluation of Tender depends upon the value of the Tender.

The levels for different values of the tenders are given below:

(A) MTNL Corporate Office

Value of Tender	Technical/concerned Ptg.	Commercial (MM)	Finance
Upto Rs. 10 Lakh	DE/AGM/SM	DE/AGM/SM	CAO
Above Rs. 10 Lakh to Rs. 1	DGM	DE/AGM/SM	CAO
Above Rs. 1 Crore to Rs. 5 Crore	GM	DGM	DGM
Above Rs. 5 Crore to Rs. 50 Crore	GM	GM	GM
Above Rs. 50 Crore	PGM/GM	GM	GM

(B) Executive Director H/Q Office, MTNL

Value of Tender	Technical/User unit concerned	Commercial	Finance
Upto Rs. 10 Lakh	DE/AGM/SM	DE/AGM/SM	CAO
Above Rs.10 Lakh to Rs. 25	DGM	DE/AGM/SM	CAO
Above Rs. 25 Lakhs to Rs. 1	GM	DGM	DGM
Above Rs. 1 Crore	GM	GM	GM

(C) GM Office

Value of Tender	Technical/User Unit concerned unit	Commercial (MM)	Finance
Upto Rs. 2 Lakh	DE/AGM/SM	SOE/OM	AO
Above Rs. 2 Lakh to Rs.10 Lakhs	DE/AGM/SM	DE/AGM/SM	CAO
Above Rs. 10 Lakh to Rs.25 Lakh	DGM	OE/AGM/SM	CAO
Above Rs. 25 Lakhs	DGM	DGM	DGM

4. Working Groups

For the Purpose of evaluating complex telecommunication system or those costing more than 100 Crores, it may be necessary to provide the main Committee for Evaluation of Tender with the assistance of the Technical Working Group, Commercial and Finance Working Groups. Such Tenders are high value Tenders, where the Evaluation Committee level would be at GM and above. The Working Groups would be at DGMS' level. The setting up of such Groups would require approval of Director (Technical) MTNL Board for Corporate Office and ED for the Units. However, the necessity of forming such Groups should be decided by the Committee for Evaluation of Tender.

CHAPTER 8

REVISED GUIDELINES TO COMMITTEE FOR EVALUATION OF TENDER

(CET) DEPARTMENT OF TELECOMMUNICATIONS SANCHAR BHAWAN, NEW DELHI-110001

No. 3-6/93-MMT

Dated: 09.05.94

The following guidelines are hereby issued for information and guidance to the Committee for Evaluation of Tender (CET). The Guidelines provide broad procedures to enable the evaluation process. Correct evaluation decision will continue to depend upon the experience and good judgment of those who are responsible for evaluation.

1. The following document should be handed over to the CET members by MM Cell:
 - a. All bids accepted at the time of bid opening.
 - b. Bid document along with technical specification(s).
 - c. Guidelines for CET.
 - d. Minutes of the bid opening, if any.

The above document should be received by CET members personally.

2. Wherever there is any variation between the Technical Compliance Statement and the Drawings / Literature attached in support of or merely with Technical Compliance Statement the bidders should be asked to clarify/confirm specifically the technical compliance. In cases where offered product is under-provided the CET should load the quoted price appropriately so as to bring it to the desired level of technical compliance.
3. Determination of the bid's responsiveness is to be based on the contents of the bid itself without recourse to extrinsic evidence. Queries to or from bidders should generally be avoided.
4. Any document which has an impact on price of the bidders and which is submitted by the bidder after opening of the tenders should not be considered and should be ignored.
5. Only responsive bids should be evaluated in detail. A responsive bid is a bid which satisfies following conditions of the bid documents:
 - a. It meets all the major technical clauses.
 - b. It meets commercial clauses.
 - c. The offer is accompanied by a bid security deposit on the prescribed proforma as indicated in the bid document and valid for 30 days beyond the validity of the bid. The validity of the bid as per current tender documents is 210 days from the date of bid opening.

6.1 The CET should hold a preliminary meeting within one week of handing over of the tender Documents. The activity as per 6.2.1, 6.2.2 and 6.2.3 below should commence immediately. The convener of the CET may coordinate to ensure that the statements relating to 6.2.1, 6.2.2 & 6.2.3 are handed over to the Finance representative so that finance vetting can start. In order to help the Committee for Evaluation of Tender to formulate its recommendations within a reasonable time frame the following allocation of responsibilities for different actions are indicated herein.

6.1.1 The technical evaluation and preparation of comparative statement of value of bids:-

This work is to be carried out by the technical branch representative(s) on the CET. The technical comparative assessment of the material list is required to be done along with the corresponding prices to be taken for evaluation. Vetting of such comparative list will be done by the Finance representative on CET.

6.1.2 Commercial Evaluation:-

The commercial evaluation is to be carried out by the MM Cell representative in CET and vetted by the Finance representative.

6.1.3 Vetting of the comparative statements of bids and commercial evaluation statement:- This is to be done by the Finance representative on the CET.

7. Once finally vetted statements become available (within per-determined time frame), CET may finalize its recommendations within further TEN days.

8. In case the committee has listed out major technical and commercial conditions as evaluation criteria, the same should be clearly indicated in the report.

9. The CET should clearly spell out its recommendations in its report about technically acceptable bids, listed in an order starting from the lowest technically acceptable bid(L-1) upwards or as per vendor rating starting from V-1. The report should contain complete technical, commercial and financial appraisal, the logic leading to the recommendations themselves and reason for rejecting bids lower than the lowest technically acceptable bids.

10. After consideration of all the above aspects the CET shall determine the ordering price of the equipment and take into consideration the reasonableness of this price.

11. The tender shall be evaluated for the quantities indicated in the schedule of requirements. In normal purchase procedure, the orders will go in favour of the lowest acceptable bidder for the full quantity. Apportioning the quantities may arise due to certain limitations or considerations. As most of the items procured by the DOT are specialized products it becomes necessary to sustain multiple

vendors/suppliers through distribution of quantities.

12. Distribution of the tendered quantities amongst the various suppliers:-

- 12.1** The total quantity of the order should be distributed amongst different bidders who meet the technical and commercial specifications when such distribution is in the long term interest of the department. It is desirable that the MTNL sustains multiple vendors through distribution of order to promote competition as in most of the cases the Department is the sole user of such equipment/materials.
- 12.2** It may not be practicable to distribute the orders to all the bidders who meet the technical specifications and commercial conditions, as in some case the quantity ordered on each supplier will be too small to be viable, both for supply and use by the Department. The distribution of orders, therefore, should normally be restricted to the bidders who are within 50 to 60% of the lowest bid. It is, however, to be conceded that where the quantity to be ordered is very large or very small the number of bidders to be accommodated may have to be worked out differently.
- 12.3** To meet the above objectives, guidelines have been issued in the Revised Tender Procedure promulgated in Oct'94. As per this, the quantity to be allocated to L-1 and number of suppliers on whom orders shall be placed would be specified in the tender document. The CET thus should act as per these guidelines for distribution of the quantities amongst the various eligible suppliers.
- 12.4** In case no mention is made in the documents then, it should be in the inverse ratio of their price quotation. This will ensure that there is incentive for the bidders to quote their lowest price from tender to tender. While deciding the quantities technical feasibility of distribution and the capability of each of the supplier has to be kept in view.
- 12.5** All the bidders should be offered uniform price for supply.
- 13.** The recommendations of the Committee for Evaluation of Tender are essentially internal document. Final decisions are taken by the competent authority on the basis of CET recommendation. The confidentiality of the CET document from outsider is, therefore, to be maintained. No information to substance, examination, clarification or evaluation of bids and recommendations should be communicated to persons other than those officially concerned.
- 14.** All the pages and enclosures of the CET report should be numbered consecutively and signed by all CET members.
- 15.** The CET recommendations in duplicate should be received in MM Cell within 4 to 6 weeks of handing over the documents to the CET members. The responsibility, for ensuring this, vests with Chairman / Convener of the CET.
- 16.** If CET needs additional time to complete the work, permission of extension may be obtained from Member (P) by the Chairman of CET specifically indicating the

reason for the same. Permission of extension, if granted, may be intimated to Director (MMT) for the purpose of record and taking further suitable action.

17. The meetings of Committee for Evaluation of Tender should be fixed with prior consultation with its members. They should be contacted on telephone as well. If any of the members appointed to the committee for tender evaluation fails to attend the meetings for more than one occasion consecutively the chairman of CET should bring it to the notice of concerned Member of the Commission.

These guidelines have the approval of Telecom
Commission.

(ARUN KUMAR)
DY. DIRECTOR GENERAL (MM-II)

“THE TENDER EVALUATION REPORT SHOULD CLEARLY INDICATE DEVIATIONS RECOMMENDED VIS-À-VIS TENDER CONDITIONS ALONGWITH REASONS FOR SUCH DEVIATIONS. WHEN THERE ARE NO DEVIATIONS FROM TENDER CONDITIONS, A DECLARATION TO THIS EFFECT SHOULD BE INCLUDED IN THE REPORT OF THE RECOMMENDATIONS OF TENDER EVALUATION COMMITTEE”.

Hint: Normally package discipline will be followed for evaluation of the bids.

CHAPTER 9

ACCEPTANCE OF EVALUATION REPORTS AND FRAMING OF PURCHASE PROPOSALS

The Chairman/Convener of the Committee for Evaluation of Tender should formally submit the report of the committee to the MM Branch. Within 7 days of the receipt of Report, MM Branch should put up the purchase proposal for according administrative approval along with a self-contained note comprising of the following:

- a. Brief background
- b. Salient features of the tender giving description of the equipment, quantities and composition of the CET, dates of NIT, Bid Opening, receipt of evaluation committee Report.
- c. Summary of the recommendations of the CET report.
- d. Confirmation regarding validity of the bids.
- e. Comments of the recommendations by MM Cell.
- f. The purchase proposals should be based on the quantities, distribution and price as given in the Committee for Evaluation of Tender Report and incorporating the comments of MM Cell.
- g. Formal purchase proposal giving the justification, ordering quantities bidder-wise, unit rates, total rates, discount if any, counter-offer if proposed, financial implication of the proposal, advances, if payable, Bank Guarantee proposed, consignee & paying authority. The proposal would be sent to the competent authority(s).
- h. **Annex-9.1** may be referred for distribution of quantities for ordering to the selected bidders of a tender.

CHAPTER 10

PERFORMANCE BANK GUARANTEE

Purpose :

Performance Bank Guarantees are obtained from suppliers to ensure performance of the contract as specified in the purchase order including warranty for satisfactory working of the equipment and stores during the warranty period. This also serves to cover the risk of the MTNL during the performance of the contract.

When Required :

After a tender has been evaluated and the purchase proposal of the MTNL to place orders on the bidders has been approved by the competent authority, a formal letter of intent is placed on the supplier. The supplier is required to furnish bank guarantee for an amount equal to 5% of the value of purchase order on a Nationalized / Scheduled Bank in a standard format within two weeks from the date of issue of letter of intent. The acceptance of the letter of intent by the supplier as well as furnishing of the Bank Guarantee would result in the issue of formal purchase orders.

Validity of Performance Security :

The validity period of Performance Security in the form of Performance Bank Guarantee should be in proportion to the delivery period as per the details given below:

S No	Delivery Period	Validity Period of Performance Security BG
1	Up to 6 months	2 Years
2	6 months to 1 year	2 years and 6 months
3	More than 1 year	3 years

However, in no case the validity period of the PBG should be less than the period by which all the contractual obligations of the bidders in the respective tenders are likely to be fulfilled.

Action to be taken on Receipt of Bank Guarantee from the Supplier

- a. **Examination for Accuracy:** The first action to be taken on receipt of bank guarantee from the supplier is to examine the genuineness of the bank guarantee in the light of standard format prescribed as well as a formal check with the bank.
- b. **Acceptance of Bank Guarantee:** Acceptance of Bank Guarantee is issued to the concerned bank after its genuineness has been examined and entries made in the Register. The acceptance letter is issued to the concerned bank with a copy to the supplier.
- c. **Entry in Bank Guarantee Register:** After the genuineness has been established, it is entered in the Bank Guarantee Review Register with reference to the amount and the date of validity supplier-wise. The format of the register is enclosed. The

entry of the bank Guarantee in the Register is done in the space allocated to the month and year on which it expires and not the month and year of the issue of the Bank Guarantee i.e. entries in the register indicate expiry date of the bank guarantee, thereby enabling them to be monitored in case renewals are required.

- d. Periodic Monitoring of Register:** A periodic monitoring of the status of the validity of the bank guarantee vis-à-vis the performance of the supplier against the contract is necessary to ensure that the bank guarantee is available to MTNL, if required.

Importance of Bank Guarantee Register :

Bank Guarantees are one of the remedies available to the MTNL for covering risk during the performance of the contract. It is therefore necessary that bank guarantee be properly entered in the register and monitored so that these remedies are available. Monthly checks of all the pending bank guarantees which expire in the next three months are necessary. All bank guarantees which are likely to expire during the next three months, should be followed up with regard to the performance of the supplier against the contract. In case the supplier has satisfactorily performed this contract, then no further action will be taken. However, in case the supplier has not performed satisfactorily, then it would be necessary to ask for an extension of validity of bank guarantee for a further period of 6 months to 1 year so that these remedies would continue to be available to the MTNL. Therefore, when the monthly check-up of the bank guarantee register is carried out, the bank guarantees likely to expire in the next three months needs to be separated out in two categories viz.

which are by and large OK and

where extensions need to be asked for immediately.

Operation of the Set-off Clause :

Till now the suppliers are being asked to furnish bank guarantee for each purchase order. At present, there is no practice for an omnibus bank guarantee, covering say one year. In order to cover risk element, the purchase order should contain a set-off clause which will enable MTNL to encash any bank guarantees against any other purchase order given by the same supplier. Therefore, it is prudent to keep all the bank guarantees of a supplier recorded at the same place in the register so that the operation in the set-off clause wherever felt necessary could be under taken without any problem.

Release of Bank Guarantee :

Before bank guarantee is released, it should be ensured that the equipment has been taken over satisfactorily by MTNL, no claim is pending against the supplier and that the equipment are working satisfactorily during warranty period. The combination of “**taken over certificate**” and “**no claim certificate**” will lead to release of the bank guarantee to the supplier.

Encashment of Bank Guarantee :

This is resorted to where the supplier fails to honour his contractual obligations. The precaution to be taken is to ensure that the bank guarantee is still valid. A formal letter to the bank giving particulars of the guarantee number asking for revocation of the Bank guarantee in favor of the MTNL, needs to be issued.

Even in case where MTNL has asked for extension well in advance, the extension has not been given by the bank, then it is within the rights of the MTNL to encash the bank guarantee just prior to the date of expiry and the bank is bound to honour this revocation.

CHAPTER 11

ADVANCE PURCHASE ORDER

Purpose

The purpose of the Advance Purchase Order (APO) is to formally intimate the successful bidder/bidders of the intention of the MTNL to procure the equipment.

Contents

The APO shall contain the following

information: Equipment to be procured with quantities/price.

File number and date of reference. Commercial conditions governing the contract.

Finance aspects such as advance payable (if any), amount of Performance Bank Guarantee along with format of the Bank Guarantee.

Delivery Schedule.

Period within which the Bidder has to confirm acceptance to the APO along with the performance bank guarantee in enclosed approved format from a Nationalized/ Scheduled Bank.

Format

Format of the APO is given in **Annex 11.1** for ready reference.

CHAPTER 12

PURCHASE ORDER

Conditions for issue

The issue of Purchase Order in any procurement is contingent to the following conditions being met:

The Committee for Evaluation of Tender recommendations, including any modifications where felt necessary, being approved by the competent authority.

The purchase proposal being approved and concurred by the competent administrative authority and finance advice.

The successful bidder/ bidders accepting the Letter of Intent / Advance Purchase order containing all the commercial clauses and prices unconditionally.

The successful bidders providing the required Bank Guarantee from the Nationalized/ Scheduled Bank.

The issue of Purchase Order, in the approved format being approved by the DGM in charge of procurement.

The Purchase Order shall be issued on firm prices only.

Competent Authority to Issue Purchase order

On the fulfillment of the conditions necessary to issue the Purchase Order, the designated of the MM Branch would be the competent authority to issue the Purchase Order.

Purchase Order Format

A sample format of purchase Order is given in **Annex 12.1** for ready reference.

TERMS AND CONDITIONS OF THE PURCHASE ORDER

1.1 Payment Terms: Payment terms shall be as per clause 11 of section-III.

2.1 Delivery:

2.2 The equipment supplied shall confirm strictly to the MTNL specs. The delivery of the equipment ordered herein shall be made to station/stations of destination on freight paid basis. In case of any difficulty the Supplier may please contact concerned planning cell/MM Cell.

2.3 The supplier shall furnish the up- to-date supply position every month to the DGM (MMC)/(MMD)/(MMS) or concerned DGM Planning, MTNL, New Delhi, Consignee's controlling officers i.e. CGM/GM and the paying Authority for review by these authorities.

3.0 Technical Literature:

The Supplier shall supply technical literatures of each item free of cost in sets as indicated below:

1	Consignee	One set for each
2	DE (Plg.) MTNL, New Delhi	One set for each
3	DET (QA) Concerned	One set for each
4	CGM(QA) 61, Road, Shivaji Nagar Cockburn ,	One set for each item/equipment
5	Controlling Officer	One set for each

4.1 Inspection:

4.2 Inspection of the equipment shall be carried out by CGM (QA), Bangalore or his representatives as per the prescribed test schedule before the equipment is packed for dispatch by the supplier.

4.3 The equipment shall be sealed by the supplier before dispatch to the consignee.

5.0 Packing:

The supplier shall ensure that the equipment is securely and adequately packed to ensure safe arrival at the destination fully withstanding all hazards such as rough handling etc. during transit.

6.0 Insurance:

The equipment shall be got insured by the supplier up to the time it is delivered to the consignee. The supplier will be responsible, till the entire quantity of stores ordered, for arrival in good working condition at destination is received by the consignee. The consignee will immediately but not later than the prescribed

period of insurance on arrival of the stores at the destination notify the supplier of any loss/damage to the stores that may have occurred during transit. The period of insurance cover will be indicated by the supplier to the consignee/Paying authority. In case of any loss/damage during the transit, the case will be lodged by the supplier with the concerned authority on receipt of report from the consignee/paying authority. The stores should on no account be dispatched/delivered without getting the same tested/accepted by the QA (Inspection & Testing) wing of MTNL.

7.1 Forwarding dispatch documents etc. to the Consignee:

7.2 A dispatch advice shall be sent to the consignee by Fax or letter immediately after dispatch of the equipment. The Railway Receipt/Lorry receipt as the case may be, shall be sent on the same day by registered post to the consignee.

7.3 Intimation of dispatch shall also be given to E.D. concerned DGM (Planning) and MM Cell of.....

8.1 Replacement of Defective Equipment:

8.2 If any equipment or any part thereof, is found defective or fails to meet the requirements of the contract before it is taken over as per clause 10 below, the Inspector shall give the supplier a notice setting forth details of such defects or failures and the supplier shall forthwith arrange to set right the defective equipment or replace the same by the good one to make it comply with the requirements of the contract. This in any case shall be completed within a period not exceeding three months from the date of the initial report pointing out the defects. The replacement or rectification shall be made at site by the supplier free of cost. Should the supplier fails to do the needful within this stipulated time frame, the purchaser reserves the right to reject the equipment in full or in part and replace the same at the cost of the supplier. The cost of any such replacement made by the purchaser shall be deducted from the amount payable to the supplier against this purchaser order.

8.3 If any equipment or part thereof is lost or rendered defective during transit, pending settlement of the insurance claim, fresh order shall be placed on the supplier for such loss or defective equipment and the supplier shall arrange to supply the same within three months of such order at the same prices and on the same general terms and conditions as mentioned in this purchase order.

9.0 Taking Over:

After all performance tests have been successfully carried out and equipment received by the consignee in good condition, the consignee will issue 'Taking Over Certificate'. The consignee shall not delay the issue of the Taking Over Certificate on account of minor defects in equipment which do not materially affect the commercial use thereof provided that the supplier shall undertake to make good the same in due course. The Taking Over Certificate shall be issued by the ultimate consignee within six weeks of successful completion of tests.

- 10.0** Warranties for the Quality of Equipment Supplied: This clause shall be as per Clause 10 of Section-III.
- 11.0** Liquidated Damages: LD shall be as per clause 16 of Section-III.
- 12.0** Set off: Set off shall be as per clause 21 of Section-III.
- 13.0** Force Majeure: This clause shall be as per Clause 17 of Section-III.
- 14.0** Arbitration: Shall be as per clause 20 Section-III.

CHAPTER 13

GUIDELINES FOR PLACEMENT OF EDUCATIONAL ORDERS

The Need

The purpose of educational order is to develop new potential source of commercial supplies by broadening the supply base and encourage competition so that MTNL could have the benefit with regard to quality, delivery and price and break possible cartelization among the established vendors. This needs to be done where the capacity of the industry is inadequate to meet the requirements of the MTNL. However, there are some items for which the existing established base is much greater than the total requirement of the MTNL and such production units are already under loaded and in such cases there is no need for development of new supply sources for placement of educational order.

Nomenclature

The nomenclature of “educational order” will include what is currently known by the name of trial order or experimental order.

Type Approval

An educational order would be given only to a vendor who has obtained type approval of the equipment or item of store concerned from the TEC or the QA as the case may be.

Quantity of Order

The educational order for an item in favour of any vendor will be restricted in a year to a maximum of one per cent of the total requirement for the year or an amount of Rs.25 lakhs. In case the requirement for the current year is not available, it will be restricted to one per cent of actual purchases made in the previous year.

Price

A vendor seeking to obtain an educational order will not be expected to participate in a bid for a tender. The order can be placed upon him subject to various restrictions given above or below at a price which is at least 10% less than the latest tender price for the concerned item. In case, the tender price for the current year is not yet available, the price would be fixed provisionally at 75% of the last year's price which will be suitably adjusted to 90% of the current price when it becomes available.

Applicability

The above guidelines will apply to educational orders in respect of such items of telecom equipment and stores as are the subject of central purchase by the MTNL Corporate office.

Exceptions

Any exception to the above guidelines will be made only in very exceptional cases under the authority of MTNL Corporate Office.

CHAPTER 14

PRICING AND PRESERVATION OF THE TENDER DOCUMENTS

1.1 Pricing of the tender documents

- 1.2 The company incurs expenditure for the preparation of bid documents. It is also desirable that only the genuine prospective bidders should acquire these bid documents to avoid wastage. With this in view, it is decided that the bid documents to be issued to the prospective bidder must be sold at the pre-determined price (along with applicable GST). The price of the document is determined on an estimated cost of procurement and is indicated below:

S N	Estimated cost of tender	Bid document
i	Up to Rs 1 Lakh	Rs 100/-
ii	Above Rs 1 Lakh and up to Rs 50 Lakh	Rs 500/-
iii	Above Rs 50 Lakh and up to Rs 1	Rs 1,000/-
iv	Above Rs 1 Crore and up to Rs 10	Rs 2,000/-
v	Above Rs 10 Crores and up to Rs 50	Rs 4,000/-
vi	Above Rs 50 Crores and up to Rs 150	Rs 8,000/-
vii	Above Rs 150 Crores	Rs 10,000/-

Note: Bid documents for **limited tenders** of estimated cost up to Rs 50,000/- (Rupees Fifty Thousand Only) may be issued free of cost. However, bid documents for limited tenders of estimated cost above Rs 50,000/- may be priced as per the details given above.

- 1.3 However, the Tender documents to NSIC registered Small Scale Industries may be given free of cost if the value of procurement is less than or equal to their monetary limit. Before issue of such Tender documents free, they should be asked to submit details of their registrations with NSIC for the tendered item along with their approved 'Monetary Limit'. Their eligibility as per terms and conditions of the tender in question should also be examined and if they meet the conditions stipulated, they may be issued the Tender Documents Free. **If the value of procurement is more than their monetary limits, they are not entitled to get Free Tender Documents.**

The Tender documents to MSEs (Micro & Small Enterprises) units / bidders registered with MSME shall be given free of cost. Before issue of such Tender documents for free of cost, they should submit details of their registrations with MSME for the tendered item. Their eligibility as per terms and conditions of the tender in question should also be examined and if they meet the conditions stipulated, they may be issued tender documents free of cost.

2.0 Preservation of tender documents

As per the bid documents a bidder submits 5 copies including the original bid document. 4 copies of the bid documents are distributed among the members of the Committee for Evaluation of Tender. Each member of the Committee for

Evaluation of Tender will preserve his copy up to a month after the purchase orders are issued against a tender enquiry. One month after the issue of the purchase orders the bid document may be disposed off by the member themselves. MM Cell will continue to keep the original copy till the contractual obligations are over.

CHAPTER 15

CONCESSIONS TO SMALL SCALE INDUSTRIAL UNITS (SSI UNITS)

The guidelines issued by MSME (Ministry of Micro, Small & Medium Enterprise)/NSIC regarding concessions for Small Scale Industrial Units registered with NSIC under single point registration scheme were considered by the MTNL (Corporate Office) and it has been decided that these units may be allowed the following concessions:-

1. Supply of Tender Documents:

The tender documents may be issued to eligible bidders free of cost. Before issue of such documents for free of cost, the bidder should be asked to submit details of their registration with NSIC for the tendered item along with their approved 'Monetary limit'. Their eligibility as per the terms and conditions of the tender in question shall also be examined, and if they meet the conditions stipulated, they may be issued the documents free. If the value of procurement is more than their monetary limit, they are not entitled for free tender document.

The tender documents shall be issued to MSEs (Micro & Small Enterprises) units/bidders registered with MSME free of cost, provided the tendered item is listed in the Registration Certificate of MSME.

2. Exemption from payment of Bid Security deposit :

The SSI units registered with NSIC may be given exemption from payment of Bid Security to the extent of their approved 'monetary limit'. The bidders (small scale units) who are registered with National Small Scale Industries Corporation UNDER SINGLE POINT REGISTRATION SCHEME are exempted from payment of bid security up to the amount equal to their monetary limit. In case of bidders having monetary limit as "NO LIMIT", "WITHOUT LIMIT" or 'MORE THAN Rs. 50 LAKHS', the exemption will be limited to Rs.50,00,000/- (Rupees Fifty Lakhs) only. A proof regarding current registration with NSIC for the TENDERED ITEMS will have to be attached along with the bid. For details of return/adjustment and forfeiting, refer to clause 12.5, 12.6 and 12.7 of Section-II of Chapter 3.

The MSEs(Micro & Small Enterprises) units/bidders registered with MSME bodies shall be given exemption from payment of Bid Security deposit provided the tendered item is listed in the Registration Certificate of MSME, subject to following:-

- (a) A proof regarding current registration for the tendered items will have to be attached alongwith the bid.
- (b) The enlistment certificate issued by MSME bodies should be current & valid on the date of opening of bid.

3. Exemption from payment of Performance Security deposit :

The SSI Units registered with NSIC may be given exemption from payment of Performance Security Deposit for an amount up to their approved monitory limit

for which the unit is registered. If the monitory limit of a SSI unit is classified as “without limit” by NSIC, then the maximum amount of monitory limit for which such SSI unit will be entitled to get advantage of concession admissible to it, shall be limited to 50 lakhs only.

For small scale units to qualify for the concession mentioned above, the delivery schedule proposed in the tender is also to be examined. The unit should be asked to submit its monthly turn-over in support to its claims for meeting the delivery schedule duly certified by NSIC. This is required to ensure that MTNL is not put to disadvantage in allowing concessions to such units who do not have adequate financial capacity to perform the contract under the tender.

CHAPTER 16

VENDOR RATING SYSTEM

1. INTRODUCTION

The MTNL is procuring equipment and materials worth thousands of crores of rupees every year through its PSUs, Telecom Factories and open tenders. It is therefore necessary that the MTNL procures only quality products at competitive prices with deliveries at stipulated pace for achieving planned and operational targets. Keeping this in view MTNL has decided to introduce Vendor Rating System for procurement of materials with effect from January' 97.

2. VENDOR RATING

The philosophy of Vendor Rating aims to help the MTNL to procure equipment/stores from a vendor who is able to deliver the products of good quality and at competitive prices with deliveries at a stipulated pace for achieving planned and operational targets. Assessment of these qualifications of a vendor, on a single point scale, to help grading the performance of a vendor is called Vendor Rating.

The vendor getting the highest rating will be regarded as V-1 (similar to L-1) and the others in the descending order of their rating for the purpose of distribution of quantities of equipment / materials to be ordered. However, the ordering rate (price) for procurement will be the lowest evaluated price out- of the rates quoted by the vendors selected for ordering on Vendor Rating basis.

2.1 VENDOR RATING (VR):

Vendor Rating will be calculated as per the formula given below:-

$$VR = 0.6 PR + 0.3 DR + 0.1 QR$$

Where PR = Price Rating

DR = Delivery

Rating QR =

Quality Rating

2.2 PRICE RATING (PR):

Price Rating is worked out as

follows: PL

$$PR = \frac{\text{-----}}{PQ}$$

Where PL = Lowest price quoted by a vendor for the product being tendered. PQ = Price quoted by the vendor being evaluated for the tendered item.

2.3 DELIVERY RATING (DR):

The Delivery Rating will be calculated as per the formula given below:

$$DR=0.7 (Q1/Q) [T/ \{T*R+ 1.5 \sum(Tx * Qx/Q)\}] + 0.3/P \sum Qi/Qp$$

Where $Q_i < Q_p$

If $Q_i > Q_p$, then take $Q_i = Q_p$

Q1 = Quantity supplied within Scheduled delivery period.
SD = Scheduled Delivery Period or Initial Delivery Period (IDP)
P = Total ordered quantity
Q = Scheduled delivery period in months.
T = Time taken beyond Scheduled D.P. in months
Tx for each extension including Scheduled D.P.

$$R = Q1/Q$$

Qx = Quantity supplied during each extended period.
P = Number of supply segments or slots (within SDP)
Qi = Quantity delivered in a particular supply segment (within SDP)
Qp = Quantity to be delivered in every supply segment (within SDP)

For calculation of DR, the following procedure as per above formula will be adopted.

- 2.3.1.** The period for calculation of Delivery Rating will be two years as specified in Bid Documents. It is defined as “WINDOW”.
- 2.3.2** All purchase orders issued during the “WINDOW” will be considered for calculation of Delivery Rating. However, if in respect of any such P.O. the scheduled delivery date extends beyond the “WINDOW”, then in respect of such P.O (s), the Delivery Rating shall be calculated taking into account the supplies required to be made within the period common to both the “WINDOW” and the scheduled delivery period that shall be taken on prorata basis.
- 2.3.3** All supplies made within any period of the “WINDOW” in respect of P.Os issued prior to the commencement of the “WINDOW” shall be considered for the calculation of DR, provided such period of the “WINDOW” falls within original scheduled delivery date stipulated in the P.O and not any further extensions accorded and this shall be further subject to the following proviso:

From out of supplies actually made during the “WINDOW”, shortfall if any in the supplies to be made prior to the commencement of the “WINDOW” shall be offset and the balance quantity alone shall be taken as effective supply during the “WINDOW”.

- 2.3.4 The formula for computing overall DR taking into account the DR for every P.O is given below:

$$\text{Overall Delivery Rating (ODR)} = \frac{\sum_{i=1}^n Q_{oi} \cdot DR_i}{\sum_{i=1}^n Q_{oi}}$$

Where Q_{oi} = Quantity ordered for the i th P.O
 DR_i = Delivery Rating for the i th P.O.
 N = No. of P.Os

- 2.3.5 The Delivery Rating of vendors who have not executed any commercial order during “**WINDOW**” will be rated based upon their past performance. In case their past performance is equal to or above the average DR of the firms under consideration, then they will be given average delivery rating. However, if their past performance is below average delivery rating, the actual performance will be taken for calculation of Delivery Rating. The “**WINDOW**” for this purpose shall be of same duration.
- 2.3.6 In case of the vendors who have executed only Educational Orders, a Delivery Rating equal to Average Industrial Rating or Delivery Rating earned by them in Educational Orders whichever is less will be given.
- 2.3.7 If the delay is caused due to departmental reasons as certified by competent authority or Force Majeure conditions, it will not be taken into account in computing delays in supply.
- 2.3.8 For the purpose of **calculation of Delivery Rating only**, the date of delivery will be taken as the date of issue of **Inspection Certificate by QA Wing**. However, for the purpose of payments and liquidated damage, the delivery will continue to be as stipulated in the Purchase Order.
- 2.3.9 The supplies should be spread evenly over the scheduled delivery period. A uniform 60 days of initial segment (including lead period) and 30 days or part thereof for subsequent segments (slots) are presumed, irrespective of time allotted for the initial segment in P.O in order to observe a uniform supply principle for computing DR.

2.4 Clarifications on VRS

2.4.1 Clarification for Clause 2.3.3 :

- a) The Purchase Order issued prior to commencement of “**WINDOW**” whose extension period alone lies within the “**WINDOW**” will not be considered for DR calculation.

b) A Purchase Order which has got an extension in addition to a part of Scheduled Delivery Period in the “WINDOW” will be considered for the purpose of DR. In such cases the supplies effected during the extension period also will be taken into account.

2.4.2 In respect of POs issued during “WINDOW” for which the Scheduled Delivery Period closes within “WINDOW” and extension is issued by the purchasing authority which may extend beyond “WINDOW”, the DR in such cases will be calculated on prorata basis taking into account the supplies supposed to be made during “WINDOW”.

2.4.3 Purchase Orders issued against MTNL (Corporate Office), tenders only will be considered for calculation of Delivery Rating.

2.4.4 Any modification obtained by supplier on his request made after the date of NIT which is in the nature of affecting the existing DR will not be taken into account.

2.4.5 Advancing of supplies between segments, within Scheduled Delivery Period will be reckoned for calculation of DR subject to the condition that the supplies made in excess of the quantity that is required to be supplied in that segment will be carried over to the next segment and so on. This procedure will be uniformly applied for all POs whose Scheduled Delivery Periods lies either fully or partly within “WINDOW”.

2.4.6 In respect of PIJF cable only, irrespective of the group, the quantity of cables supplied will be taken in terms of CKM (conductor Km) for the purpose of DR calculation subject to the condition that the quantity so calculated in CKM will be limited to the quantity of the cable to be supplied in each size, as specified in the P.O.

2.4.7 DR for all the cases will be calculated by CGM (QA), Bangalore and his decision is final.

3. QUALITY RATING

The Quality Rating will be awarded in the following manner, if the bidder submits valid ISO 9001 / 9002 Certificate.

Certification	Quality
Rating ISO 9001	1
ISO 9002	1

4. ORDERING PRICE

Vendor with the highest Vendor Rating will be regarded as the V-1 bidder and the

others listed in the descending order of their vendor rating for the purpose of distribution of the quantities to be ordered. However, the ordering rate (price) for procurement will normally be the lowest one out of the rates (prices) quoted by the vendors selected for ordering on Vendor Rating basis.

5. IMPLEMENTATION METHODOLOGY

Role of different Wings of MTNL

I MTNL Corporate Office

- i) It would be the nodal point with regard to all matters related to Vendor Rating System.
- ii) The MM Branch shall incorporate all aspects of Vendor Rating that are required to be spelt out clearly in appropriate clauses of the tender documents.
- iii) The MM Branch shall also ensure transparency of Vendor Rating System to all concerned as per provisions contained in the tender documents.
- iv) The MM Branch shall evolve a Grievance redressal Mechanism and be responsible for redressing any grievances of vendors with regard to Vendor Rating issues.
- v) The Committee for Evaluation of Tender would be responsible for final computation of the Vendor Rating figures in respect of POs placed by MTNL Corporate Office, based on the Delivery Rating figures received from MTNL QA and the Price Rating and Quality Rating.

II QA UNIT

Responsible for collection and processing of the Delivery Rating data from various QA centers and consolidation of the same, as per various clauses of tender documents, and submit Delivery Rating of all bidders participating in a tender to the Purchasing Authority.

CHAPTER 17

COPIES OF LETTERS REGARDING DECENTRALIZATION OF PROCUREMENT

No.1-1/98-FIN/

Dated: 09.07.1999

Subject: Decentralization of procurement

The case for enhancement of financial powers to the CGMs with regard to the procurement of items delegated to CGMs has been considered by the CMD, MTNL. It has, now, been decided to enhance the earlier delegation of Rs.5 crores for other items and Rs.15 cores for EPBT to 'full financial powers with regard to those items that have been delegated for procurement to CGMs'.

The following guidelines shall be followed by the CGMs for procurement of the decentralized items:

1. Powers for decentralized procurement are not to be further delegated to the lower formations. The power should be exercised by CGMs only.
2. The IFA is to be an integral part of the whole process, right from the stage of scrutiny of indent to placement of orders. His concurrence while finalizing the requirement, while floating the tender and while approving the procurement shall be necessary. Mere consultation would not be sufficient. PO must be vetted by Finance before issue.
3. The mode of procurement in all cases should be through inviting open tenders only. Procurement shall be done following a transparent tendering procedure in consistence with the overall procurement policy of MTNL.
4. While procuring the existing inventory and inventory in the pipeline should also be accounted for.
5. The CGMs should take into account their consumption pattern while assessing their requirements. Care should also be taken in assessing the requirement for items where norms are not prescribed.
6. Procurement will be as per the latest specifications only.
7. All purchases are to be made from sources having valid type approval and deliveries accepted after appropriate inspection and testing by QA wing.
8. CGMs shall assess the reasonableness of the rates emerging in their tender by comparing them with the rates of the product/item obtaining in the last 3 to 5 years.
9. The orders would be placed against sanctioned and budgeted estimates only.
10. No ordering shall be done merely on the basis of prices appearing in other Purchase Orders whether issued by DOT HQ or any other unit.
11. The units will convey details of their procurement in respect of these items to Planning Cell for monitoring and planning purposes.
12. The units will ensure the proper and expeditious utilization of the material ordered by them. They will also exercise utmost discipline in their procurement to ensure that there is no unnecessary piling up of inventory.
13. The units will submit a report about procurement under the decentralization scheme every six months. They will also send a copy of the orders placed to the MM and Planning Cell, Corporate Office.

14. Any other rules/instructions on procurement issued by the Government shall be observed. This issues with the approval of CMD, and has been concurred in by Sr.FA.

(Mrs. UDITA C. KUMAR)
Dy. General Manager (C)

No:22-2/99-MTNL/MM-III

Dated: 3/8/1999

The Chief General Manager,
M.T.N.L
Delhi/Mumbai

Sub: Decentralization of procurement of Stores/Equipment

Ref: (i) CGM ND DO No.CGM/2-1/G/99 dt.25th May 99
(ii) PGM (O), ND DO No. GM (MM)/Misc./99 dt.28th May'99
(iii) PGM (D) Mumbai DO No. GM (CP&MM)/Decentralisation of stores/98-99
dt.1.7.99

This is in continuation of this office letter of even no.dtd. 21.1.98, wherein, instructions were conveyed for the decentralised procurement of certain items of stores by MTNL Delhi and Mumbai unit. Case for decentralisation of additional items of procurement has been under active consideration of Corporate Office for last couple of months. It has now been decided to authorise CGMs MTNL Delhi and Mumbai to procure the following additional items on decentralised basis.

1. PDH Mux equipment
2. DDFs
3. Network Synch. Equipment.
4. Line Cards of all types.
5. 256P Exchanges.
6. 8 Mbs optimux
7. 5 Pair U/G cable
8. Skipmux Equipment.
9. Rigid PVC pipes/HDPE pipes

While resorting to decentralization procurement for aforesaid items, the guidelines already circulated by DGM (Cash), C.O in this subject, vide her letter No.1-1/98-FIN dtd.9.7.99 will be followed.

This issues as per the approval of CMD please.

(S.S. Nijjar)
General Manager (MM)

CC for kind information:

1. Sr.FA MTNL
2. Director (Technical) MTNL
3. PGM(D), MTNL, Delhi/Mumbai units
4. PGM (O) MTNL, Delhi/Mumbai units

No.MTNL/20-96(3)/97-MM/Pt.II

Dtd. 21.01.1998

The Chief General Manager,
Mahanagar Telephone Nigam
Ltd., DELHI/MUMBAI

SUB: Decentralization of Procurement of Stores – Distribution of responsibilities between Corporate Office and Delhi/Mumbai units

In suppression of this office letter of even No. dtd.4.8.97 on the subject, the revised distribution of responsibilities of procurement of different stores items between Corporate Office and Delhi/Mumbai Units is enclosed herewith for your kind information and necessary action.

The Annexure I of the letter indicates the items which are delegated additionally to the Units Annexure II indicates the consolidated list of items to be procured by Corporate Office, whereas, Annexure III contains the details of the items to be procured by Delhi/Mumbai Units.

Necessary action in respect of procurement of different material accordingly may kindly be taken to ensure that the material is made available timely to match the requirements of Productivity, Maintenance and “Mission Better Communication (MBC)” etc.

However, against the current financial year’s requirements, which were communicated to DOT Head Quarters earlier, DOT has already released/made some allocations and placed purchase orders for some of the items, which should be taken into account suitably.

This issues as per approval of Board of Directors of MTNL vide its meeting held on 29.12.97. Copy of the Minutes of the meeting is enclosed as Annexure IV for ready reference please.

(RAJNEESH
GUPTA)

GM (MM)

Encl: Annexures I, II, III & IV.

C.C for kind information to:

PS to CMD for kind information of CMD

F.A MTNL, Corporate Office

GM (MM), MTNL, Delhi/Mumbai

GM (FIN), MTNL, Delhi/Mumbai

CS, MTNL, Corp. Office – This is with reference to Minutes of Meeting of Board of Directors of MTNL held on 29.12.97

PGM(O), MTNL, Delhi

ADDITIONAL ITEMS WHICH ARE DELEGATED TO DELHI / MUMBAI UNITS

1. Modular Connector
2. Splicing Machine/Tools along with Rigs.
3. DP Boxes (External) complete with Modules & Accessories.
4. DP Boxes (Internal) – 10 Prs. Complete with Modules & Accessories.
5. PCM Systems along with PCM Testing & Measuring Instruments.
6. MDF with associated items (Complete).
7. Pair Gain Systems (Analogue & Digital, both)
8. Changed Number Announcing Eqpt.
9. Voice Mail Service Eqpt.
10. A/C Package Units of all types.
11. Complete CT Boxes (connection & disconnection types)
12. Paging Eqpt & Pagers.
13. Cable Jointing Kits of all types/sizes
14. Drop Wires of all types including:
 - i) PVC Drop Wire of 0.91 mm size
 - ii) PVC Drop Wire of 0.5 mm size. (Self-supporting type)
15. Telephone Instruments of all types including:
 - i) EPBT Telephone Instruments
 - ii) PBT Telephone Instruments without dial.
 - iii) Plan 103 Sets of all types.
16. HDSL and ISDN Equipment.

LIST OF ITEMS TO BE PROCURED BY CORPORATE OFFICE

- 1) All Optical Fibre U/G Cables of all sizes.
- 2) All local & junction U/G Cables (armoured & unarmored varieties of all sizes)
- 3) Electronic Switching Exchange Eqpt. including:
 - i) Tandem & Tax Exchange Eqpt.
 - ii) Spares of the Exchanges.
 - iii) SMPS based Power Plants
- 4) Inter-connecting Eqpt. for Electronic Exchanges.
- 5) Digital Cross Connect Switching Eqpt.
- 6) Transmission Equipment:
 - i) Optical Fibre Systems
 - ii) Microwave Systems
 - iii) Digital Coaxial Systems
- 7) SDH Systems
- 8) Testing & Measuring Instruments for Optical Fibre Systems.
- 9) Computer Hardware and Software items for FRS, FMS etc.
- 10) All developmental items/eqpt. like DLC, WILL, MICN, MLDN and IN Eqpt. etc. required to be ordered as per requirement of 'SG/IT' Groups.

LIST OF ITEMS TO BE PROCURED BY DELHI / MUMBAI UNIT**1. A. JOINTING MATERIALS:**

- i) Gas Seal barrier compound
- ii) Bitumin
- iii) TSS (in prescribed sizes)
- iv) Paper Sleeves 6 ½ lbs, 10 lbs, 20 lbs, 40 lbs
- v) Splysol A, B, C
- vi) Discrete Wire
- vii) Connectors Plumber
- viii) Solder Resin
- ix) Core S.R.Core
- x) Modular Connectors

B. JOINTING TOOLS:

- i) Blow lamp (Ordinary & Modified)
- ii) Modular Connectors.
- iii) Splicing Machine alongwith
- iv) Rigs. Insertion Tool.

C. TESTING METERS:

- i) Insulation Tester, Bridge Meggar, Cable Fault locator and GOP
- ii) Roadometer, Cat & Gunny Tester

D. TENT MMB, FULL PAUL AND TARPAULINES:

15' x 12', 18'x 15', 24'x 18'.

2. U/G CABLE PRESSURIZATION

MATERIAL: Pressurization equipments:

- a) Spares for Compressors
- b) Compressors
- c) 2 stage regulator, Air flow meter (In prescribed sizes)
- d) Pneumatic tube, Gas pressure, alarm panel, pressure sensitive contactor, Halide leak detector.
- e) Cylinder Filler, Pneumatic Pillar
- f) Gas Cylinder (7 Cu. M Capacity)
- g) Portable Gas Cylinder (1.5 cum. Capacity)

3. PROTECTIVE MATERIAL LIKE:

- a) RCC Pipes (6, 12" semi-circular pipe, RCC trough)
- b) B.C. Tiles

- c) Cuddapa Stones
- d) Traffic barrier, cone
- e) Trench barricade
- f) Information Boards.
- g) Caution boards.

4. APPLIED TELEPHONE INSTRUMENTS USE LIKE THAT OF :

- a) Secraphone, Ampliphone
- b) CCB PCO
- c) STD PCO (Card type)
- d) Fax machine for office use
- e) PCO booth (FRP Type)
 - i) High way type
 - ii) Air Port type

5. Electronic Tele-printer Machines Spares.

6. PBX BOARD, LINE TEST BOARD, RELAY SET ETC:

- a) Telecom Factory item T-43 board, tag blocks, jack strips, Buttonski, Sw. Bd. Cords.
- b) Sw.Bd. lamps, LESs (50V, 6V) Battery Eliminators.

7. MDF & associated items

8. PCM Systems alongwith PCM Testing & Measuring Instruments.

9. Pair Gain Systems like:

- a) 0+4 D.P.G
- b) 6/15, Subscriber Carrier Systems (S.L.C) (Analogue)
- c) 16/90 Line Concentrators (Analogue)

10. Power Plant (Conventional type)

- i. Power Plant
- ii. Spares

11. Batteries (Conventional & Mtce. – free, both)

12. A/C Plant of all types

13. Miscellaneous Eqpt.

Change Number Announcing System Paging Equipment & Paters.
Voice Mail Services

14. INTERNAL PLANT ITEMS:

- a) Disk Drive unit UD-50, UD-60
- b) Mag. Tape unit pertec, DD type
- c) Private Wire relay set
- 15. **CD Cabinet of all sizes**
- 16. (a) **Complete DP Box Internal/External of all sizes.**
- (b) **D.P. Modules**
- 17. **Drop Wire Accessories**
- 18. **REHABILITATION ITEMS**
 - a) PVC Clip, Screws, rawl plug
 - b) PVC Pipe (18 mm, 50mm, * 187 mm) & its accessories.
 - c) PVC Channel type (in all prescribed sizes) HDPE sockets, PVC House Pipe (Green)
 - d) GI Pipe of inner dias of prescribed sizes
- 19. **PVC WIRE**
 - a) Jumper Wire 2-W, 3-W, 4-W (Red-White, green-black)
 - b) PVC Twins
 - c) PVC H/W Cables (3 prs. 4 prs. 6 prs. 12 prs. 12 prs. 16 prs. 42 W).
 - d) PVC Sw. Bd. Terminating Cables: (84W, 182W & 408W)
 - e) Loading Coils
 - f) Screened PCM Jumper Wire (1 pr. & 10 prs.)
- 20. **Post material and Line Stores**
- 21. **Miscellaneous Items:**
 - i) Portable Generator
 - ii) Vacuum Cleaner
 - iii) Extendable ladders
 - iv) PCO Sign Boards.
 - v) Hammer Action Drill Machine
 - vi) Typewriters, PCs, LANs, Photocopiers.
- 22. **Uniform & stationery items**
- 23. Procurement of any sundry item not included in Annexure "I" & "II" and the financial implications for procurement of which does not exceed Rs.50 Lakh each.
- 24. All Maintenance Agreement/ Annual Maintenance Contracts etc. pertaining to items/ equipment under jurisdiction of procurement of the Unit.
- 25. All labour intensive contracts like that of digging, trenching, cable laying etc.
- 26. Cable Jointing kits of all types/sizes
- 27. Drop Wires of all types including:

- i) PVC Drop Wire of 0.91 mm size.
- ii) PVC Drop Wire of 0.5 mm size (Self-supporting type).

28. Telephone instruments of all types including:

- i) EPBT Telephone Instruments
- ii) PBT Telephone Instruments without dial
- iii) Plan 103 Sets of all types.

29. HDSL and ISDN Equipment.

INTEGRITY PACT**Between****Mahanagar Telephone Nigam Ltd. (MTNL) hereinafter referred to as “The Principal”****And****.....hereinafter referred to as “The Bidder/Contractor” Preamble**

The Principal intends to award, under laid down organizational procedures, contract/s for.....The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s) and/or Contractor (s).

In order to achieve these goals, the Principal has appointed an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:
 - a. PRINCIPAL is committed to have most ethical and corruption free business dealings with Bidder(s)/contractor(s).
 - b. No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - c. The Principal will, during the tender process treat all Bidder(s) with equity and reason and will deal with them in a fair and transparent manner. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - d. The Principal will exclude from the process all known prejudiced persons.
 - e. PRINCIPAL will honour its commitments and make due payments to The Bidder(s)/Contractor(s) in a timely manner.
 - f. PRINCIPAL will initiate action and pursue it vigorously whenever unethical behavior occurs or is suspected to have occurred.

- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Corporate Vigilance Office and in addition

can initiate disciplinary actions.

Section 2 - Commitments of the Bidder(s)/Contractor(s)

- (1)** The Bidder(s)/Contractor(s) commit himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.
 - a.** The Bidder(s)/Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - b.** The Bidder(s)/Contractor(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - c.** The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC/IT Act; further the Bidder(s)/Contractor(s) will not use impropriety, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d.** The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
 - e.** The Bidder(s)/Contractor(s) will not make any false or misleading allegations against the principal or its associates.
 - f.** The Bidder/Contractor will not bring any Political, Governmental or Diplomatic influence to gain undue advantage in its dealing with PRINCIPAL
 - g.** The Bidder(s)/Contractor(s) will promote and observe best ethical practices within its organization.
 - h.** The Bidder(s)/Contractor(s) will promptly inform the Independent Monitor(of PRINCIPAL) If he receives demand for a bribe or illegal payment/benefit and
 - (i)** If comes to know of any unethical or illegal practice in PRINCIPAL.
 - (ii)** If he makes any payment to any PRINCIPAL Associate

- i. The Bidder(s)/Contractor(s) will not pass any information provided by Principal as part of business relationship to others and not to commit any offence under the PC / IPC / CRPC / IT Act.
 - j. Foreign Bidder(s)/Contractor(s) will disclose the name and address of agents and representatives in India and Indian bidders will disclose their foreign principals or associates.
 - k. The Bidder(s)/Contractor(s) signing Integrity Pact shall not approach the courts while representing the matters to IEMs and will await the decision of IEMs in the matter.
 - l. In case of sub-contacting, the principal / main Bidder/Contractor shall take the responsibility of the adoption of Integrity Pact by the sub-contractors.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts.

If the Bidder(s)/Contractor(s) before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor (s) from the tender process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”. **Copy of the “Guidelines on Banning of Business Dealings” is annexed as “Annexure-A” below.**

Section 4 - Compensation for Damages

- (i) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
- (ii) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to Section 3, the Principal shall be entitled to demand and recover from the Contractor the amount equivalent to Security Deposit/Performance Bank Guarantee in addition to any other penalties/recoveries as per terms and conditions of the tender.

Section 5 - Previous transgression

- (i) The Bidder declares that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (ii) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

Section 6 – Equal treatment of all Bidders/ Contractors/ Subcontractors

- (i) The Principal will enter into agreements with identical conditions as this one with all Bidders/Contractors.
- (ii) The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact.
- (iii) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7 - Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractors, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the same to the Corporate Vigilance Office and may initiate criminal proceedings against the violating Bidder(s)/Contractor(s).

Section 8 – Independent External Monitor/Monitors

- (1) The Principal has appointed competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- (2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the CMD, MTNL.
- (3) The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s)/ Subcontractor(s) with confidentiality.
- (4) The Principal will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- (5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or take corrective action, or to take other relevant action. The monitor can in this regard submit nonbinding recommendations.

Beyond this the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

- (6) The Monitor will submit a written report to the CMD, MTNL within 8 to 10 weeks from the date of reference or intimation to him by the principal and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) If the Monitor has reported to the CMD, MTNL, a substantiated suspicion of an offence under relevant IPC/PC Act, and the MTNL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Corporate Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (8) The word '**Monitor**' would include both singular and plural.

Section 9 – Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other Bidders 6 months after the contract has been awarded.

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by CMD, MTNL.

Section 10 – Other provisions

- (1) This agreement is subject to Indian Law, place of performance and jurisdiction is the Registered Office of the Principal, i.e. New Delhi. The arbitration clause provided in the tender document/contract shall not be applicable for any issue/dispute arising under Integrity Pact.
- (2) Changes and supplements as well as termination notice need to be made in writing.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.
- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

(For & On behalf of the Principal)
(Office Seal)

Place -----

Date -----

(For & On behalf of Bidder/Contractor)
(Office Seal)

Witness 1:

(Name & Address) _____

Witness 2:

(Name & Address)_____

Annexure-A

Guidelines of MTNL on Banning of Business Dealings

1. Introduction

- 1.1 Mahanagar Telephone Nigam Limited (MTNL), being a Public Sector Enterprise and 'State', within the meaning of Article 12 of Constitution of India, has to ensure preservation of rights enshrined in Chapter III of the Constitution. MTNL has also to safeguard its commercial interests. MTNL deals with Agencies, who have a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of MTNL to deal with Agencies who commit deception, fraud or other misconduct in the execution of contracts awarded / orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on MTNL to observe principles of natural justice before banning the business dealings with any Agency.
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2. Scope

- 2.1 The General Conditions of Contract (GCC) of MTNL generally provide that MTNL reserves its rights to remove from list of approved suppliers / contractors or to ban business dealings if any bidder/contractor who has been found to have committed misconduct and also to suspend business dealings pending investigation.
- 2.2 However, absence of such a clause does not in any way restrict the right of Company (MTNL) to take action / decision under these guidelines in appropriate cases.
- 2.4 The procedure of (i) Suspension and (ii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.5 These guidelines apply to all the Units and subsidiaries of MTNL.
- 2.6 It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular Agency due to its poor / inadequate performance or for any other reason.
- 2.7 The banning shall be with prospective effect, i.e., future business dealings.

3. Definitions

In these Guidelines, unless the context otherwise requires:

- i) 'Party / Contractor / Supplier / Purchaser / Customer' shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. 'Party / Contractor / Supplier / Purchaser / Customer' in the context of these guidelines is indicated as 'Agency'.
- ii) 'Inter-connected Agency' shall mean two or more companies having any of the following features:

- a) If one is a subsidiary of the other.
- b) If the Director(s), Partner(s), Manager(s) or Representative(s) are common;
- c) If management is common;
- d) If one owns or controls the other in any manner;
- iii) 'Competent Authority' and 'Appellate Authority' shall mean the following:
 - a) For Company Wide Banning (entire MTNL) the Director (Technical) shall be the 'Competent Authority' for the purpose of these guidelines. CMD, MTNL shall be the 'Appellate Authority' in respect of such cases except banning of business dealings with Suppliers of Imported Equipment.
 - b) For Units level banning: Any officer not below the rank of ED shall be the 'Competent Authority' for the purpose of these guidelines. The Director (Technical) shall be the 'Appellate Authority' in all such cases.
 - c) For banning of business dealings with Suppliers of Imported Equipment, MTNL Directors' Committee (MDC), consisting of Director (Technical), Director (Finance), Director (HR) of MTNL, shall be the 'Competent Authority'. The Appeal against the Order passed by MDC shall lie with CMD, as First Appellate Authority.
 - d) In case the foreign supplier is not satisfied by the decision of the First Appellate Authority, it may approach MTNL Board as Second Appellate Authority.
 - e) CMD, MTNL shall have overall power to take suo-moto action on any information available or received by him and pass such order(s) as he may think appropriate, including modifying the order(s) passed by any authority under these guidelines.
- iv) 'Investigating Department' shall mean any Department or Unit investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.

4. Initiation of Banning / Suspension:

Action for banning / suspension business dealings with any Agency should be initiated by the department having business dealings with them after noticing the irregularities or misconduct on their part.

5. Suspension of Business Dealings

- 5.1 If the conduct of any Agency dealing with MTNL is under investigation by any department (except Suppliers of Imported Equipment), the Competent Authority may consider whether the allegations under investigation are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order to this effect may indicate a brief of the charges under investigation. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. The order of such suspension would operate for a period not more than six months and may

be communicated to the Agency as also to the Investigating Department.

The Investigating Department may ensure that their investigation is completed and whole process of final order is over within such period.

5.2 The order of suspension shall be communicated to all Departmental Heads within the Units. During the period of suspension, no business dealing may be held with the gency.

5.3 As far as possible, the existing contract(s) with the Agency may be continued unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.

5.4 If the gravity of the misconduct under investigation is very serious and it would not be in the interest of MTNL, as a whole, to deal with such an Agency pending investigation, the Competent Authority may send his recommendation to Corporate Office along with the material available. If Corporate Office considers that depending upon the gravity of the misconduct, it would not be desirable for all the Units and Subsidiaries of MTNL to have any dealings with the Agency concerned, an order suspending business dealings may be issued to all the Units by the Competent Authority of the Corporate Office, copy of which may be endorsed to the Agency concerned. Such an order would operate for a period of six months from the date of issue.

5.5 For suspension of business dealings with Suppliers of Imported Equipment following shall be the procedure: -

i) Suspension of the foreign suppliers shall apply through out the Company including Subsidiaries.

ii) If gravity of the misconduct under investigation is found serious and it is felt that it would not be in the interest of MTNL to continue to deal with such agency, pending investigation, Unit dealing with agency may send such recommendation on the matter to a Committee consisting of the following:

1. ED (Operations), C.O.MTNL
2. ED (Delhi), MTNL
3. ED (Mumbai), MTNL
4. Legal Advisor (Corporate Office)

The committee shall expeditiously examine the report; give its comments/recommendations within twenty one days.

iii) The comments / recommendations of the Committee shall then be placed before MTNL Directors' Committee (MDC). If MDC opines that it is a fit case for suspension, MDC may pass necessary orders which shall be communicated to the supplier of Imported Equipment.

5.6 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

5.7 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.

6. Ground on which Banning of Business Dealings can be initiated

6.1 If the security consideration, including questions of loyalty of the Agency to the State, so warrants;

6.2 If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a

Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or MTNL, during the last five years;

- 6.3 If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc;
- 6.4 If the Agency continuously refuses to return / refund the dues of MTNL without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or Court of Law;
- 6.5 If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence;
- 6.6 If business dealings with the Agency have been banned by the Govt. or any other public sector enterprise;
- 6.7 If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts;
- 6.8 If the Agency uses intimidation / threatening or brings undue outside pressure on the Company (MTNL) or its official in acceptance / performances of the job under the contract;
- 6.9 If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations;
- 6.10 Willful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by Company (MTNL) or not;
- 6.11 Based on the findings of the investigation report of CBI / Police against the Agency for malafide / unlawful acts or improper conduct on his part in matters relating to the Company (MTNL) or even otherwise;
- 6.12 Established litigant nature of the Agency to derive undue benefit;
- 6.13 Continued poor performance of the Agency in several contracts;
- 6.14 If the Agency misuses the premises or facilities of the Company (MTNL), forcefully occupies, tampers or damages the Company's properties including land, water resources, forests / trees, etc.

(Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

7. Banning of Business Dealings

- 7.1 Normally, a decision to ban business dealings with any Agency should apply throughout the Company including Subsidiaries. However, the Competent Authority of the Unit except Corporate Office can impose such ban unit-wise only if in the particular case banning of business dealings by respective Unit will serve the purpose and achieve its objective and banning throughout the Company is not required in view of the local conditions and impact of the misconduct /default to beyond the Unit. Any ban imposed by Corporate Office shall be applicable across all Units of the Company including Subsidiaries.
- 7.2 For Company-wide banning, the proposal should be sent through the ED of the Unit setting out the facts of the case and the justification of the action proposed along with all the relevant papers and documents except for banning of business dealings with Foreign Suppliers.
The Corporate Office shall process the proposal of the Unit for a prima- facie view in the matter by the Competent Authority nominated for Company-wide banning.

If the prima-facie decision for Company-wide banning has been taken, the Corporate Office shall issue a show-cause notice to the agency conveying why it should not be banned throughout MTNL.

After considering the reply of the Agency and other circumstances and facts of the case, a final decision for Company-wide banning shall be taken by the Competent Authority.

- 7.3 There will be a Standing Committee in Corporate Office and each Unit to be appointed by Director (Technical) & ED respectively for processing the cases of “Banning of Business Dealings” except for banning of business dealings with suppliers of Imported Equipment. The functions of the committee shall, inter-alia include:
- i) To study the report of the Investigating Agency and decide if a prima-facie case for Company-wide / Local unit wise banning exists, if not, send back the case to the Competent Authority.
 - ii) To recommend for issue of show-cause notice to the Agency by the concerned department.
 - iii) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
 - iv) To submit final recommendation to the Competent Authority for banning or otherwise.
- 7.4 If the Competent Authority is prima-facie of view that action for banning business dealings with the Agency is called for, a show-cause notice may be issued to the Agency as per paragraph 8.1 and an enquiry held accordingly.
- 7.5 Procedure for Banning of Business Dealings with Suppliers of Imported Equipment.
- i) Banning of the agencies shall apply throughout the Company including Subsidiaries.
 - ii) Depending upon the gravity of the alleged misconduct the investigation report with all relevant details shall be placed before a Committee consisting of following :-
 - 1. ED (Delhi), MTNL
 - 3. ED (Mumbai), MTNL
 - 4. Legal Advisor (Corporate Office)

The Committee shall examine the proposal and give its comments / recommendations within 21 days.

- iii) The comments / recommendations of the Committee shall be placed before MTNL Directors’ Committee (MDC). If MDC opines that it is a fit case for initiating banning action, it will direct to issue show-cause notice to the agency for replying within a reasonable period.
- iv) On receipt of the reply or on expiry of the stipulated period, MDC will consider & award decision on case.
- v) The decision of the MDC shall be communicated to the agency.

8. SHOW-CAUSE NOTICE

- 8.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency. Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 30 days a written statement in its defense.
- 8.2 If the Agency requests for inspection of any relevant document in possession of MTNL, necessary facility for inspection of documents may be provided.
- 8.3 The Competent Authority may consider and pass an appropriate speaking order:

- a) For exonerating the Agency if the charges are not established;
 - b) For banning the business dealing with the Agency.
- 8.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned. The order may also mention that the ban would extend to the interconnected Agencies of the Agency.

9. Appeal against the Decision of the Competent Authority

- 9.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing, etc. The appeal shall lie to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.
- 9.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.

10. Review of the Decision by the Competent Authority

Any petition / application filed by the Agency concerning the review of the banning order passed originally by Competent Authority under the existing guidelines either before or after filing of appeal before the Appellate Authority or after disposal of appeal by the Appellate Authority, the review petition can be decided by the Competent Authority upon disclosure of new facts /circumstances or subsequent development necessitating such review. The Competent Authority may refer the same petition to the Standing Committee for examination and recommendation.

11. Circulation of the names of Agencies with whom Business Dealings have been banned.

- 11.1 Depending upon the gravity of misconduct established, the Competent Authority of the Corporate Office may circulate the names of Agency with whom business dealings have been banned, to the Government Departments, other Public Sector Enterprises, etc. for such action as they deem appropriate.
- 11.2 If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Inquiring Authority together with a copy of the order of the Competent Authority / Appellate Authority may be supplied.
- 11.3 If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, MTNL may, without any further enquiry or investigation, issue an order banning business dealing with the Agency and its inter-connected Agencies.
- 11.4 Based on the above, Units may formulate their own procedure for implementation of the Guidelines.

BID BOND REGISTER

Name of the Bidder	Bid Bond Number	Amount of Bid Bond	Name of the Banker	Date					
				Opening	Valid up to	Extension asked for	Extended	Returned to the Bidder	Encashment where Resorted

DISTRIBUTION OF QUANTITIES FOR ORDERING TO THE SELECTED BIDDERS OF A TENDER

Number of Bidders on whom the Order is proposed to be placed	Distribution of Quantity
2	L – 1 should be given 70% L – 2 should be given 30%
3	L – 1 should be given 50%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price or in direct proportion to VR.
4	L – 1 should be given 40%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price or in direct proportion to VR..
5 to 9	L – 1 should be given 30%. Remaining quantities to other selected Bidders in INVERSE RATIO of their Evaluated price or in direct proportion to VR..
10 and Above selected	L – 1 should be given 20%. Remaining quantities to other Bidders in INVERSE RATIO of their Evaluated price or in direct proportion to VR.

Note:

- a. In case the quantity is to be distributed among two bidders and L-2 bidder and all other bidders down the ranking (L-3, L-4...) do not accept the counter offered (L-1) price unconditionally, the L-2 quantity may be offered to L-1 bidder to meet the requirement of the tender, if delivery schedule can be complied with.
- b. In case the quantity is to be distributed among three bidders and not more than two bidders accept the offer (i.e., L-1 and another out of the remaining bidders) then, the quantity may be distributed in the ratio 70:30 between L-1 and other successful bidder at L-1 price to meet the requirement of the tender. In case no bidder accepts L-1 price, then L-2 & L03 quantities be offered to L-1 bidder to meet the requirement, if delivery schedule can be complied with.

ADVANCE PURCHASE ORDER (Format)



MAHANAGAR TELEPHONE NIGAM
LIMITED
(A Government of India

Dated _____

Enterprise) File No. _____

Subject: Placement of Advance Purchase Order for supply of

Reference: Your letter No. _____ Dated _____

Dear Sir,

On behalf of MTNL, an Advanced Purchase Order (APO) is hereby placed on you for the supply of the subject items. This APO is being placed under the following terms and conditions:

1. The APO is likely to be converted into detailed PO after your acceptance of the APO and furnishing performance Bank Guarantee of Rs.....valid for a period ofThe said BG shall be furnished by you from a Scheduled Bank strictly in accordance with the MTNL format (a copy of the format is enclosed). The BG should be accompanied with the photo copy.
2. Unit rate of the item shall be as per annexure; thereby total value of the order shall be Rs _____(as per Annexure). The prices are firm, inclusive of all Levies & Taxes, Packing, Forwarding, Freight, Insurance charges and are F.O.B./Destination.

Note: The annexure in point 2 should include following details of vendor:

- i. PAN
- ii. GSTIN
- iii. Delivery Address
- iv. Place of supply
- v. HSN/ SAC classification

Service tax, VAT, CST, Excise Duty, Octroi/ Entry tax etc. to be replaced with SGST, CGST and IGST (as applicable)

3. The equipment supplied will be strictly in accordance with the specifications laid down by the MTNL. The supply shall be made only after QA (MTNL) have carried out necessary inspection/testing and approved the equipment for supply to MTNL.
4. The supply shall start in _____months and have to be completed

within _____ months from the date of issue of detailed PO.

5. The MTNL reserve the right to cancel Purchase Order if the agreed delivery schedule is not adhered to by the supplier. Any loss arising out of such delays in the supply of the equipment shall be on the supplier account.
6. _____% advance shall be payable against this order (If applicable)
7. You are requested to convey your acceptance of this Advance Purchase Order and to submit the desired information at an early date and submit the required Bank Guarantee in the attached prescribed format within a period of 14 days from the date of placement of this APO failing which this APO is likely to be treated as cancelled.

Yours faithfully

(_____)
Dy. General
Manager

Copy to:

.....

**PURCHASE ORDER
(Format)**



MAHANAGAR TELEPHONE NIGAM LIMITED
(A Government of India Enterprise)
_____Dated_

File No. __

General

1. Name and Address of Supplier:
2. Purchaser: MAHANAGAR TELEPHONE NIGAM LIMITED
(Hereinafter referred to as Purchaser)
3. Supplier's Reference:
4. Purchaser's Reference:
5. Scope of the Purchase Order:
6. Particulars of route/Scheme/Project: AS PER ANNEXURE

Commercial

- i) Consignee details : As per Annexures.
- ii) Delivery Schedule : _____
- iii) Mode of Transport : By road or rail
- iv) Inspection
- v) Basic Detail:
 - (a) PAN
 - (b) GSTIN
 - (c) Delivery Address
 - (d) Place of supply
 - (e) HSN/ SAC classification

In case the supplier does not agree with the POs or HSN/SAC code stated on the PO, it is the responsibility of the supplier to approach/request MTNL to revise the PO

Service tax, VAT, CST, Excise Duty, Octroi/ Entry tax etc. to be replaced with SGST, CGST and IGST (as applicable)

Financial

i) Total cost of P.O:

The price details are given in annexure:

(The prices are firm and inclusive of all the Taxes/Levies, packing & forwarding charges freight, Insurance and other statutory duties etc.)

ii) Performance Bank guarantee:

iii) Payment :

iv) Paying Authority :

v) Sanction particulars of Project Estimate: AS PER ANNEXURE.....

vi) Head of Account:

vii) Certificate about availability of funds: FUNDS ARE AVAILABLE

Technical: Annex attached

i) Technical Specifications:

ii) Terms and conditions of the P.O.

iii) Annexures

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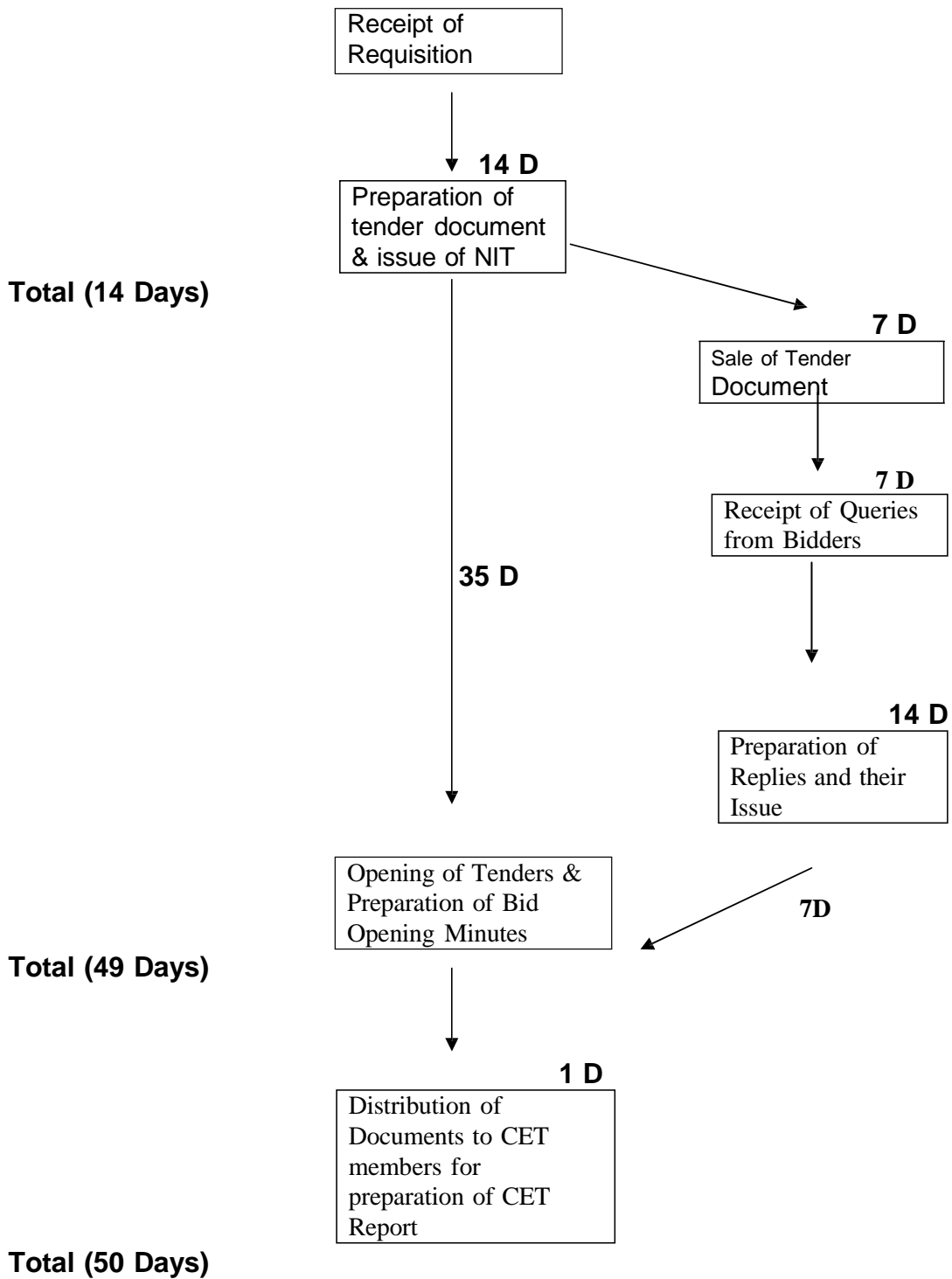
DGM

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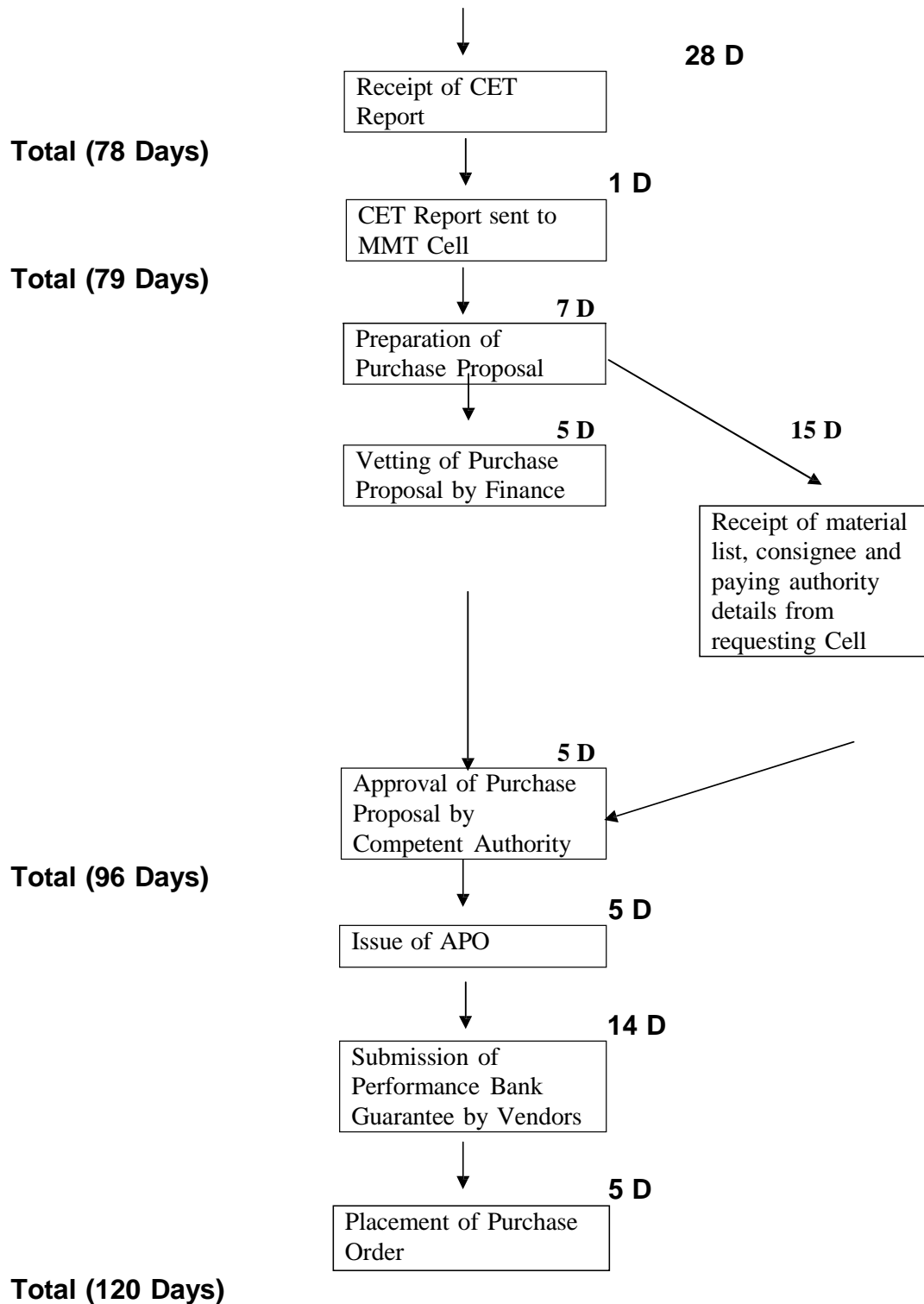
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FLOWCHART OF PROCUREMENT PROCESS



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CHAPTER-18

Restrictions under rule 144 (xi) of General Financial Rule (GFR) 2017

Pursuant to Office Memorandum No 6/18/2019-PPD, Dated 23.07.2020 issued by Ministry of Finance, Dept. of expenditure i.r.o. restrictions under rule 144 (xi) of General Financial Rule (GFR) 2017, following provisions shall be kept in all the tenders/procurements whether of goods, services (including consultancy services and non-consultancy services) or works (including turn key projects) etc. under Eligibility Conditions:-

- 1) Any bidder from a country which shares a land border with India will be eligible to bid in the tender only if the bidder is registered with the competent authority as per the said Memorandum.
- 2) **‘Bidder’ including the term ‘tenderer’ means any person or firm or company, including any member of a consortium** or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- 3) **Bidder from a country which shares a land border with India" for the purpose of this Order means: -**
 - a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated , established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated. established or registered in such a country; or
 - d. An entity whose **beneficial owner** is situated in such a country; or
 - e. An Indian (or other) agent of such an entity ; or
 - f. . A natural person who is a citizen of such a country ; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
- 4) **The beneficial owner for the purpose of (3) above will be as under:**
 - I. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s) . who , whether acting alone or together . or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation-

- a) "Controlling ownership interest" means ownership of or entitlement more than twenty-five per cent. of shares or capital or profits of the company;

- b) "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- II. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of capital or profits of the partnership;
- III. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- IV. Where no natural person is identified under (I) or (II) or (III) above, the beneficial owner is the relevant natural person who holds the position of senior managing official ;
 \In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership .
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.
- 5) In works contracts including turnkey projects, contractors shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority . The definition of "contractor from a country which shares a land border with India" shall be as in paragraph 8 of the memorandum issued by Ministry of Finance.
- 6) In respect of para (1) to (4) above, bidders are required to submit a certificate/undertaking in the following format in their official letterhead duly signed by the authorized signatory:-

"I.....S/D/O..... have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that we M/sis not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that we, M/s fulfill all requirements in this regard and is eligible to be considered. Copy of valid registration by the Competent Authority is attached herewith (if applicable) . Further, it is to undertake that we M/s will not sub-contract any work to a contractor from such country (ies) unless such contractor is registered with the Competent Authority".

- 7) If above certificate / Undertaking submitted by the bidder whose bid is accepted is found to be false at later stage, this would be a ground for immediate termination of the contract (if awarded) and further legal action in accordance with the law.

ANNEXURES

1	Name and registered address of the supplier
2	GST registration number of supplier
3	Name of MTNL entity
4	'Bill to' and 'Ship to' address of MTNL
5	GST registration number of MTNL
6	Date of invoice
7	Invoice Number
8	Place of Supply (including state)
9	Type of Tax (CGST, SGST and IGST)
10	Rate of Tax
11	Value of goods / service and type / rate / amount of Tax should be separately mentioned
12	Quantity of goods
13	Total value of invoice
14	Description of Supply of goods / service
15	HSN Code in case of goods
16	Accounting Code in case of service
17	In case invoice has more than one tax rates, rate of tax and amount of tax for each supply should be mentioned separately.

Sl. No	Particulars for 'Receipt Voucher'
1	Name and registered address of the supplier
2	GST registration number of supplier
3	Name of MTNL entity
4	'Bill to' and 'Ship to' address of MTNL
5	GST registration number of MTNL
6	Date of document issued
7	Document Number
8	Place of Supply (including state)
9	Amount of advance taken
10	Type of Tax (CGST, SGST and IGST)
11	Rate of Tax
12	Quantity of goods
13	In case invoice has more than one tax rates, rate of tax and amount of tax for each supply should be mentioned separately.
	Note: Invoice issued at a later stage against receipt voucher to mention this document number. Refund Voucher to be issued against the advances received if no supply is made and no invoice is raised.

summary of taxes and Duties				
S. No	Particulars	Levied by Centre / State	Whether creditable at present	Whether same is subsumed under GST
1	Service Tax	Centre	Yes	Yes
2	Special Additional duty of Customs ('SAD') – 4%	Centre	No (for service provider)	Yes
3	Basic Customs Duty	Centre	No	No
4	Central Excise duty	Centre	Yes	Yes
5	Additional Customs duty (in lieu of excise duty)	Centre	Yes	Yes
6	Additional Excise duties	Centre	Yes	Yes
7	Excise duty levied under the Medicinal and Toiletries Preparation Act	Centre	No	Yes
8	Additional Duties of Excise (Goods of Special Importance)	Centre	No	Yes
9	Additional Duties of Excise (Textiles and Textile Products)	Centre	No	Yes
10	Central Surcharges and Cesses so far as they relate to supply of goods and service	Centre	Yes	Yes
11	Central Surcharges and Cesses other than those relating to supply of goods and service	Centre	No	No
12	Central Sales Tax ('CST')	Centre	No	Yes
13	VAT/ Sales tax	State	No (for service provider)	Yes
14	Entertainment tax (except levied by local bodies)	State	No	Yes
15	Entertainment tax levied by local bodies	State	No	No
16	Luxury tax	State	No	Yes
17	Taxes on lottery, betting and gambling	State	No	Yes
18	State Cesses and Surcharges in so far as they relate to supply of goods and services	State	No	Yes
19	State Cesses and Surcharges other than those relating to supply of goods and services	State	No	No
20	Entry tax / Octroi/ Local Body tax ('LBT')	State	No	Yes
21	Purchase tax	State	No	Yes
22	Taxes on advertisement	State	No	Yes

****** END OF DOCUMENT******