



**MAHANAGAR TELEPHONE NIGAM LIMITED  
OFFICE OF THE GENERAL MANAGER (TRANSMISSION)  
KIDWAI BHAWAN, NEW DELHI-110001.**

**T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

**E- TENDER FOR PROCUREMENT OF “Managed LAN Switches”**

**Cost of Tender Document Rs 2,360/- each  
(Rs.2000/- + 18% GST)**

Dear Sir,

Please find enclosed the following bid documents in original to be used for submission of the bid: -

Sl. NO.	Title	Section	Page No.
1	<b>Check List</b>	Annexure-"A"	<b>3-5</b>
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16	Un priced Financial Bid- Bid form and Price Schedule	Annexure-E (1/2 & 2/2)	<b>94-95</b>
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18	Bid Form and Price Schedule	X	<b>98-102</b>
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20	Performa for Performance Bank Guarantee	XI	<b>105</b>
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23	Warranty Certificate	XIII	<b>109</b>
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26	MOU for Integrity Pact	XVI	<b>116-118</b>
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The tender shall be submitted through Central Public Procurement Portal website <https://eprocure.gov.in/> developed by National Informatics Centre (NIC), Ministry of Electronics & Information Technology, GOI. Your offer complete in all respect as per enclosed documents must be submitted latest by **schedule date and time of submission of bid.**

*"Bidders are advised to familiarize themselves adequately with the above e-procurement portal of NIC (CPP Portal), well in advance, to avoid last minute technical glitches/errors preventing successful uploading of bid within specified time frame."*

**The "Instructions to Bidder" and "General (Commercial) conditions" are applicable for this Tender. However, the Clauses mentioned in the "Special Conditions of Contract" & "Technical Specifications" will supersede the Instruction to Bidders and General (Commercial) Conditions, wherever there is a conflict.**

Tender bids shall be opened online at schedule date and time of opening. The representatives of the bidders may attend the bid opening either on-line after logging on into the e-procurement portal website <https://eprocure.gov.in/> or at MTNL premises along with letter of authorization for attending bid opening at following address mentioned below.

Thanking you,  
Encl: Bid documents.

Yours faithfully,  
DGM (TX-MM),  
MTNL, Room No. 355 Kidwai Bhawan,

**Check List**

**This checklist should be the cover page of the original techno-commercial bid.**

While submitting the bid, bidders are required to check/clearly mention whether they have submitted following documents. Reason(s) for non-submission of any document is to be clearly mentioned here.

Sl. No.	ITEM	Yes/No	Page No.
1.	All the pages of Bid and enclosures are serially numbered in print form as per Clause No.14 of Section-II of the tender document. The total no. of pages in the bid are to be indicated here	Yes/No	No of Pages=
2.	The covers of the bids are <b>properly sealed</b> as per <i>Clause 15</i> , Section-II	Yes/No	N.A.
3.	<b>Cost of tender document in form of DD/Pay order or copy of NSIC/MSE registration Certificate (for tendered items)</b> as per <i>Clause 6</i> , Section-I has been submitted	Yes/No	
4.	Bid security Declaration <b>or copy of NSIC/MSE registration Certificate (for tendered items)</b> as per <i>Clause 12</i> , Section-II has been submitted.	Yes/No	
5.	The <b>Financial Bid</b> has been submitted as per <i>Clause 8, 9 and 14</i> of Section-II and the rates have been quoted in accordance with specified format/details in the Tender Document form as per Section-X Pt-I, Pt-II.	Yes/No	Part-B
6.	<b>General Power of Attorney</b> in favour of the signatory in case of Partnership firm/ Registered company/ Proprietorship firms <b>duly notarized</b> given by all partners in case of Partnership firm, by the Resolution of the Board given by authorized director(s) in case of company and the proprietor in case of proprietorship firm as per <i>Clause-10</i> Section-II has been submitted.	Yes/No	
7.	i Submitted an undertaking that the equipment supplied (tendered items) shall confirm the Technical Specifications as specified in Section VI Technical Specifications of Tender Document.	Yes/No	
	ii As a proof of having executed educational/ commercial order issued by MTNL/ BSNL/BBNL/ Any other telecom Service provider/ Government Departments/ PSU in respect of "Tendered Items", Submitted: One Inspection Certificate (IC) for supply of at least <b>140 nos. of any type of Managed LAN Switches from QA wing of BSNL/MTNL issued during the period from 01.04.2017 to the last date submission of bid</b> as per <i>clause 2.2 (ii)</i> Section II of Tender Document. <b>Or</b> A certificate from PO issuing authority/Acknowledged Delivery Challan/Taken over Certificate/Bill Copy Payable Challan (BCPC) of BSNL/BBNL/MTNL/Any other telecom Service provider/ Government Departments/ PSU, for supply of at least <b>140 Nos. of any type of Managed LAN Switches</b> during the period commencing from <b>01.04.2017</b> to the last date of submission of the bid as per <i>clause 2.2 (ii)</i> Section II of Tender Document.	Yes/No	
8.	Duly attested <b>audited (if applicable) balance sheet along with P&amp;L Account</b> for the years 2017-18, 2018-19 & 2019-20 indicating turnover of the bidder as per <i>Clause 2 and 10</i> of Section-II of Tender document has been submitted.	Yes/No	
9.	<b>Copy of valid registration certificate of the firm as a Start-up firm with DIPP (Department of Industrial Policy &amp; Promotion), in case of a Start-up firm.</b>	Yes/No	
10.	Copy of Latest and valid NSIC/MSE Registration certificate for the tendered items. In case bidding MSE is owned by Schedule Caste or Schedule Tribe entrepreneur, valid documentary evidence issued by Appropriate Authority should also be enclosed. In case of SSI units registered with NSIC, the Registration certificate should clearly indicate the monetary limit, if any and the items for which bidder are registered as per <i>Clause 10.1(v)</i> and <i>Clause 12.1</i> of Section-II, of tender document has been submitted.		

11.	<b>Clause-by-Clause Compliance of</b> Technical Specifications (Section-VI), Commercial Conditions (Section-III) and Special Conditions (Section-IV) <b>or Declaration of Deviation as per Clause 11.2(c) of Section-II has been submitted in the format as per Annexure-B.</b>	Yes/No	
12.	Before submission of bids, for latest amendments/information on this tender, the website <a href="http://etender.mtnl.net.in">http://etender.mtnl.net.in</a> and <a href="https://eprocure.gov.in/">https://eprocure.gov.in/</a> has been seen as per <i>Clause 5 and 6 of Section-II.</i>	Yes/No	N.A.
13.	<b>Certificate of incorporation</b> as per <i>Clause 10</i> of Section-II has been submitted.	Yes/No	
14.	<b>Article or Memorandum</b> of Association or partnership deed or proprietorship deed as the case may be <b>along with subsequent amendments etc.</b> as per <i>Clause 10</i> of Section-II has been submitted.	Yes/No	
15.	<b>Registration certificate</b> from State Director of Industries or from Secretariat for Industrial Approval (SIA), Ministry of Industries, and Government of India as per <i>Clause 10</i> of Section-II has been submitted.	Yes/No	
16.	<b>Approval from Reserve Bank of India / SIA</b> in case of foreign collaboration as per <i>Clause 10</i> of Section-II has been submitted.	Yes/No	
17.	Copy of valid <b>Goods and Service Tax Registration No. (GSTIN)</b> as per clause-10, Section-II has been submitted Or mention as unregistered dealer. OR If bidder has opted Composition Scheme under GST, a declaration in this regard has been submitted by bidder in bid document as per <i>clause-10</i> , Section-II.	Yes/No	
18.	Documentary evidence regarding the financial, technical and production capability necessary to perform the contract details as per <b>“Form A”</b> as per <i>Clause 10.2</i> of Section-II has been submitted.	Yes/No	
19.	Documents establishing the conformity of his bid to the bid document as per <i>Clause 11.1</i> of Section-II has been submitted	Yes/No	
20.	Documentary evidence of the goods and services conformity to the bid documents as per <i>Clause 11.2</i> of Section-II has been submitted.	Yes/No	
21.	List of all Directors including their name(s), Director Identification Number(s) (DIN) and address (es) along with contact telephone numbers of office and residence.		
22.	<b>An Undertaking</b> that in case the supplier gets blacklisted 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.		
23.	Un Priced- Price Schedule ( <b>Annexure-E-1/2 &amp; 2/2</b> ) duly complied in Part-A Techno-Commercial Bid as per <i>Clause 7</i> of Section-IV has been submitted.	Yes/No	
24.	<b>Bid validity for 150 days from the date of opening of bids</b> as per <i>Clause 13</i> of Section-II has been submitted.	Yes/No	
25.	Near Relative Declaration as per <b>Annexure ‘C’</b> by Proprietor of the firm in case of Proprietorship firm/all partners in case of Partnership firm/all Directors of the firm in case of a company, has been submitted.	Yes/No	
26.	<b>Declaration</b> regarding Black listed, banned or debarred as per <b>Annexure-‘D’</b> has been submitted.	Yes/No	
27.	<b>ISO Certificate</b> (if available) has been submitted.	Yes/No	
28.	<b>Whether quoted for 100% quantity as per Clause 8 of Section-IV?</b>	Yes/No	

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29.	Proof of classification of Enterprise into MICRO, SMALL and MEDIUM Enterprises vide Central Government notification No. So 1642 (E) dated 29.09.2006 as per <i>Clause 10.2(ii)</i> of <b>Section-II</b> has been submitted.	Yes/No	
30.	<b>ECS mandate form duly certified by the Bank along with copy of Cancelled cheque</b> , as per format given in <b>Annexure-I</b> has been submitted	Yes/No	
31.	Copy of MOU agreement with OEM (if applicable) as per <i>Clause 2.1</i> of Section-II has been submitted.	Yes/No	
32.	An <b>undertaking</b> that goods supplied shall confirm to the Specifications specified in <b>Section-VI</b> (Technical Specification) of the tender document as per <i>Clause 10</i> of Section-II has been submitted.	Yes/No	
31.	An undertaking by the OEM that "The equipment being procured must be supported for minimum 10 year post warranty period and will extend the AMC support to MTNL beyond 10 year if OEM is supporting such equipment anywhere globally" as required vide <i>clause 10.1(xvi)</i> , section-II of tender document, submitted.	Yes/No	
32.	An undertaking regarding procurement from a bidder of a country which shares a land border with India required vide <i>Clause 10</i> of Section-II (As per format given in Clause 2.6.5 Section-II) has been submitted.	Yes/No	
33.	Integrity pact as per Section -XVI In case of partnership firm or consortium, this agreement must be signed by all partners and consortium members of the company required as per clause 10.1 (xxiii)	Yes/No	
34.	<b>Any other document</b>	Yes/No	

\* Strike out whichever is not applicable.

**Note: The bidder is requested to submit the following documents in offline mode to the under mentioned address before the scheduled date & time of Public Online Tender Opening Event in a Sealed Envelope:**

Contact Persons Designation: DGM (TX-MM)

Address: Room No. 355, 3rd Floor, Kidwai Bhawan

MTNL, Janpath New Delhi-110001

Ph: 011-23311121.

The envelope shall bear (the project name), the tender number and the words 'DO NOT OPEN BEFORE' (due date & time).

1. Bid security Declaration as per format given in section VIII or NSIC or MSE certificate registered for tendered items issued from Appropriate Authority for claiming exemption from submission of bid security in accordance with the details mentioned in tender document.
2. DD/ Pay order of **Rs. 2,360/-** drawn in favour of Account Officer (Cash) Planning MTNL, New Delhi, payable at New Delhi against payment of tender fee or Copy of valid NSIC /MSME Certificate for tendered items.
3. General Power of Attorney (duly notarized) in favour of Authorized Signatory.
4. Duly signed copy of "**Integrity Pact**" as per format given in Section-XVI of tender document.

**NOTE: Non submission of above documents (in original) by any bidder prior to due date & time of opening of Techno-commercial bids, may lead to rejection of Techno-commercial bid of such bidder(s).**

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss. \_\_\_\_\_)

**SECTION-I****NOTICE INVITING TENDER.**

On behalf of Executive Director MTNL, New Delhi, On-line tenders are invited in two parts (Parts A- Techno- commercial bid, Part B- Financial bid) from indigenous sources engaged in manufacturing /supply of "Tendered Items" (Managed LAN Switches) as per Specifications specified in Section-VI – Technical Specifications of the Tender Document, except to those which are blacklisted, banned or debarred from participation during the currency of such punitive measures.

**1. Description of Item, Quantity, Turnover & Specification:**

Sl. No.	Items	Quantity (Nos.)	Average annual Turnover during the years 2017-18, 2018-19 & 2019-20. (Rs.)	Specifications
1.	2x1G (Optical) Uplink + 8x1FE (Electrical) Downlink, Managed Switch with Single Fibre Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L port remote configuration and monitoring. <b>AC Operated with EMS Application License.</b>	500	<b>Rs.40,44,600/-</b> (Rupees Forty Lakh Forty Four Thousand and Six hundred ) Only.	As per Technical Specifications mentioned in Section-VI of tender document.
2.	2x1G (Optical) Uplink + 8x1G (Optical) Downlink, Managed LAN Switch with single fiber Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L ports and 40 Km range for D/L ports (all port equipped) compatible SFPs with remote configuration and monitoring. <b>DC Operated with EMS Application License</b>	40		
3.	2x10G (Optical) Uplink + 24x1G (Optical) Downlink, Managed Switch with Dual fiber SFPs 1310 nm with 20 Km range for U/L ports and Bi-Directional SFPs 1310 /1550 nm with 40 Km range for D/L ports (all port equipped) with single fiber SFPs for both sides and compatible Dual fibre XFPs 1310 nm with 20 Km range for Cisco MPLS routers with remote configuration and monitoring. <b>DC Operated with EMS Application License.</b>	20		

The estimated cost of Procurement is Rs. 1,34,81,881/- only.

**Note 1:** Evaluation for ranking will be made on net Package cost to MTNL (Including AMC charges), excluding GST Creditable amount.

**Note 2:** The quantity of items stated above is estimated and MTNL reserves the right to vary the quantity to the extent of -25 % to +25% of specified quantity at the time of award of the contract i.e. APO/ PO without any change in unit price or other terms & conditions.

2. Due Date & time of submission of Bid: Up to schedule date & time of submission.
3. Opening Date & Time : On schedule date & time of Opening.
4. Tender Document Fee : Rs. 2,360/- (Inclusive of 18% GST).
5. The bidder shall furnish the Bid Security declaration as per format provided in Section VIII of tender document (in original) or copy of valid NSIC/ MSE Registration certificate for the tendered items shall be submitted before the scheduled date and time of opening of the bids to DGM (TX-MM), Room No. 355. Kidwai Bhawan, New Delhi-110001 without which the bid shall be rejected summarily, pursuant to Clause 31 (x) Section II of tender document

**A scanned copy of the bid security declaration as per format given in section VIII of tender document/valid NSIC/MSE Registration certificate for the tendered items shall be uploaded along with Techno-Commercial bid.**

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 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, 12.7 and 12.8 of Section-II* of tender document.

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.

6. Intending bidders may download the tender document, which contains full terms and conditions, detailed description, requirement particulars and all other related formalities to be fulfilled by the bidders, from the website <https://eprocure.gov.in/>. The cost of tender document is to be paid **off-line** in the shape of Demand Draft/ Pay order of **Rs. 2,360/-** (Rupees Two Thousand Three Hundred and Sixty only) (inclusive of GST) in favour of Account Officer (Cash) Planning, MTNL, New Delhi before the scheduled date and time of opening of the bids to DGM (TX-MM) MTNL, Room No. 355, Kidwai Bhawan, New Delhi-110001.

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.

**In case of SSI units registered with NSIC, if the value of procurement is more than their monetary limit, they are not entitled to free tender document.**

The scanned copy of the Demand Draft/Pay Order for Tender Document Fee or valid NSIC /MSE Registration certificate for tendered items shall be enclosed by the bidder in its bid and Demand Draft or valid NSIC /MSE Registration certificate for tendered items shall be submitted to DGM (TX-MM) MTNL, Room No. 355, Kidwai Bhawan, New Delhi-110001, before scheduled date and time of opening of the bids **without which, the bid shall be rejected summarily, pursuant to Clause 31 (v) Section II of tender document.**

7. **It is mandatory for all MSE bidders to declare their UAM number on CPPP (Central Public Procurement Portal), failing which such bidders will not be able to enjoy the benefits as per Public Procurement Policy for MSEs order, 2012 for tenders invited electronically through CPPP.**
8. The Techno-Commercial bids shall be opened on the stipulated date and in case of the date falling on any holiday or in case of unforeseen contingencies; the bids shall be opened on the next working day at the same time without any further notice. The Financial bids of only those bidders will be opened on later date whose bids are found to be substantially responsive techno- commercially.
9. MTNL reserves the right to cancel/ reject the tender/bid without assigning any reason.
10. The firm shall give e-mail address in addition to Telephone Numbers and address for correspondence for inclusion in the contract.
11. The tender is covered under the Integrity Pact Programme. The bidders participating in the tender shall sign an MOU with the purchaser as per the MOU document given in **Section-XIV** of the tender document. Details of Independent External Monitors of MTNL are given Below :-

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- I.** Shri Dhirendra Kumar Tyagi, IDSE (Retd).
- II.** Smt. Rashmi Goel, IRAS (Retd.)

The bidders can send their **grievances, if any** to the Independent External Monitors through the nodal officer on the following address:

Sr. Manager (Pers), MTNL, CO  
Nodal Officer- Independent External Monitoring Cell (IEMC)  
6th Floor, Mahanagar Doorsanchar Sadan  
9, CGO Complex, Lodhi Road, New Delhi-110003  
Tel. No. 011-24322529  
Fax No. 011-24325576,  
**E-Mail: [noiemc@bol.net.in](mailto:noiemc@bol.net.in)**

However, bidders may please note that the **general query** on terms & conditions of the tender may please be taken up online with the tendering authority.

12. As per CVC's guidelines/notification Dated 13.01.2017, the vendor will not go to the court till the time the matter/complaint is pending with the IEMs. This CVC Circular may be seen in MTNL website <http://www.mtnl.net.in>

DGM (TX-MM)  
Room No 355, Kidwai Bhawan  
New Delhi-110001  
Ph. No. 011-23311121



**Section-II**

**INSTRUCTIONS TO BIDDERS**

**A. INTRODUCTION**

**1. DEFINITIONS:**

- (i) "The Purchaser" means the Mahanagar Telephone Nigam Limited.
- (ii) "The Bidder" means the individual or firm who participates in this tender and submits its bid.
- (iii) "The Supplier" means the individual or firm supplying the goods/providing services under the contract.
- (iv) "The Goods" means all the stores, machinery, and/or other materials, which the supplier is required to supply/provide to the purchaser under the contract.
- (v) "The Purchaser Order" means the order placed by the Purchaser, after the acceptance of LOI by the supplier, duly signed by the purchaser including all attachments and appendices thereto and all documents incorporated by reference therein. It along with the letter of intent (LOI) and bid documents constitutes the contract.
- (vi) "The Contract Price" means the price payable to the supplier under the purchase order for the full and proper performance of its contractual obligations.
- (vii) The "Letter of Intent" means the intention of purchaser to place the purchase order on the bidder.
- (viii) "Validation" is a process through which the stores/system is tested to ascertain its performance against set standards as per tender specification in MTNL Telecom Network.
- (ix) The term "Contract" means the documents forming the tender and acceptance thereof and the formal agreement enacted between MTNL and the Contractor together with other documents referred to therein including these conditions, the specifications, designs, drawings and instructions issued from time to time by the Engineer-in-charge and all these documents taken together shall be deemed to form one contract and shall be complementary to one another, (and known as "Tendered Documents") which will include the contract herein after referred to.
- (x) "NIGAM" means MTNL i.e. Mahanagar Telephone Nigam Limited, having its registered office at 5<sup>th</sup> Floor, Mahanagar Door Sanchar Sadan, 9, CGO Complex, Lodhi Road, New Delhi-110003 or other Administrative offices authorized to deal on his behalf posted in any of the offices of MTNL and shall include MTNL's successors and assignees.
- (xi) "ED" shall mean the Executive Director of MTNL Delhi.
- (xii) The term 'GST Act' shall include Central Goods and Service Tax Act, 2017 (CGST), State Goods and Service Tax act, 2017 (SGST), Integrated Goods and Service Tax Act, 2017 (IGST), Union Territory Goods and Service Tax act, 2017 (UGST), rules and any other GST related legislations in India.
- (xiii) For the purpose of this agreement, the term 'GST' shall include Central Goods and Service Tax Act, 2017 (CGST), State Goods and Service Tax act, 2017 (SGST), Integrated Goods and Service Tax Act, 2017 (IGST), Union Territory Goods and Service Tax act, 2017 (UGST), and any other taxes levied under the GST related legislations in India, as may be applicable.
- (xiv) MSE (Micro or Small Enterprises) means the firms registered with District Industries Centers or National Small Industries Corporation or Any other body specified by Ministry of MSME.
- (xv) The MSEs owned by SC/ST entrepreneurs shall mean: In case of Proprietary MSE, Proprietor(s) shall be SC/ST, In case of Partnership MSE, the SC/ST partners shall be holding at least 51 % share in the unit and In case of Private Limited Companies, at least 51 % share is held by SC/ST promoters.

Words, term and expressions not specifically defined herein or in tender documents shall have the same meaning assigned to them in the Indian Sale of Goods Act, 1930 or the Indian Contract Act, 1872 or the General Clause Act, 1897 as the case may be. Heads notes are

for convenience purpose only and shall not affect the interpretation or construction of any provision hereof/bid documents.

- (xvi) **PMI (Preference to Make in India):-** Minimum Preference in % (of Total Quantity being procured) for Make In India Telecom Products, Services, Works as notified by DoT.
- (xvii) **Local Content (LC) :-** Minimum Local content as a Percentage of Total Bill of Material (Cost of Production) to qualify as Make in India Telecom Products, Services or works as notified by DoT.
- (xviii) **Class-I local supplier :-** Means a supplier or service provider whose goods, services or works offered for procurement , has local content **equal to or more than 50%** as defined under DPIIT order dated 16.09.2020.
- (xix) **Class-II local supplier:-** Means a supplier or service provider whose goods, services or works offered for procurement, has a local content **more than 20%** as defined under DPIIT order dated 16.09.2020.
- (xx) **Non - local supplier:-** Means a supplier or service provider whose goods, services or works offered for procurement, has a local content **less than or equal to 20%** as defined under DPIIT order dated 16.09.2020.
- (xxi) **Margin of Purchase Preference:-** It is the maximum extent to which the price quoted by a Class-I Local supplier may be above the L-1 price for the purpose of Purchase Preference.

## **2 ELIGIBILITY OF BIDDERS**

**The bidders should meet all the following eligibility conditions:-**

- 2.1 The eligible bidders should be Indian companies registered to manufacture the tendered item (Managed LAN Switches) in India, or suppliers duly authorized by the original equipment manufacturers (OEM), having obtained clearance from Reserve Bank of India wherever applicable. **A copy of MOU agreement with OEM is required to be submitted along with the bid.**

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.

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.

The bidders having adequate financial strength and in addition meeting the following conditions shall be eligible.

*Only one Bid from each OEM of tendered item should be submitted. In case multiple bids from same OEMs are submitted, then all such bids will be rejected summarily."*

- 2.2(i) The bidders should submit an undertaking that the equipment supplied (tendered items) shall conform the Technical Specifications as specified in Section VI Technical Specifications of Tender Document.
- (ii) The bidder OR its parent company OR its MOU partner should have successfully executed educational/commercial order issued by BSNL/BBNL/MTNL in respect of "Tendered Items" (**Managed LAN Switches**). As a proof of having executed educational/ commercial order issued by MTNL/ BSNL/BBNL in respect of "Tendered Items" (**Managed LAN Switches**), the bidder should submit:

**At least one IC for supply of at least 140 nos. of any type of Managed LAN Switches from QA wing of BSNL/MTNL issued to the bidder OR its parent company OR its MOU partner during the period from 01.04.2017 to the last date submission of bid.**

**or**

The bidder OR its parent company OR its MOU partner should have successfully executed educational/ commercial order issued by any other Telecom Service Provider/ Government Department/ PSU in respect of "Tendered Items" (**Managed LAN Switches**). As a proof of having executed educational/ commercial order issued by any other telecom service provider/ Government Department/ PSU in respect of "Tendered Items" (**Managed LAN Switches**), the bidder should submit a certificate **issued to the bidder OR its parent company OR its**

**MOU partner** from PO issuing authority/Acknowledged Delivery Challan/Taken over Certificate/Bill Copy Payable Challan (BCPC) along with the bid for supply of at least **140 Nos. of any type of Managed LAN Switches as per Technical Specifications specified in Section VI of Tender Document or against Technical Specifications of any tender floated by BSNL/BBNL for the tendered items (Managed LAN Switches)** from QA wing of BSNL/ MTNL issued during the period commencing from **01.04.2017** to the last date of submission of the bid.

- 2.3 The bidder should have average annual turnover of **Rs.40,44,600/-** (Rupees Forty Lakh Forty Four Thousand and Six Hundred) **only** during the year 2017-18, 2018-19 & 2019-20 and submit duly attested copy of audited (if applicable) balance sheet with P & L account or Annual Report indicating annual turnover for the financial year 2017-18, 2018-19 & 2019-20.
- 2.4 **In case of all Startup bidders {whether Micro & Small Enterprises, (MSEs)}, the experience and turnover criteria as per clause 2.2(ii) and 2.3 above will not be applicable. The bidder has to submit the copy of valid registration certificate of the firm as a Start-up firm with DIPP (Department of Industrial Policy & Promotion).**
- 2.5 **Preference to Make in India:**
- 2.5.1 As notified by Dept. of Telecom through office Memorandum dated 29.08.2018 i.r.o Public Procurement (Preference to Make in India) Order 2017- Identification of Telecom Products, Services or works reg, sufficient local capacity and local competition are available for the tendered item of Managed LAN Switches. Accordingly, as per the clause 3(a) of DPIIT order dated 16.09.2020, **only class-I local supplier as defined above shall be eligible to bid.**
- 2.5.2 The Preference to Make in India (PMI) shall be 50% with required local content of at least 60% for the tendered items i.e. the 50% quantity is reserved for local suppliers who fulfill the PMI (Preference to Make in India) criteria notified by the Govt. of India.
- 2.5.3 The Margin of Purchase Preference shall be 20%, The purchase preference shall be given to only class-I local suppliers, however, class-II local suppliers will not get any purchase preference.
- 2.5.4 The local suppliers, at the time of bidding or solicitation shall be required to indicate % of local content and **provide self-certification in the format given in Section-XIV** that the items offered meets the local content requirement as per DoT notification. They shall also give details of the locations at which local value addition is made.
- 2.5.5 In compliance to Public Procurement ( Preference to Make in India), Order 2017 dated 16.09.2020 issued by DPITT ( Clause 10d- reciprocity clause) & DoT notification dated 19.02.2020, any foreign Govt. which is not allowing Indian suppliers to participate and /or compete in procurement of tendered telecom equipment, the bidders from those country(ies) are not allowed to participate in this tender.
- 2.6 **Pursuant to Office Memorandum No 6/18/2019-PPD, Dated 23.07.2020 issued by Dept. of expenditure i.r.o. Insertion of rule 144 (xi) in the General Financial Rule (GFR) 2017, following provisions shall be applicable in this tender:-**
- 2.6.1 Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the competent authority as per the said Memorandum.
- 2.6.2 **‘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.
- 2.6.3 **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.

**2.6.4 The beneficial owner for the purpose of 2.6.3 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 percent 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 of 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 of 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 ;
  - V. 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 .
  - VI. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
  - VII. 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.
- 2.6.5 In respect of para **2.6.1 to 2.6.4 above**, bidders are required to submit a certificate/undertaking in the following format:-

**"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/s .....is 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".**

**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 DOCUMENT:****4. BID DOCUMENT:**

- 4.1 The goods required to be supplied; bidding procedures and contract terms & conditions are prescribed in the bid document. The bid document include: -

Sl. NO.	Title	Section	Page No.
<b>1</b>	<b>Check List</b>	Annexure-“A”	<b>3-5</b>
<b>2</b>	Notice Inviting Tender (NIT)	I	<b>6-8</b>
<b>3</b>	Instructions to bidders	II	<b>9-23</b>
<b>4</b>	General (Commercial) conditions of contract	III	<b>24-36</b>
<b>5</b>	Special conditions of contract	IV	<b>37-39</b>
<b>6.</b>	Agreement with regard to Security Requirements	IV-A	<b>40-67</b>
<b>7.</b>	Annual Maintenance Contract	IV-B	<b>68-82</b>
<b>8</b>	Schedule of requirements	V	<b>83</b>
<b>9</b>	Technical Specifications	VI	<b>84-86</b>
<b>Part A : Techno-Commercial Bid</b>			<b>87</b>
<b>10</b>	Form ‘A’	VII	<b>88</b>
<b>11</b>	Performa for Bid security Declaration	VIII	<b>89</b>
<b>12</b>	Letter of Authorization for Attending Bid Opening	IX	<b>90</b>
<b>13</b>	Clause by Clause Compliance and Declaration of Deviation Certificate	Annexure -‘B’	<b>91</b>
<b>14</b>	Close Relative Declaration	Annexure -‘C’	<b>92</b>
<b>15</b>	Declaration regarding Black listing	Annexure –‘D’	<b>93</b>
<b>16</b>	Un priced Financial Bid- Bid form and Price Schedule	Annexure-E (1/2 & 2/2)	<b>94-95</b>
<b>17</b>	Certificate that all the pages of bid and enclosures are serially numbered in print form	Annexure –‘F’	<b>96</b>
<b>Part B: Financial Bid</b>			<b>97</b>
<b>18</b>	Bid Form and Price Schedule	X	<b>98-102</b>
<b>19</b>	Electronic Clearing Service (Model Mandate Form)	Annexure-I	<b>103</b>
<b>Part C: Document to be submitted at the time of award of work.</b>			<b>104</b>
<b>20</b>	Performa for Performance Bank Guarantee	XI	<b>105</b>
<b>21</b>	Additional Bank Guarantee Bond	XI-A	<b>106</b>
<b>22</b>	Agreement Performa	XII	<b>107-108</b>
<b>23</b>	Warranty Certificate	XIII	<b>109</b>
<b>24</b>	Format for Self-Certification regarding local content	XIV	<b>110</b>
<b>25</b>	Guidelines of MTNL on banning of Business dealings	XV	<b>111-115</b>
<b>26</b>	MOU for Integrity Pact	XVI	<b>116-118</b>
<b>Part D:</b>	Special Instructions to Bidders for e-Tendering		<b>119-120</b>

- 4.2 The Bidder is expected to examine all instructions, forms, terms and conditions in the Bid Document. Failure to furnish, complete information required as per the bid document or submission of bids not substantially responsive to the bid document 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 of the bid documents may notify the purchaser on-line by using E-Procurement site. The purchaser shall respond in writing to any request for clarification of the bid documents, which is received not later than 10 days prior to the date of opening of the tender. However, the Purchaser reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing contained herein shall be

taken or read as compelling or requiring the Purchaser to respond to any question or to provide any clarification. Copies of the query (without identifying the source) and clarifications by the purchaser shall be posted on NIC e-procurement website <https://eprocure.gov.in/> for information of all the prospective bidders.

- 5.2 Any clarification issued by MTNL New Delhi 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 NIC e-procurement website <https://eprocure.gov.in/> 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. It is necessary for the bidders to go through the Special Instructions for bidders for e-Tendering given at the end of this tender document.**

## **6. AMENDMENT OF BID DOCUMENTS**

- 6.1 At any time, prior to the date of submission of bids, the purchaser may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective bidder, modify the bid document by amendments.
- 6.2 The amendments shall be displayed on NIC e-procurement website <https://eprocure.gov.in/> and these amendments will be binding on all the bidders.
- 6.3 In order to afford prospective bidders reasonable time in which to take the amendments into account in preparing their bids, the purchaser may, at its discretion, extend the deadline for the 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:

#### **(i) Techno-Commercial Bid.**

- (a) Documentary evidence establishing in accordance with Clause 2 & 10 indicating that the bidder is eligible to bid and is qualified to perform the contract if his bid is accepted.
- (b) **Bid Security** declaration furnished in accordance with Clause-12, Section II
- (c) A Clause-by-Clause compliance of the goods/services offered as per Clause 11.2 (c).
- (d) A copy of un-priced financial bid form Annexure-E (1/2) and un-priced price schedule Annexure-E (2/2) must be enclosed with Techno-Commercial bid.
- (e) Electronic Clearing Service Model Mandate Form as per Annexure-I.
- (f) Self certification as per clause 2.5.4 in the format given in Annex-XIV

#### **(ii) Financial Bid:**

- (a) A bid form and price schedule completed in accordance with Clauses 8 and 9.

### **7.2 LANGUAGE OF THE 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 purchaser shall not be responsible for any loss/likely 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:**

The bidder shall complete the Bid form and the appropriate price schedule in the format furnished in the bid documents, indicating the goods to be supplied, a brief description of the goods, quantity and prices.

**9.0 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-X** 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 30<sup>th</sup> 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) Article or Memorandum of Association or partnership deed or proprietorship deed, as the case may be, **along with subsequent amendments etc., if there was /were changes in the constitution of board, partners or proprietors.**
- (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/ MSE Registration certificate for the tendered item (Managed LAN Switches). In case bidding MSE is owned by Schedule Caste or Schedule Tribe entrepreneur, valid documentary evidence issued by Appropriate Authority should also be enclosed. In case of SSI units registered with NSIC, the Registration certificate should clearly indicate the monetary limit, if any and the items for which bidder are registered.
- (vi) In case of supply made to BSNL/MTNL/BBNL, at least one Inspection Certificate (IC) for at least **140 Nos. of any type of Managed LAN Switches under as specified in Section VI Technical Specifications of Tender Document or against Technical Specifications of any tender floated by BSNL/BBNL for the tendered items (Managed LAN Switches)** from QA wing of BSNL/ MTNL issued during the period commencing from 01.04.2017 to the last date of submission of the bid.

or

In case of supply made to any other Telecom Service Provider/ Government Department/ PSU, a certificate from the PO issuing authority for supply of at least **140 Nos. of any type of Managed LAN Switches as per Technical specifications** as specified in Section VI (Technical Specifications) of tender document **or against Technical Specifications of any tender floated by BSNL/BBNL for the tendered items (Managed LAN Switches)** during the period commencing from 01.04.2017 to the last date of submission of the bid.

- (vii) The bidder should submit an undertaking that material supplied shall confirm to the specifications mentioned in Section-VI (technical Specification) of the tender document.
- (viii) 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. A self-declaration along with the evidence that the bidder is not black listed by GST or erstwhile indirect tax authorities.
- (ix) In case the supplier gets blacklisted 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.
- (x) 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 crosses the specified annual limit under GST Act) 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.
- (xi) Valid PAN.
- (xii) **General Power of Attorney** in favour of the signatory in case of Partnership firm/ Registered company/ Proprietorship firms **duly notarized** given by all partners in case of Partnership firm, by the Resolution of the Board given by authorized director(s) in case of company and the proprietor in case of proprietorship firm. Bidders are expected to submit sufficient relevant papers so that MTNL can verify the changes etc. (if any).
- (xiii) Bid Security details and mode of submission of BID SECURITY.
- (xiv) ISO Certificate (If available)
- (xv) A duly attested copy of **audited balance sheet** (if applicable) along with **Profit & Loss account** or annual report indicating required turnover for the financial year **2017-18 , 2018-19 & 2019-20** as per Clause 2.3 Section II.
- (xvi) An undertaking by the OEM that "The equipment being procured must be supported for minimum 9 year post warranty period and will extend the AMC support to MTNL beyond 10 year if OEM is supporting such equipment anywhere globally".
- (xvii) Documentary evidence of the bidder being an authorized dealer/ distributor of product manufacturing firm. The dealership/ distributorship should be valid as on the date of submission of bid and continue to remain valid throughout the currency of P.O issued under this tender.



- (xx) **Near Relative Declaration as per Annexure 'C', by Proprietor of the firm in case of Proprietorship firm/all partners in case of Partnership firm/all Directors of the firm in case of a company** in accordance with *clause 34*.
  - (xxi) List of all Directors including their name(s), Director Identification Number(s) (DIN) and address (es) along with contact telephone numbers of office and residence.
  - (xxii) **Copy of valid registration certificate of the firm as a Start-up firm with DIPP (Department of Industrial Policy & Promotion), in case of a Start -up firm.**
  - (xxiii) The tender is covered under the Integrity Pact Programme. The bidders participating in the tender shall sign an MOU with the Purchaser as per the MOU document given in Section XVI of the tender document.
- 10.2(i) The bidder shall furnish documentary evidence that he has the financial, technical and production capability necessary to perform the contract details to be submitted as per **"Form A"**.
- (ii) The bidder shall furnish documentary proof of classification of Enterprise into MICRO, SMALL and MEDIUM Enterprises vide Central Government notification No. So 1642 (E) dated 29.09.2006.

**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 document of all goods and services, which he proposes to provide 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 as per **Annexure-B** on the purchaser's technical specification and commercial conditions demonstrating substantial responsiveness to the purchaser's technical specification and commercial condition shall be given. In case of deviations, a statement of deviations and exceptions to the provisions 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) and commercial conditions (Section-III) and special conditions (Section-IV) shall not be considered.**
- 11.3 For purposes of compliance to be furnished, pursuant to Clause 11.2 (c) above, the bidder shall note that the standards for workmanship, material & stores and reference to 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 a part of his bid, EMD/ bid security declaration as per format given in section VIII of tender document or **valid NSIC/MSME Registration certificate for the tendered items (quoted for) shall be uploaded along with bid.**

The bidders who are registered with National Small 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 copy of valid current registration certificate with NSIC for the TENDERED ITEMS/Work will have to be attached along with the bid.

The MSE (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/work will have to be attached along with 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 bid security declaration/valid NSIC/ MSME registration certificate shall be enclosed by the bidder in its bid and Bid security declaration (in Original) /valid NSIC/ MSME registration certificate shall be submitted to DGM (TX-MM), MTNL Room No 355, Kidwai Bhawan, New Delhi-110001, before scheduled date and time of opening of the bids.

- 12.2 The bid security **Declaration** is required to protect the purchaser against the risk of bidder's conduct, which would warrant the action as per **Section-VIII**
- 12.3 The bid security declaration shall be in the form of **Section-VIII** 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 If the bidder fails to comply the conditions of bid security declaration as per **Section-VIII**, they will not be eligible to participate in the MTNL tender for any item / product for one year from the date of issue of APO/LOI. The bidder will not approach the court against the decision of MTNL in this regard.
- 12.6 The bidder will not be eligible to participate in the MTNL tender for any item/work for one year from the date of issue of LOI/APO
  - (a) If any case of false statement and / or submission of false / tampered / manipulated document by the Bidder are detected.  
Or
  - (b) In case of cartelization.  
Or
  - (c) In case the bidder makes breach of condition mentioned in Clause 34 Section II.  
Or
  - (d) If the bidder withdraws his bid during the period of bid validity specified by the bidder in the Bid form  
Or
  - (e) In the case of successful bidder, if the bidder fails:
    - (i) to sign the contract in accordance with Clause 28 or  
Or
    - (ii) to furnish performance security in accordance with Clause 27.
  - (f) (i) In all of the above cases, i.e. 12.6 (a) to 12.6 (e), the bidder will not be eligible to participate in the MTNL tender for any item/work for one year from the date of issue of LOI/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 registered with NSIC/MSME bodies, in addition to the action as mentioned under (f)(i) above, such bidder will also be deprived of exemption in Tender fee and exemption from payment of Performance Security deposit for next one year after they become eligible to participate in MTNL tenders.**

### **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 pursuant to Clause 31 (vii) Section II.**
- 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 declaration 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 bid and original power of attorney shall be submitted with the Bid Security declaration to DGM (TX-MM) MTNL, Room No.355, Kidwai Bhawan New Delhi before scheduled date and time of opening of the bids.**

**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 online after logging on to the NIC e-procurement website <https://eprocure.gov.in/> or at MTNL premises along with letter of authorization for attending bid opening.

**16. SUBMISSION OF BIDS:**

16.1 Bids must be received by the purchaser not later than the date and time specified in NIT.

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 subject 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 items 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 Bids must be submitted on line on e-procurement portal of NIC on <https://eprocure.gov.in/> within specified scheduled date and time.

**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 may 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 will open bids at due date and time. 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 bidder/ representative 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.

**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 online. However, no post bid clarification at the initiative of the bidder shall be entertained.

**21. PRELIMINARY EVALUATION:**

21.1 The 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.

21.2 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.

21.3 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.

21.4 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 confirm 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.

21.5 **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.**

21.6 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.

21.7 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 Package Cost to MTNL including AMC charges (as given in Column No. 5 of Table-4 of the bid document, Price Schedule of Section-X Part-II), excluding GST Credit-eligible amount.

22.3 **Evaluation will be done on the basis of** Net Package Cost to MTNL including AMC charges and work will be awarded **to L-1 bidder(s).**

**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 influence the purchaser in the purchaser's bid evaluation, bid comparison or contract award decisions may result in the rejection of the bid.**

**F AWARD OF CONTRACT:**

**24. PLACEMENT OF ORDER**

## **T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

- 24.1 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.
- 24.2 The MTNL shall have the sole discretion in deciding the distribution of quantity among the technically, commercially and financially eligible bidders based on the merit of each case.
- 24.3 The Preference to Make in India (PMI) shall be 50% with required local content of at least 60% for the tendered items **i.e. the 50% quantity is reserved for class-I local suppliers who fulfill the PMI (Preference to Make In India) criteria notified by the Govt. of India/DoT.**
- 24.4 Among all qualified bids, the lowest bid will be termed as L-1 and if L-1 is a local supplier, the contract for full quantity will be awarded to L-1.
- 24.5 **In the instant case, work will be awarded 100% in quantity to 'Class-I local supplier'**
- 24.6 Further, MTNL reserves the right to negotiate the price against price(s) quoted by L-1 Bidder prior to award of contract/Purchase Order
- 24.7 All the bidders are required to submit their bids for the complete tendered quantity as per schedule of requirement (section-V)
- 24.8 In case during evaluation, there are more than one eligible bidder at any position then the ranking of all the bidders shall be re-casted and re-determined first by the lowest quoted rate and then by the maximum average turnover of the firm during the financial years 2017-18, 2018-19 and 2019-20
- 24.9(a) Any attempt of cartelisation will be very seriously viewed and any such move, of which MTNL will be the Sole Judge, shall entail summary disqualification of the bidders concerned, and they shall be debarred from future participation in MTNL tenders for any item/product for one year..
- (b) MTNL reserves the right to call for quotations from non- tenderers and decides the award of contract in terms of the Purchase Policy.

## **25 PURCHASER'S RIGHT TO VARY QUANTITIES**

- a. MTNL will have the right to increase or decrease up to 25% of the value 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. In exceptional situation where the requirement is of an emergent nature and it is necessary to ensure continued supplies from the existing vendors, the purchaser reserves the right to place repeat order up to 50% of the value of the goods and services contained in the running tender / contract up to a period of Twelve months from the date of acceptance of APO of the items procured at the same rate or a rate negotiated (downwardly) with the existing vendors considering the reasonability of the rates based on prevailing market conditions and the impact of reduction in duties and taxes etc.
- c. Further, if required, an additional order for 50% of the value of goods & services limited to 100% of the value of goods and services contained in the running tender / contract may be placed within a period of twelve months from the date of acceptance of APO of the items procured on the existing vendors at the same rate or a rate negotiated (downwardly) considering the reasonability of rates based on prevailing market conditions and the impact of reduction in duties and taxes. etc.(with the approval of the Board).

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

- 26.1 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 to contract without assigning any reasons whatsoever and without thereby incurring any liability to the affected bidder or bidders on the grounds for the purchaser's action.

**27. ISSUE OF LETTER OF INTENT (LOI)/ ADVANCE PURCHASE ORDER (APO).**

- 27.1 The issue of Letter of Intent/ 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 advance purchase order, give his acceptance along with Performance Security in conformity with the Section-XI provided with the bid documents. The Purchase Order shall be issued on the receipt of acceptance of APO along with required performance security.

**28. SIGNING OF THE CONTRACT:**

- 28.1 The issue of Purchase order on the receipt of acceptance of APO/LOI along with performance security shall constitute the award of contract to the bidder.
- 28.2 Upon the successful bidder furnishing the performance security pursuant to *Clause 27*, the purchaser shall discharge its bid security pursuant to *Clause 12*.

**29. ANNULMENT OF LETTER OF INTENT:**

Failure of the successful bidder to comply with the requirement of Clause 28 shall constitute sufficient ground for the annulment of the acceptance of the bid and they shall be debarred from future participation in MTNL tenders for any item/product for one year in which event the purchaser may make the offer 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 stores.
- 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 Any one or more of the following actions / omissions shall result into outright rejection of bid.**

- (i) Any bid, unless exempted specifically, not accompanied by required Bid Security declaration.
- (i) Any effort by a bidder to influence the purchaser in the bids evaluation, bid's comparison or contract award decision or cartelization may also result in rejection of the bid.
- (ii) Any bid without an undertaking that the equipment supplied (tendered items) shall confirm the Technical Specifications as specified in Section VI Technical Specifications of Tender Document.
- (iii) Any bid in which rates have not been quoted in accordance with specified formats/ details as specified in Tender Document.

- (iv) Any bid received without DD/ Pay Order towards the tender cost, unless exempted specifically.
  - (v) Any conditional bid.
  - (vi) Any bid with shorter validity period.
  - (vii) Non submission of Clause-by-Clause compliance as per format given in Annexure-B.
  - (viii) Non submission of Experience certificate as required vide *Clause 2.2 (ii)* Section-II, unless exempted specifically.
  - (ix) Before outright Rejection of Bid by Bid opening team for Non Compliance of any of the provisions mentioned in *Clause (i)* above and *Clause 2(ii)* Section-IV of tender document 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.
- 32.** Purchaser reserves the right to disqualify the supplier for a suitable period who habitually failed to supply the store in time. Further, the suppliers whose store does 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 honor his bid without sufficient grounds.
- 34. Near/close 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 they shall be debarred from future participation in MTNL tenders for any item/product for one year 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 is given at Annexure-'C'.**
- 35** Bidder shall give a declaration regarding Blacklisted, banned or debarred in the format given at **Annexure-'D'**.
- 36** **Bidders are here by cautioned that any attempt for cartel formation** will be viewed seriously and may at the discretions of purchaser, leads to cancellation of tender. Purchaser in its sole discretion may decide to debar from future participation in MTNL tenders for any item/product for one year of such bidders and blacklisting or debarring them besides taking other punitive measures. Decision of purchaser in this regard shall be final and binding.
- 37.** All communication sent to the last known postal address of the supplier shall be deemed to be delivered to him. So, if there is any change in address, the supplier should immediately intimate it to DGM (TX-MM), Room No.355, Kidwai Bhawan MTNL New Delhi.

**NOTE:** The signatory should not affect any variation in the text of declaration. Declaration in any other form shall not be acceptable and render the tenderer for penal action as decided by MTNL.

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Section-III

GENERAL (COMMERCIAL) CONDITIONS OF CONTRACT

1. **APPLICATION:**

The general conditions shall apply in all contracts, made by the purchaser for the procurement of goods.

2. **STANDARDS:**

The goods supplied under this contract shall conform to the standards mentioned in the technical specifications mentioned in Section-VI.

3. **PATENT RIGHTS:**

The supplier shall indemnify the purchaser against all third-party claims/actions 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:**

4.1 The supplier shall furnish performance security to the purchaser for an amount equal to **3%** of the values of purchase order within 14 days from the date of issue of LOI/ APO 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 latest valid registration with NSIC for the TENDERED ITEMS (quoted for) will have to be attached along with the bid.

4.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from 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 an invoice / debit note to vendor against such adjusted amount plus applicable GST. Such credit/debit note shall be issued before September 30<sup>th</sup> of following end of financial year in which such supply was made.

4.3 PBG shall be normally valid to cover the contract period, any D.P. Extension, warranty period and another six months to facilitate issuance of NOC from the consignee. The PBG shall be liable to be released to the supplier after NOC is issued and consignee shall be responsible to issue instructions for withholding of PBG if required before expiry of the period. **In the instant case PBG should be valid for two years.**

4.4 The Performance Security Bond shall be in the form of a Bank Guarantee in favour of **A.O. (Cash) Planning, MTNL, Delhi**, issued by a Scheduled Bank and in the form provided in Section-XI of this bid document.

4.5 The Performance Security will be discharged by the purchaser after completion of the supplier's performance obligations within a period of six months of the successful completion of warranty period, unless there are specific instructions from the consignee not to release the Bank Guarantee due to the reasons on record.

4.6 MTNL shall not be liable to pay any interest on security money deposit.

4.7 The security deposit shall be adjusted against any other penalty or liquidated damages, which may arise out of the contract.

4.8 Exemption from the payment of the security deposit will not be allowed under any circumstances, unless exempted specifically.

5. **EXECUTION OF TIME LIMIT:**

The time period as stipulated in the contract or LOI /APO shall be deemed to be the essence of the contract.



**6. INSPECTIONS AND TESTS:**

- 6.1 The purchaser or his representative shall have the right to inspect and test the goods for their conformity to the specifications. The technical specifications shall specify what inspections and tests the purchaser requires and where they are to be conducted. Where the purchaser decides to conduct such tests on the premises of the supplier or its sub-contractor(s) all reasonable facilities and assistance like, testing instruments and other test gadgets including access to drawings and production data shall be furnished to the inspectors at no charge to the purchaser.
- 6.2 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.
- 6.3 Notwithstanding the pre-supply tests and inspections prescribed in Clause 6.1 to 6.2 above, the stores and accessories on receipt in the purchaser's premises will also be tested during and after installation before "take over" and if any stores or part thereof are found defective, the same shall be replaced free of all costs to the purchaser as laid down in Clause 6.4 below.
- 6.4 If any stores/equipment or any part thereof, before it is taken over under Clause 6.5 be 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 stores 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 the stipulated time, the purchaser reserves the discretion to reject and replace at the cost of the supplier the whole or any portion of the stores 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.
- 6.5 When all 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 stores, 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 month. The taking over certificate shall be issued by the ultimate consignee within six weeks after successful completion of tests.
- 6.6 Nothing in Clause 6 shall in any case, release the supplier from any warranty or other obligations under this contract.
- 6.7 Inspection and testing shall be as per provisions in the Technical Specifications.
- 6.8 Unless specified otherwise **Inspecting authority** shall be MTNL as per Clause 6.1 or any other agency authorised by MTNL. Inspecting authority shall be prescribed in Purchase order.
- 6.9 **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 GST. BSNL QA shall issue a receipt in the name of MTNL for the testing charges clearly mentioning the details of P.O., 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.

**7. DELIVERY AND DOCUMENTS:**

- (i) Delivery of the goods and documents shall be made by the supplier in accordance with the terms & conditions 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 goods shall be to the ultimate consignee as given in the purchase order.

- (ii) The delivery of the goods shall commence as specified and be completed within time schedule specified in "Schedule of Requirements" and this shall be the essence of the contract.
- (iii) In case of delayed supplies after delivery period, the advantage of reduction of taxes/duties shall be passed on the purchaser and no benefit of increase will be permitted to the suppliers.
- (iv) All technical assistance for Installation, Commissioning & Monitoring of the equipments shall be provided by the supplier at no extra cost to MTNL, during the laboratory evaluation, validation/ Type Approval & Field Trial, if any.

**7.2 Irrespective of the mode of transport, the date of receipt by the consignee at site as indicated in the Purchase Order shall be treated as date of delivery.**

**7.3 TRAINING**

- (i) The bidder shall provide training for installation and maintenance staff of the purchaser free of cost where required.
- (ii) The bidder shall provide all training material and documents.
- (iii) 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. PAYMENT TERMS:**

- 9.1(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 along with 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 9.1(i)* mentioned above.

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

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- (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.
- (viii) Bank details for payment through ECS / e-Payment:

- 1) Name of the beneficiary,
- 2) Name of the beneficiary bank,
- 3) Beneficiary Account Number,
- 4) IFSC Code,
- 5) Branch Code,
- 6) Beneficiary Address
- 7) Beneficiary Mobile Number,
- 8) Beneficiary E-Mail ID.

- 9.3(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)
  - (ix) The payment for AMC shall be made on three monthly (quarterly) basis in arrears after successful execution of the work in the previous quarter under AMC agreement.

**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.

**10. PRICES:**

10.1(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 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 Column 14 of the Price Schedule in Section-X Part-II, Table-1 or Column 16 of the Price Schedule in Section-X Part-II, Table-2 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.

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

**11. CHANGE IN PURCHASE ORDERS:**

11.1 The purchaser may, at any time, by a written order given to the supplier, make change within the general scope of the contract in any one of more of the following:

- (a) Drawing, designs or specifications, where Goods to be supplied under the contract are to be specifically manufactured for the purchaser;
- (b) The method of transportation or packing;
- (c) The place of delivery, or
- (d) The services to be provided by the supplier.

11.2 If any such change causes an increase or decrease in the cost 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.

**12. SUB-CONTRACTS:**

- 11.1 The bidder/ supplier cannot assign/ transfer and sub-contracts its interests/obligations under the contract without the prior written permission of the purchaser.
- 11.2 The supplier shall notify the purchaser in writing of all sub-contracts 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.

**13. DELAYS IN THE SUPPLIER'S PERFORMANCE:**

- 13.1 Delivery of the goods and performance of 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, purchasers reserves the right either to short close/ cancel this purchase order and/ or recover liquidated damages. 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 & cost of the defaulting vendors.
- 13.2 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 penalty and/ or termination of the contract for default.
- 13.3 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 for performance of the contract **subject to furnishing of additional bank guarantee in the format provided in Section – XI (A) by the supplier @ 5% of the total value of the purchase order.**
- 13.4 The vendor has to submit their request for extension along with the required additional BG, undertaking as per *Clause 25* Section-III (FALL CLAUSE). The decision regarding extension shall be communicated within two weeks of the receipt of request.
- 13.5 The **initial validity of additional bank guarantee shall be one year for supply of goods.** The validity of bank guarantee may be extended if required.
- 13.6 **The additional bank guarantee shall be released after three months from the date on which the equipment/ store is supplied.**
- 13.7 If the supplies are not completed in the extended delivery period, the purchase order shall be short closed and performance security and additional Bank guarantee shall be forfeited.
- 14. LIQUIDATED DAMAGES/PENALTY:** 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.
  - 14.1 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 14.2* below.
  - 14.2 While granting extension of delivery period as per *Clause 13*, 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 fails to install and Commissioning the project within the stipulated time, the purchaser shall be entitled to recover Liquidated Damages, at the rate of 0.5 % of the value of the Purchase order for each week of delay or part thereof or a period up to 10 (TEN) weeks and thereafter at the rate of 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.
- (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 14.2* above.
- 14.3 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.
- 14.4.1 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.
- 14.4.2 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.

**15. FORCE MAJEURE:**

- 15.1 If at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligations under this contract is prevented or delayed by reason of any war, or hostility, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts or acts of God (herein after referred to as events) provided notice of happenings, of any such eventuality is given by the 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 MTNL 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 reason of any such event for a period exceeding 60 days either party may, at its option, terminate the contract.
- 15.2 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 manufacturer which may be in possession of the supplier at the time of the 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 concurrence of the purchaser elect to retain.

**16. TERMINATION FOR DEFAULT:**

- 16.1 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 13*.
  - (b) If the supplier fails to perform any 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 long period as the purchaser may authorised in writing) after receipt of the default notice from the purchaser.
- 16.2 In the event the purchaser terminates the contract in whole or in part, pursuant to para 16.1 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 performance of the contract to the extent not terminated. The purchaser may, without its other rights under law or the contract provided elsewhere, purchase the balance quantity of the goods at the payments thereof and can also claim a set off of any dues payable under the contract to the supplier against his any dues under the contract or any previous contract.
- 16.3 Firms registered with NSIC shall note that in case they fail to supply the ordered quantity within the stipulated delivery period or extended period as the case may be, their performance will be noted in the performance register of MTNL and also shall be notified to NSIC besides taking recourse to other circle & criminal and other rights and also other punitive measures.

**17. 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 unwilling, 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.

**18. 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/CMD, MTNL or any other officer on his behalf. In case, the office of ED Delhi/CMD, MTNL becomes non-existent due to restructuring or any other reason whatsoever, the officer who shall look after the works of ED Delhi/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.
- (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

**18.1 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".

**19. SUBJECT LAWS & JURISDICTION:**

The Contract shall be governed by Indian Laws and the Courts at Delhi will have jurisdiction to entertain any dispute or claim arising on the contract.



- 20. THE PURCHASE ORDER WHEN ISSUED TO THE SUCCESSFUL BIDDER CONSTITUTES THE CONTRACT.**
- The Purchase order when issued to the successful bidder constitutes the contract with collateral support from NIT terms and conditions as well as formal agreement on stamped paper affixed with non judicial stamps, all of which finally form the contractual obligations to be adhered to, be performed by the bidder and the non performance of any or all of such obligations make the contractor liable for consequential effects.
- 21. SET OFF:**
- Any sum of money due and payable to the Supplier (including Security Deposit / PBG 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 i.e. 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. PROTECTIVE CLAUSE:**
- MTNL, New Delhi reserves the right to disqualify such bidders who have a record of not meeting the contractual obligation against contracts entered into with MTNL.
- (i) Purchaser has the power to alter the time of submission of the bids and opening of the bids at his discretion.
  - (ii) Purchaser has got the power to modify, alter any terms & conditions as long as they are uniformly applied to all.
  - (iii) Negotiations shall be carried out with L-1, bidder only, if necessary, based on merits and circumstances.
- 23. WARRANTY**
- 23.1** 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 stores, inadequate quantity of material to meet stores 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) **12 (twelve) months** after the stores have been taken over.
- 23.2** If it becomes necessary for the Supplier to replace or renew any defective portion(s) of the stores under this Clause, the provisions of the Clause mentioned in the tender document shall apply to the portion(s) of the stores so replaced or renewed or until the end of the above mentioned period of **12 (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.
- 23.3** Replacement under warranty Clause shall be made by the supplier free of all charges at site including freight, insurance and other incidental charges.
- 24.** The bidder should furnish the name of his collaborator (if applicable), brand name, model no. and 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. No change in either technology or product shall be permitted after opening of bids.

**25. FALL CLAUSE**

25.1 The prices will be governed as per provisions in Clause 10.1 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/store/ service;

And/Or

- (b) The prices received in a new tender for the same or similar equipment/ store/services 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.

25.2(a) The vendor while applying for extension of time for delivery of equipment/ store/ 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/store/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 25.2(a) above 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.

**26. 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 30<sup>th</sup> 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"

**27. 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 mismatch.
  - (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 28* shall be applicable to ensure that no loss of credit is borne by MTNL due to a default of supplier.

**28. 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.

**29. 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. One (1) year for goods held as stock and Three (3) years for capital goods.

**30. 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.

31. Courts at Delhi/New Delhi will only have jurisdiction to entertain any dispute/claim arising out of this tender.

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Section-IV

**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 or valid NSIC/MSE certificate as prescribed in *Clauses 12.1 & 12.3* of Section II of the bid document shall be submitted to DGM (TX-MM), Room No. 355, Kidwai Bhawan, New Delhi-110001 before scheduled date & time of opening of bids. The bank guarantee declaration 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** pursuant to **Clause 31 (x)** Section II.  
(iii) Bids along with required documents shall be submitted on-line before the due date and time of submission of the bids. Bidders are advised to familiarize themselves adequately with the NIC e-procurement website <https://eprocure.gov.in/>, well in advance, to avoid last minute technical glitches/errors preventing successful uploading of bid within specified time frame.  
(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) under single point registration scheme for the tendered item (Managed LAN Switches) **or** MSEs registered with any other Appropriate Authority under Ministry of MSME, for the tendered item (Managed LAN Switches) and desirous of claiming concessions available to such units inclusive of bid security should submit their latest valid NSIC/MSE certificates. The NSIC Certificate shall clearly indicate the monetary limit and financial capability of the bidder.
4. (i) Supplies shall be accepted only after **Quality Assurance tests (QA)** are carried out by Inspecting Authority as mentioned in the P.O. as per prescribed schedule and material passing the test successfully and after authenticated by appropriated authority.  
(ii) The inspecting authority 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.
5. 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.
6. Technical bid shall be opened and examined first and if found suitable than financial bids of only techno-commercially eligible bidders shall be opened on later date.
7. A copy of un-priced price bid Annexure-E(1/2) and un-priced price schedule Annexure-E(2/2) should form part of techno- commercial bid.
8. **The bidder should quote for 100% quantity of the tendered items.**
9. Purchaser reserves the right to impose penalty up to 25% of the value of defective material supplied in addition to replacement.
10. In case of any discrepancy between words and figures, the amount indicated in words will prevail.
11. The genuineness of all the papers is the responsibility of the vendor. If at a later date, even after placement of P.O. it is found that any paper is not O.K. the contract is liable to be terminated and further action will be taken as per Rules.

12. If any fraud on misappropriation of funds /materials is detected at any stage, the contract is liable to be terminated and further action will be taken as per Rules.
13. Different firms or Companies having any common Partner(s) or Director (s) are not permitted to Quote for more than one offer. In case more than one offer received from such bidders, than all such offers except-with lowest quote shall be rejected summarily.
14. In case of any discrepancy in the translation of any document between English and other languages, the English translation shall prevail.
15. In case new tender is opened during extended period of delivery and prices are found to be lower than the rates finalized in this tender, then the lower of the two shall be applicable for the supply of the tendered item/ items w.e.f. the date of opening of "Financial " bid of the new tender.
16. Bidders are required to submit Bank Account Details as per ECS (Model Mandate Form) enclosed as Annexure-I.
17. 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.
18. In case more than one offer for any tendered item is received from the same bidder then all such offers except with the lowest quote shall be rejected summarily.
19. The bidders shall give an undertaking that the material shall be supplied as per Specifications specified in the Section-VI-Technical Specifications of tender document.
20. Bidders while bidding shall ensure that they are in a position to supply 100 % of the tendered quantity for which they are bidding.
21. MTNL at its discretion can call for the documents in Physical form (in Original) which were uploaded along with the bid at any time to verify the genuineness of the documents.
22. In any stage, any fraud on misappropriation of funds /materials is detected at any stage, the contract is liable to be terminated and further action will be taken as per Rules.
23. **It is mandatory for all MSE bidders to declare their UAM number on CPPP (Central Public Procurement Portal), failing which such bidders will not be able to enjoy the benefits as per Public Procurement Policy for MSEs order, 2012 for tenders invited electronically through CPPP.**
24. **COMPREHENSIVE AMC:**
  - (i) It Shall be mandatory for the bidders to undertake the Annual Maintenance Contract for **9 (Nine) years** for LAN Switches, EMS Software & SFP's, 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 acceptance of APO as per AMC agreement format given in **Annexure-I** to **Section-IV B** of tender document.
  - (ii) The bidder shall quote for charges for **Nine (09) years** comprehensive CAMC (including Labour, spares) after **01 year warranty** as a percentage of the equipment cost separately for each year, also shown in Rupees. A separate sheet shall be provided in the bid showing the amount of comprehensive AMC for each of nine (09) years as a percentage of the cost of the equipment. The normal day-to-day operations and fault diagnosis to the extent possible will be done by purchaser. The cost quoted shall include visit of the engineers of the bidder as and when required to meet the conditions of CAMC.
  - (iii) The terms and conditions for CAMC are given in Section IV B of tender document. It is the discretions of MTNL for entering into CAMC agreement.
  - (iv) During the warranty the bidder shall perform all the functions as enunciated under the CAMC free of cost. All the penalty clauses shall be applicable during the period of warranty in case of failure on the part of supplier.
  - (v) 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.

- (vi) 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.
  - (vii) 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.
  - (viii) DGM (TX-MM) unit will be the recipients and custodian for the relevant bank guarantee(s) against AMC and same unit(s) shall enter in to AMC agreement.
25. **The bidder shall be required to sign an agreement WITH REGARD TO SECURITY REQUIREMENTS as per template annexed in Section IV-A (special conditions of contract) of the tender document on Rs. 100/- non-judicial stamp paper along with the acceptance of APO.**

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**SECTION-IV A**

**AGREEMENT WITH REGARD TO SECURITY REQUIREMENTS**

THIS AGREEMENT made at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_ (Month & YEAR) amongst:

Mahanagar Telephone Nigam Limited, a company incorporated under the Companies Act, 1956 having its Registered Office at 5<sup>th</sup> Floor, Mahanagar Doorsanchar Sadan, 9, CGO Complex, Lodhi Road, New Delhi-110003 (herein after referred to as "MTNL", which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the FIRST PART:

AND

M/s \_\_\_\_\_, a company incorporated under the Companies Act, 1956 and having its Registered Office at \_\_\_\_\_ acting through Mr./Ms. \_\_\_\_\_ duly constituted attorney/authorized person pursuant to the General Power of Attorney dated \_\_\_\_\_ executed as per terms of the Board Resolution dated \_\_\_\_\_, (hereinafter referred to as The "Supplier" or the "Vendor", which expression shall include its affiliates, subsidiaries, successors and permitted assigns) on the OTHER PART:

**RECITALS**

- A The vendor has been awarded the tender bearing no. .... in MTNL Delhi.
- B Pursuant to the provisions of clause.....of Section.....of the contract, the Parties are executing this agreement, subject to the terms and conditions as provided hereinafter.

**NOW THEREFORE IN CONSIDERATION OF MUTUAL REPRESENTATIONS, COVENANTS AND OTHER VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. Definition of Terms and expressions**

Unless the context otherwise requires, the different terms and expression used shall have the meaning assigned to them for the purpose of this agreement in the following paragraphs:

- a. **"Access"** – shall mean the interconnection with MTNL Systems or access to or use of MTNL Information stored on MTNL Systems through interconnection with MTNL Systems or access to or use of MTNL Information stored on Vendor Systems or access to or use of MTNL Information stored in any mobile device.
- b. **"Authorised"** - MTNL has approved Access as part of the authorisation process and the Vendor Security Contact has a record of this authorisation. "Authorisation" shall be construed accordingly.
- c. **"Contract"** – means Purchase Order or PO or the order placed by the purchaser on the vendor or supplier signed by the purchaser including all attachments and appendices thereto and all documents incorporated by reference therein.
- d. **"Commencement Date"** and **"End Date"** means the date the agreement is executed and the date when the validity or term of this contract ends or terminated.
- e. **"Contract Personnel"** means dedicated resources of the Vendor in terms of employees, subcontractors including employees of sub contractors and agents including agent's sub contractors and their employees engaged for the purpose of this Agreement.
- f. **"ISO 27001"** means the international security standard.
- g. **"NAIF"** means Network Authorisation and Interconnect Facility is a procedure for registration of global network interconnect between MTNLs and external companies.
- h. **"Governmental Authority"**- shall mean any governmental authority, statutory authority, government department, ministry, secretariat, agency, commission, board, tribunal, court or other law, rule or regulation making body/entity having or purporting to have jurisdiction on behalf of the Republic of India or any other government having a purporting to have jurisdiction over a party or any state or other subdivision thereof or any municipality, district or



other subdivision thereof including without limitation, the chairman, Department of Telecommunications, Ministry of Communications, Government of India and/or any other telecom regulatory authority, including Telecom Engineering Center, having competent jurisdiction; and/or chairman, Telecom Regulatory Authority of India and includes any other empowered by them to perform all or any of the functions of such a governmental authority.

- i. **“Sensitive Information”** means any MTNL Information marked as classified as per MTNL’s data classification policy or deemed business critical. This also includes any other data, or element of information, notified as such by the Government (e.g. IT Act 2000).
- j. **“Standards”** means all the relevant standards associated with national and international security standard, including but without limitation to ISO 27001 and as evolved from time to time.
- k. **“Subcontractor”**- any person, partnership or corporation with whom the Vendor places a contract and/or an order for the supply of any equipment, item, service or for any work in relation to the purpose of this Agreement. "Subcontract" shall be construed accordingly.
- l. **“Supplies”** means all components, materials, plant, tools, test equipment, documentation, hardware firmware, Software, spares parts, services and all the things & items to be provided to MTNL pursuant to the Agreement together with all Information and Work the Agreement requires be supplied to or performed for MTNL.
- m. **“Term”** means the term of this Agreement from the [Commencement Date] to [End Date].
- n. **“MTNL”** means **Mahanagar Telephone Nigam Limited**, Telecom Service Provider licensed under section 4 of Indian Telegraph Act 1885 by the Licensor, Government of India
- o. **“MTNL Group Security”** means the security organization based within the MTNL Group Company.
- p. **“MTNL Information”** means all data including data, text, image, sound, voice, codes, circuit diagrams, core & applications software and database, intellectual property as well as personal, public, operational and services data in MTNLs custody which is and /or received which are supplied/ shared with Vendor for the purpose of this Agreement or are obtained by the Vendor on behalf of MTNL.
- q. **“MTNL Items”** – shall means all items provided by MTNL to the Vendor and all items held by the Vendor which belong to MTNL.
- r. **“MTNL Regulatory Contact”** means in-charge of MTNL Regulatory Operations or such other person whose details shall be notified by MTNL to the Vendor from time to time.
- s. **“MTNL Security Contact”** means in-charge of MTNL Security Operations Centre or such other person whose details shall be notified by MTNL to the Vendor from time to time.
- t. **“MTNL Systems”** means any MTNL computer, application, databases, network infrastructure, network elements and appliances, core and applications software or such other systems as may be agreed in writing from time to time between MTNL and the Vendor.
- u. **“Vendor”** means who supplies Equipment, Software and/or managed services to MTNL for the purpose of installation, provision, operations and/or maintenance of MTNL’s networks.
- v. **“Vendor Security Contact”** means such person whose details shall be notified by the Vendor to MTNL from time to time for such purpose.
- w. **“Vendor Regulatory Contact”** means such person whose details shall be notified by the Vendor to MTNL from time to time for such purpose.
- x. **“Vendor Systems”** means any Vendor owned computer hardware or software, application database or network elements / appliance or such other systems as may be agreed in writing from time to time by MTNL and the Vendor.

## **2. Scope**

This Agreement sets out the provisions under which the Vendor will be able to supply equipments and services and be granted Access to MTNL Systems , network, equipments, data and facilities and MTNL Information including Sensitive Information for the purpose of installation, provision, operations and maintenance by the Vendor.

**3. International Standard ISO 27001 Certification**

The Vendor shall have ISO 27001 certification or shall comply with the provisions & standards of ISO 27001 certification or have equivalent standards or certification commensurate with ISO 27001 and related aspects.

**4. Security Requirements:** The vendor shall comply with following security policies:

**4.1 GENERAL**

4.1.1 The Vendor shall be authorised to access only MTNL Systems and MTNL Information in accordance with the provisions of this Agreement and only during the term of this Agreement.

4.1.2 The Vendor shall identify to MTNL details of the Vendor Security Contact at the Commencement Date who will act as a single point of contact for MTNL, such as a senior manager or CIO responsible for security, for any security issues. This responsibility shall be detailed within his/her job description. This does not mean that the Vendor shall not be responsible as an organization or company and its management. The vendor security contact shall only be a security cleared Indian national. The security clearance for the vendor security contact will be applied within one month of date of submission of necessary document by the vendor to MTNL.

4.1.3 As part of the Authorisation process, details of Vendor's Contract Personnel that need Access will be requested by MTNL. The Vendor Security Contact shall at all times ensure that only Contract Personnel who have a need to Access in order to fulfill the purpose of this Agreement as Authorised. This authorization and any changes in the contract personnel would be notified by the Vendor for the information and for the approval (wherever applicable) of the MTNL.

4.1.4 Pursuant to Clause 4.1.3 above, the Vendor acknowledges that only the Contract Personnel having requisite training (i.e. the Contract Personnel should have requisite training and self certification in this regard to be provided by the vendor) are Authorized to access MTNL System.

4.1.5 The Vendor shall have a well defined Information Security policy compliant with ISO/IEC 27001:2005 or have equivalent standards and in line with the MTNL's information security policies and requirements.

4.1.6 The Vendor shall ensure that they have information security organization in place to implement the provisions of MTNL's information security policies. The Information Security responsibilities of all Vendor employees working for MTNL shall be defined and communicated.

4.1.7 The Vendor shall establish and maintain contacts with special interest groups to ensure that the understanding of the information security environment is current, including updates on security advisories, vulnerabilities and patches and ensure that the same is implemented.

4.1.8 The Vendor shall conduct a Risk Analysis and ensure that all risks due to it own and sub-contractors' operations with MTNL are identified, measured and mitigated as per the MTNLs requirements. The Risk Assessment report is required to be shared with the Chief Security officer/CISO of MTNL.

**4.2 PHYSICAL SECURITY**

4.2.1 All Contract Personnel including sub contractors and their employees, agents and their employees of the Vendor working on MTNL premises shall be in possession of a MTNL Identification or Electronic Access Control ("MTNL ID/EAC") card. This card is to be used as a means of identity verification on MTNL premises at all times and as such the photographic image displayed on the MTNL ID/EAC card must be clear and be a true likeness of the Contract Personnel. If the MTNL has any advanced identity verification systems the same would also apply. MTNL may re-define such verification measures from time to time.

4.2.2 All Contract Personnel including sub contractors and their employees, agents and their employees of the Vendor accessing premises (sites, buildings or internal areas) to fulfil the Purpose, where MTNL Information is stored or processed, shall be in possession of an Identification or Electronic Access Control ("ID/EAC") card. This card is to be used as a means of identity verification on these premises at all times and as such the photographic image displayed on the ID/EAC card must be clear and be a true likeness of the Contract Personnel or the Subcontractor or the Vendor's employees, subcontractors and agents. If the

MTNL has any advanced identity verification systems the same would also apply. MTNL may re-define such verification measures from time to time.

- 4.2.3 The Vendor shall not (and, where relevant, shall procure that any Contract Personnel shall not) without the prior written Authorisation of the MTNL Security Contact connect any equipment, device or software not supplied by MTNL to any MTNL System and where it is not intended to be connected at a point in the MTNL system.
- 4.2.4 The Vendor shall be able to demonstrate that it has procedures to deal with security threats directed against MTNL or against a Vendor working on behalf of MTNL whilst safeguarding MTNL Information.
- 4.2.5 The vendor and/or its contract personnel shall not access MTNL's electronic systems without first obtaining the written consent of the MTNL security Contact.
- 4.2.6 The Vendor's Access to sites, buildings or internal areas where MTNL Information is stored or processed, shall be as Authorised and the Vendor and all its Authorised personnel shall adhere to robust processes and procedures to ensure compliance.
- 4.2.7 The Vendor shall ensure that all MTNL Information, Contract Personnel, Vendor Systems and MTNL Systems and networks used to fulfill the Purpose are logically and physically separated in a secure manner from all other information, personnel or networks created or maintained by the Vendor. Additionally, secure areas in Vendor premises (e.g. network communications rooms), shall be segregated and protected by appropriate entry controls to ensure that only authorised Contract Personnel are allowed access to these secure areas. The access made to these areas by any Vendor's personnel shall be audited regularly, and re-authorisation of access rights to these areas must be carried out annually as a minimum.
- 4.2.8 The use of digital or conventional cameras, including any form of video camera or mobile phone cameras, of the interior of MTNL premises is not permissible without prior Authorisation from the MTNL Security Contact. Vendor shall ensure that photography or capture of moving image of Vendor areas where MTNL Information is processed or stored shall not capture any MTNL Information.
- 4.2.9 CCTV security systems and their associated recording medium shall be used by the Vendor either in response to security incidents, as a security surveillance tool, as a deterrent or as an aid to the possible apprehension of individuals caught in the act of committing a crime. As such, these systems shall be authorised by appropriate MTNL Security Contact, and stored images shall be securely held for at least 6 months. Notwithstanding the above, MTNL may object to CCTV surveillance if circumstances deem that such surveillance is inappropriate in relation to the purpose of this Agreement.
- 4.2.10 The Vendor shall maintain a controlled record of all assigned MTNL physical assets and assigned MTNL Items to them.
- 4.2.11 The local area surrounding the Vendor's facilities shall be inspected for risks and threats on a regular basis by the Vendor and such reports made available to MTNL.
- 4.2.12 The Vendor shall disable the Access immediately if any Contract Personnel no longer require Access or change role for any reason whatsoever or whose integrity is suspected or considered doubtful or as may be notified by MTNL in accordance with clause 4.3.1.

#### **4.3 LOGICAL SECURITY**

- 4.3.1 The Vendor shall notify MTNL immediately if any Contract Personnel no longer require Access or change role for any reason whatsoever thus enabling MTNL to disable or modify the Access rights.
- 4.3.2 The Vendor shall maintain systems which detect and record any attempted damage, amendment or unauthorised access to MTNL Information.
- 4.3.3 The Vendor shall, implement agreed as well as generally prevalent security measures across all supplied components and materials including software & Data to ensure safeguard and confidentiality, availability and integrity of MTNL Systems and MTNL Information. The Vendor shall provide MTNL with full documentation in relation to the implementation of logical security in relation to Purpose and shall ensure that it has such security as:
  - prevents unauthorised individuals e.g. hackers from gaining Access to MTNL Systems; and

- reduces the risk of misuse of MTNL Systems or MTNL information, which could potentially cause loss of revenue or service (and its Quality) or reputation, breach of security by those individuals who are Authorised to Access it; and
- detects any security breaches that do occur enabling quick rectification of any problems that result and identification of the individuals who obtained Access and determination of how they obtained it.

#### **4.4 INFORMATION SECURITY**

- 4.4.1 The Vendor shall not use MTNL Information for any purpose other than for the purposes for which they were provided to the Vendor by MTNL and then only to the extent necessary to enable the Vendor to perform as per this Agreement.
- 4.4.2 The Vendor shall ensure that all information security requirements in this Agreement are communicated including in writing to all Contract Personnel in relation to their role.
- 4.4.3 The Vendor shall ensure that it operates a proactive strategy to minimise the risk and effects of fraud and other security risks and the Vendor shall maintain processes to monitor such activities.
- 4.4.4 The Vendor shall ensure procedures and controls are in place to protect the exchange of information through the use of emails, voice, facsimile and video communications facilities.
- 4.4.5 The Vendor shall use physical and electronic security measures to protect MTNL Systems, MTNL Information and areas where work is undertaken or where Vendor Systems provide Access.

#### **4.5 CONTRACT PERSONNEL SECURITY**

- 4.5.1 The Vendor shall ensure that the MTNL Information provided under this Agreement is used only to the extent necessary to enable the Vendor to perform as per the terms of this Agreement. All Contract Personnel sign a confidentiality agreement either as part of their initial terms and conditions of employment or when they start working in MTNL buildings or on MTNL Systems and MTNL Information. These confidentiality agreements shall be retained by the Vendor and accessible to MTNL.
- 4.5.2 The Vendor shall deal with breaches of security policies and procedures, including interfering with or otherwise compromising security measures, through a formal disciplinary process.
- 4.5.3 The Vendor shall provide a 'whistleblower' facility, available to all staff, with all MTNL related issues reported back to the MTNL Security Contact to the extent permissible by the law in a location in India where the Vendor is delivering its Purpose. For the avoidance of doubt, this facility shall be used by the Contract Personnel if MTNL's employee, agent or contractor instructs Contract Personnel to act in an inconsistent manner in violation of the Agreement.
- 4.5.4 The Vendor shall ensure that in respect to any Contract Personnel assigned to this Agreement; it shall carry out recruitment checks in accordance with the provisions in Vendor Pre-Employment Checks Policy defined by MTNL.
- 4.5.5 The Vendor shall ensure that all Contract Personnel maintain a clear-desk and a clear-screen policy to protect MTNL Information.
- 4.5.6 The Vendor shall ensure that an auditable process is developed for the ongoing control and management of Contract Personnel access profiles.
- 4.5.7 The Vendor shall, and shall procure that if a Contract Personnel's job or role has been changed or terminated, such Contract Personnel shall securely destroy any MTNL Information received in a recorded form from MTNL (or has recorded received MTNL Information), in accordance with its internal policy. Vendor may retain one copy of such information for archival policy provided it does so in a secure manner.
- 4.5.8 The vendor may perform the above activities as per its internal policy, which shall be shared with MTNL from time to time.

#### **4.6 SERVICE CONTINUITY ASSURANCE:**

- 4.6.1 The Vendor shall ensure by means of all tools, skills, resources that the services of MTNL remains operational at all times as per Quality of Service parameters laid down by Telecom Regulatory Authority of India.

- 4.6.2 At the time of termination of contract or as and when required by the MTNL, the vendor shall ensure making over all tools, procedures, documents, skills, software's etc. using which MTNL system were maintained operated, analyzed, attended etc, by the Vendor.

**4.7 ADDITIONAL SECURITY POLICIES**

- 4.7.1 The Vendor shall have a documented operating procedure to discharge the security requirements detailed within this Agreement and provide MTNL with access to such documentation in accordance with "Access to Vendor systems" as stipulated in this agreement.
- 4.7.2 The Vendor shall notify the MTNL Security Contact immediately of any changes to its Access method through the firewalls, including the provision of network address translation.
- 4.7.3 The Vendor shall implement a controlled exit procedure in respect of the individual Contract Personnel to ensure the return of any MTNL assets or MTNL Items or MTNL Information in the possession of the individual when any of the Contract Personnel who have Access, leave the employment of the Vendor or are no longer engaged for the purpose of this Agreement. Such controlled exit procedure shall include a written communication by the Vendor Security Contact to MTNL Security Contact of this removal.
- 4.7.4 The Vendor shall inform the MTNL Security Contact immediately upon its becoming aware of any actual or suspected unauthorised Access or misuse of MTNL Systems or MTNL Information or breach of any of the Vendor's obligations under this Agreement.
- 4.7.5 The Vendor shall maintain integrity of the software build including upgrades, operating systems and application from factory to desk. The Vendor shall demonstrate that the software build (both proprietary and off-the-shelf) delivered to MTNL is the same as the software build agreed with MTNL. The software should not have such bugs which could hamper security in future including any unauthorized leakage of MTNL Information including Sensitive Information.
- 4.7.6 Self-help systems operated by MTNL, shall only be remotely accessible by Authorised Contract Personnel.
- 4.7.7 Any change of location by the Contract Personnel or Vendor for any part of the supply chain or the support centers shall be notified to MTNL immediately.
- 4.7.8 MTNL may carry out current and future risk assessments and other audits with pro-active support from the Vendor on any part of the Vendor's supply chain to identify additional risks to MTNL. MTNL may then stipulate additional countermeasures to address any risks. This in no means would reduce the Vendor ultimate obligations and responsibility relating to security.
- 4.7.9 No replacement of MTNL System support tools must be undertaken by the Vendor without specific agreement from MTNL.
- 4.7.10 If MTNL agrees to the Vendor's appointment of Subcontractor under this Agreement , MTNL may require that the associated security risks are clearly identified and assessed by MTNL Group Security or the appropriate MTNL line of business security team. This will ensure that any unacceptable security risks are identified and addressed. This in anyway shall not reduce the Vendor from being solely responsible to MTNL for the ultimate obligations to be performed under this Agreement and responsibility relating to security.
- 4.7.11 Where MTNL has approved Vendor's use of Subcontractors, formal contracts containing all necessary security requirements shall be put in place between the Vendor and its subcontractor before the Subcontractor or its personnel can access MTNL Systems and MTNL Information or occupy space in MTNL's buildings or space in the Vendor's building that is used to access, hold or process MTNL Information.
- 4.7.12 MTNL may update from time to time, security related policies, guidelines, standards and requirements. MTNL will incorporate such updates by reference which shall be notified in writing by MTNL to the Vendor promptly. The Vendor is deemed to accept all the updates. If the Vendor has an issue with such updates, the Vendor shall promptly detail its concerns to MTNL in writing. If MTNL cannot agree on resolution of the Vendor's issues promptly, MTNL reserves the right to revoke the Vendor's Authorisation and terminate this Agreement. Vendor shall continue its service without any interruption in the event MTNL does not agree to Vendor's concern.

- 4.7.13 The Vendor shall record and maintain detailed information of all Contract Personnel who are authorised to Access MTNL Systems or MTNL Information.
- 4.7.14 The Vendor shall ensure that all computers or laptops used to access MTNL Systems and MTNL Information have their ports locked down such that removal storage media (memory sticks, removable hard drives, compact flash and secure digital cards, floppy disks, CDs, DVDs, MP3 players and other similar devices) cannot be connected.

**5. Access to MTNL Systems**

- 5.1 MTNL allows (so far as it can and is able to do so) the Vendor, to have Access solely for the purpose as contemplated herein during the term of this Agreement.
- 5.2 In relation to Access, the Vendor shall (and, where relevant, shall procure that all Contract Personnel shall) :
- a) ensure each individual Contract Personnel has a unique user identification and password known only to such user for his/her sole use.
  - b) ensure Contract Personnel never share user identification, passwords or security tokens.
  - c) promptly provide to MTNL such reports as MTNL shall from time to time require concerning the Vendor's use and security of Access and any related matters to Access.
  - d) ensure that physical access to fixed computer equipment having Access or storing MTNL Information is solely with smart or proximity cards (or equivalent security systems) and Vendor conducts regular internal audit to ensure compliance with these provisions.
  - e) ensure onward bridging or linking to MTNL Systems is prevented unless authorised by MTNL.
  - f) use all reasonable endeavors to ensure no viruses or malicious code like malware, spyware, key logger, bots (as the expressions are generally understood in the computing industry) are introduced to, and that there is no corruption or modification or compromise of, MTNL Systems or MTNL Information. This should undoubtedly ensure that nothing results in denial of Service, interruption of Service, outages, reduction or compromise in quality and efficiency of Service, leakage or stealing of MTNL Information, interference with mandated lawful interception policy, methodology & provisions, enhance risks of attacks, overbilling, frauds or any other aspect that compromises the security of all the stake holders including the Government, users, MTNL etc.
  - g) use reasonable endeavours to ensure that personal files which contain information, data or media with no relevance to the purpose, are not stored on MTNL building servers or MTNL centralised storage facilities or MTNL Systems.
- 5.3 If MTNL has provided the Vendor with Access to the Internet/Intranet, the Vendor shall, and shall ensure that the Contract Personnel, access the Internet/Intranet appropriately. It is the Vendor's responsibility to ensure that practical guidance on internet and email abuse (as amended) is communicated to the Contract Personnel from time to time.
- 5.4 The Vendor shall ensure that all Contract Personnel, subject to the Clauses headed "Regulatory Matters" and "Confidentiality" comply with Classifying and Handling of Information.
- 5.5 Any security software procured by the Vendor shall be used by the Vendor without modification, unless there is an essential need to do so, in which case appropriate controls shall be applied and the agreement of MTNL Group Security sought.

**6 Access to Vendor Systems**

**6.1 If Contract Personnel is granted Access to Vendor Systems, the Vendor shall:**

- a) ensure each individual has a unique user identification and password known only to such individual for his/her sole use.
- b) promptly provide to MTNL such reports as MTNL shall from time to time require, concerning the Vendor's use and security of access to Vendor Systems.

- c) allow Access only to the minimum extent required to enable the Contract Personnel perform their duties.
- d) allow Access using a secure login process.
- e) establish and implement formal procedures to control the allocation and de-allocation of Access rights.
- f) ensure that the allocation and use of enhanced privileges and access to sensitive tools and facilities in Vendor Systems are controlled and limited to only those users who have a business need.
- g) ensure that the allocation of user passwords to Vendor Systems that hold or access MTNL Information is controlled through a formal auditable management process.
- h) conduct regular reviews of user ids and their Access rights.
- i) provide processes to demonstrate that remote and home working activities are only permitted where Authorised by MTNL and subject to appropriate security controls within the Vendor's organisation including but not limited to remote Access by users being subject to strong authentication.
- j) demonstrate that users follow security best practice in the management of their passwords.
- k) implement a password management system which provides a secure and effective interactive facility that ensures quality passwords.
- l) ensure that user sessions are terminated after a defined period of inactivity.
- m) ensure that audit logs are generated to record user activity and security-relevant events and securely managed and retained with nil ability on the part of the Vendor to allow any un-authorised access or amendment to the audit logs. Such audit logs must be maintained for future reference for a period of at least one year.
- n) ensure that monitoring of audit and event logs and analysis reports for anomalous behavior and/or attempted unauthorised access are performed by Vendor's staff independent of those users being monitored.
- o) make available audit logs where required by MTNL for review.
- p) ensure all systems holding, processing or accessing MTNL Information shall be hardened to MTNL standards (Note to Buyer: If in doubt, please contact MTNL Security).
- q) ensure that to the extent possible, development, test and live environments are segregated from each other and the other work areas in Vendor buildings.
- r) implement controls to detect and protect against malicious software and ensure that appropriate user awareness procedures are implemented.
- s) ensure that Vendor has in relation to all Vendor Systems formal security incident management procedures with defined responsibilities.
- t) ensure that any unauthorised software is identified and removed from Vendor Systems holding, processing or accessing MTNL Information.
- u) ensure that Access to diagnostic and management ports as well as diagnostic tools are securely controlled to MTNL's reasonable satisfaction.
- v) ensure that Access to Vendor's audit tools shall be restricted to Relevant Contract Personnel and their use is monitored.
- w) Ensure that data gathered after running audit tool is properly protected.
- x) perform enhanced independent code reviews (including penetration testing) on all Vendor Systems.

6.2 The Vendor shall demonstrate to MTNL that Contract Personnel who hold and use the Information on PCs and mobile computing devices are responsible for ensuring that the PCs and mobile computing devices are protected from unauthorised access. Consideration must be given to whether Sensitive Information must be stored on mobile computing devices. All Sensitive Information shall be encrypted if stored on a mobile computing device or in the event of any transmission of Sensitive Information by Contract Personnel outside of MTNL's trusted network. Laptops and PCs containing Sensitive Information shall have the whole of the disk encrypted. Devices that do not allow whole-disk encryption such as memory sticks, CD/DVDs, shall be subjected to additional controls such as:

- (a) Use of file encryption, where available; or
- (b) Use of application password facilities; and
- (c) Where the device is "pocket-sized", it must be kept with the owner at all times.

Black-berry mobile phones and other such devices which use proprietary encryption technique should not be used for holding MTNL information.

- 6.3 To the extent that servers are used to fulfill the purpose of this Agreement, Vendor's servers shall not be deployed on un-trusted networks without appropriate security controls.
- 6.4 Changes to an individual Vendor Systems shall be controlled and subject to formal change control procedures. All documentation relating to Vendor Systems shall be protected from unauthorized Access or amendment.
- 6.5 Security procedures and controls shall be used to secure equipment holding, accessing or processing MTNL Information in Vendor Systems.

**7. Conditions for Equipment Vendors:**

**7.1 Conformance to Security Standards and Policies:**

The vendor shall ensure and certify that the supplied equipment has been subjected to penetration testing and all addressable vulnerabilities have been mitigated and the equipment is 'Safe to Connect' in the Telecom Network as per the latest standards and recommendations on the subject from ITU/ISO/IETF/IEC etc. It will also include that the equipment confirms to the security policies of the MTNL with respect to network elements. This applies to all telecom network elements and IT equipment used in the network.

The vendor shall also ensure that the equipment supplied has all the contemporary features, facilities, hardware, software etc for the purpose of Interception, Monitoring, Analysis etc for use by the Law Enforcement Agencies and provide complete information to enable these features and facilities before the supply of the equipment or the procedure of enabling these, if these are to be enabled after the commissioning of the Network. The Vendor shall also submit a test report on these features and facilities and also a certificate that all contemporary features and facilities of this category exist in the equipment supplied.

**7.2 Submission of Test Reports:**

**7.2.1 General:**

A report of the tests conducted with results of the tests conducted and mentioning areas where vulnerability exists and what precautions are to be taken by the MTNLs to minimize the effect of such vulnerabilities. For this purpose additional requirements may be provided in the Solution Designs. Compliance statements should be made against the relevant Security Standards and where practicable, tests performed to demonstrate compliance.

**7.2.2 Port Enumeration**

Port and protocol scans must be conducted with reference to the network design, proving that management protocols are only accessible via management interfaces, and control plane protocols are only accessible via control plane interfaces.

All interfaces where the network element can be identified (where it would be possible to respond to a PING request or appear in a route trace) must be tested. If the interface switches/routes traffic transparently or is not IP based then that interface need not be scanned.

Scans should be performed with all Access Control Lists (ACLs) first disabled, so as to give a clearer view of which ports/services are active, and then enabled, to demonstrate what is normally visible.

*Tests should detail:*

- *Which addresses were scanned (management, interface).*
- *All open, open| filtered and closed| filtered ports*
- *Detail why ports which are open are required.*

Port scan may be performed using latest version of nmap or any other open source software tool. For the purpose of illustration command used in the available version of nmap at present (July 2010) are given in annexure II.

**7.2.3 IP Vulnerability Scanning**

Service vulnerability audits must be conducted with reference to the results of the port/protocol scans and the network design.

The audit should detail:



- Low, medium and high risk vulnerabilities so that a risk assessments can be made and fixes implemented where necessary
- List any mitigations to medium and high risk.

#### **7.2.4 Compliance to AAA Design**

Where a Network Element supports either RADIUS or TACACS+ for authentication, authorisation and accounting of user accounts compliance to the MTNL AAA Design should be confirmed and demonstrated and test report submitted.

### **7.3 Equipments Configuration Guide**

Two sets of equipment configuration guide should be supplied which detail the configuration required to meet the policies in the standards at least in respect of following:

Network Element security policies:

- Generic OS
- Technical Standard for Switches and Routers
- Management Standard for Switches and Routers

### **7.4 Additional Security Tests for Telecommunication Equipments**

- i) A report must be submitted in respect of following additional tests.
  - a) Firmware inspection
  - b) Basic validation of physical device integrity at least in respect of following Core network elements
  - c) Main GSM Network peripherals (BSC, PCU, MSC/VLR, HLR, SGSN, GGSN)
  - d) Main CDMA Network peripherals (BSC, MSC, GMSC, PCF, PDSN)
  - e) Billing Systems & Servers for both GSM and CDMA network
- ii) A test report on workstation Configuration & Integrity in respect of the following:
  - i.) Administrators workstations and lab stations
  - ii.) User workstations
  - iii.) Similar reports, as mentioned above at 7.4 i) and 7.4 ii), shall be submitted in respect of ISP/VSAT/MSS-R/NLD/ILD and other telecom licences held by MTNL

### **7.5 A report on the susceptibility to the attacks on GSM & other technologies networks:**

GSM equipment and network are susceptible to several attacks. A few of the known attacks with their description are given in annexure III. The vendor must submit a report categorically stating that out of these attacks or any other attack to which the equipment and the network is susceptible, the degree of risk of each type of attack and mitigation technique to deal with these attacks. The vendor will ensure that whatever mitigation was possible as per the current available technologies, techniques, configuration have already been used and adopted by them before the supply of the equipment.

### **7.6 Security from Malware:**

There are no known cases of malware disrupting telecom services, yet. However, malware can cause information leaks and can result in the leak of private user information.

However, some viruses, worms and Trojans can infect devices and spread malware via text messages or Bluetooth connectivity. This network-based service will also block Denial of Service attacks and restrict network traffic based on source, destination, IP ports and applications. It will also allow enterprise IT managers to lock and/or delete data on lost or stolen devices. The connectivity could affect platforms if adequate firewalls, IDPs are not strong. Therefore vendors would provide adequate firewall and IDPs and submit a certificate in this regard.

### 7.7 Cryptography Related Security Issues:

Vendors will take suitable measures to deal with cryptography related vulnerabilities and submit a report of the measures along with a certificate that they have taken adequate measures to deal with these vulnerabilities.

- i. Attacks on COMP-128 algorithm
- ii. Compromised cipher key
- iii. Key recovery allowing SIM cloning
- iv. Hijacking outgoing calls in networks with encryption disabled
- v. Hijacking outgoing calls in networks with encryption enabled
- vi. Hijacking incoming calls in networks with encryption disabled
- vii. Hijacking incoming calls in networks with encryption enabled
- viii. Suppressing encryption between the target user and the intruder
- ix. Suppressing encryption between target user and the true network

### 7.8 Data Flow Attacks

Many sophisticated attacks disguise themselves in data flows across sessions and ports—the more traffic there is, the harder it is to identify the threats. Vendors may ensure that they are aware of this and take adequate steps to make it future proof and submit compliance on the same.

### 7.9 Additional Interfaces

Many of the problems in the Data intensive infrastructure may come to increased number of interfaces additionally for Data than those were present for voice only initial 2G systems, hence, infra vendors must give special attention to interfaces and their related vulnerability. Such vendors may ensure that they provide additional notes that they have taken care of the same and the test mechanism and methodology adopted by them with adequate evidence. Some of these interfaces are listed below:

- Gi: Exposed to Internet and corporate networks
- Gp: Primary interconnection pt. between operator's n/w and un-trusted external networks
- Gc: Allows access (via HLR) to key user info. from remote network during roaming
- Vulnerable Interfaces
- Gi: Exposed to all threats from Internet: viruses, DoS, and malicious network traffic
- Gp: Connection hijacking, overbilling from a roaming network during handover
- Gn: Not encrypted by default

### 7.10 CDMA Network Managers

For the CDMA Network Managers it may be re-ensured that the security features such as OS hardening, user access and operation audit, privilege-based user groups, centralized authentication, user profile and group management, customer plug-ins for authentication and secure remote access with IP Security Protocol (IPSec) and other capabilities in upgrading releases as well have been provided.

#### ***Subscriber authentication to protect the infrastructure and to prevent unauthorized access to network resources:***

CDMA 1X access authentication is accomplished by means of a authentication signature that is verified by the network's databases of user information. The Home Location Register and Authentication Centre as well as 1xEV-DO algorithm in OTASP to exchange keys between the mobile device and the Access Node-Authentication Authorization Accounting (AN-AAA) server should be thoroughly tested by the Vendor and reported. The authentication key exchange protocols ensures the identity of the mobile device.

For CDMA2000 1X data sessions and EV-DO, including the Challenge Handshake

Authentication Protocol (CHAP) or upgraded equivalent by the Packet Data Serving Node-Authentication Authorization Accounting (PDSN-AAA), server should not be compromised in any case and the tests reported.

#### 7.11 Security Against Remote Access:

The vendor shall submit a written undertaking to the MTNL clearly identifying all possible means of remote control/ remote access/remote command and control in the supplied equipment as well as suitable mitigation means to close such access mechanisms.

**Note:**

**The security related test specified in this agreement are not exhaustive and are indicative. The list is a guideline to the provider to verify that the vendor has tested against the vulnerabilities and reported the outcome of the tests in a comprehensive test report made available to him. All required security related tests as available and applicable must be performed.**

**Hence, the following security related tests are recommended for the Vendor to perform and report to the MTNL as mandatory compliance by the vendors both for the IT related infrastructure and for the telecom related infrastructure (Or for the converged infrastructure) as well as elements/appliances/subsystems including all types of related software/hardware, internal/external interfaces, signaling and all other protocols.**

#### 7.12 ESCROW

7.12.1 The Vendor shall at MTNL's request at Vendor's expense, enter into an escrow deposit arrangement in respect of all Information and documentation in relation to Supplies (including, without limitation, in respect of Hardware, Software, all source code, "gold" build, software, High Level Designs (HLD), Detail Design Documents (DDD), listings and programmer's notes) ("the Escrow Information") as would enable MTNL or a competent party authorized by LICENSOR on MTNL's behalf to:

(a) complete any outstanding obligations of the Vendor under this Agreement, including, without limitation, obligations that would have existed (including the requirement to fulfill any orders that MTNL would have otherwise placed under this Agreement) had this Agreement not been terminated by MTNL (other than pursuant to of the Condition headed "Termination") before the expiry of its natural term; and

(b) readily understand and maintain the Supplies and Software

7.12.2 Without affecting any other rights it may have, MTNL shall have the right, free of charge, to use the Escrow Information, after its release, in order to use or maintain (including to upgrade) the Software, to modify or have modified the Software, and to authorize such modified Software to or have it maintained by third parties.

7.12.3 The Vendor shall ensure that the Escrow Information deposited in accordance with Para 7.12.1 above is and will be maintained as sufficient to allow a reasonably skilled programmer or analyst to maintain, modify and correct the Hardware and Software without the help of any other person or reference, and the Vendor further undertakes to keep the Escrow Information fully up-to-date throughout the Term.

7.12.4 On the occurrence of any event permitting the release of the Escrow Information, the Vendor shall immediately provide, at its cost and expense, to MTNL for a reasonable period, such advice, support assistance, data, information, access to Vendor's personnel or any key personnel of legal owner of the [Hardware and/or] Software for the purpose of understanding, maintaining (including upgrading), modifying and correcting any of the Hardware and/or Software. The Source code/software written only in ENGLISH language shall be acceptable. The Source code/software shall be proven to be operational and correct version and to be certified that it does not have self destructing programmes. This may be ensured by using the same at least once for loading the system initially before being deposited.

7.12.5 Further clarification w. r. t. ESCROW: Parties

1. Escrow is an arrangement involving an owner, a beneficiary and an Escrow Agency.
2. The owner is a legal owner, developer or vendor who licenses or otherwise provides software to the beneficiary/user.
3. The beneficiary/user is the Telecom service provider in this case.

4. The encryption key pair need to be created by CCA (Controller of Certifying Agencies), Government of India. Using the public key the material to be deposited in ESCROW i.e. the source code and design details etc. after verification is to be encrypted. The encrypted source code shall be deposited with an independent third party agency called Escrow Agency viz.. CAs (excluding MTNL) authorized by CCA or NIC (National Informatics Centre), Department of IT (DIT), Government of India. The decryption key shall remain with CCA (Controller of Certifying Agencies), Government of India. The Escrow agency may release the decryption key in line with the agreement signed

**Agreement**

1. The parties have to sign an agreement for the same

**Deposit of material**

1. The owner deposits the material to the Escrow Agency along with a deposit inventory form. The form identifies the material and is signed by the owner.
2. The owner is responsible for keeping the escrow current by updating deposit materials to keep them current with the licensed software.
3. Escrow Agency then send a confirmation of receipt of deposit materials to the owner and the beneficiary. A copy of deposit inventory form is also sent along with the confirmation.
4. The contents, completeness and quality of the code need to be verified before deposition. Scanners, Analysers and other code sharing details as used should be made available for verification.
5. There are 7 principal categories of items and corresponding steps that needs to be checked:
  - a) Right of the seller to the code being transferred;
  - b) Architecture, design and structure of the code;
  - c) Completeness and quality of the code transferred;
  - d) Processes, tools, recipes needed to convert the source to working executables (including compilers etc.);
  - e) Proof that the source code generates the expected executables;
  - f) Test cases and other test assets for verification and validation;
  - g) Maintenance process and patterns.
6. **Interface**  
For Interface to other key products such as database, etc. the vendor shall provide test product with current versions of his product;

**Release of material**

1. Upon the occurrence of an agreed upon Release condition, the decryption key (escrow key) are released by CCA and the encrypted escrowed material by Escrow Agency to the beneficiary.
2. The released deposit material may be used by the beneficiary for a permitted use.
3. Release of decryption key (Escrow key) will be as per Section 69, of the Information Technology Act.

**Release conditions**

- In case the performance of beneficiary's systems are degraded and support form vendor is not forthcoming, beneficiary to ask for release of the material.
1. In case of vendor's failure to support the software, going out of business, being acquired by another entity through merger, acquisition or divestiture

activity or selling the company to another software vendor that does not support the software.

2. The Licensor shall have the power to allow inspection, analysis and use by the competent experts designated by the Government, the hardware and software designs/codes deposited in the ESCROW accounts to prevent/detect any security hazards, malware, traps etc. at any time or for any criminal investigation purpose.
3. Licensor will have over-riding right to order release of material from ESCROW account in case the LICENSOR is satisfied about need and requirement of such release.

A release form will have to be submitted by the beneficiary

**7.12.6 Definition of Terms and expressions used in this clause**

**“no longer providing support”** mean, such as providing upgraded versions to run with supported versions of operating systems and database versions.

**“going out of business”** include bankruptcy and ceasing operations

**“being acquired by another entity through merger, acquisition or divestiture activity.”**

**7.13 Penalty:**

In the event, any security breach is detected at later stage after deployment/installation of equipment as a result of security audit or in any other manner, the relevant equipment supplied by the vendor shall be taken out of service and penalty of Rs. Fifty crore for each Purchase Order shall be imposed on the Licensee. In addition, a penalty of 100% of contract value shall be levied by the Licensor on the licensee. The Licensee shall deposit the penalty and additional penalty with the Licensor within 30 days of the Notice. The Licensor may also at its discretion blacklist the vendor from making any supply deals with Indian Operators.

**7.14 Inspection:**

The Vendor/Supplier must allow the Telecom Service Provider, Licensor/DoT and/or its designated agencies to inspect the hardware, software, design, development, manufacturing facility and supply chain and subject all software to a security/threat check at the time of procurement of equipment and at least one more time in the year of procurement and every two years thereafter, at the time of discretion of the telecom service provider. The expenditure for such visits up to 40 man days per visit should either be borne by the service provider or the vendor. All the documents should be in English and handed over to the visiting team at least 4 week ahead of the visit.

**7.15 Language of Supplies:**

All the software codes, firmware, operating system, hardware details should be in English only.

**8. Data Protection:**

**8.1 The following expressions are used in this Condition:**

**“Personal Data”** - all data relating to individuals including that which is defined as ‘Personal Data’ or ‘Sensitive Personal Data’ in the Directive as well as all data relating to legal persons to the extent the same is defined as Personal Data in applicable local legislation provided by MTNL to the Vendor or acquired by the Vendor from MTNL’s systems during the course of the negotiations leading to or on the execution and during the Term of this Contract including, without limitation, data relating to MTNL employees and MTNL customers.

**“the Directive”** - Directive of the LICENSOR with regard to the processing of personal data and on the free movement of such data, or any subsequent legislation in relation thereto.

**“the Data Protection Legislation”** - collectively the Directive, applicable local legislation, which includes in respect of Personal Data originating in the India, the IT ACT, 2000 and other relevant Laws.

**“Transfer”** - the provision of access to and the physical transfer of Personal Data by the Vendor to any third party.

- 8.2 In this Condition, the terms 'processing', 'data controller', 'data subject' and 'data processor' shall have the meanings ascribed to them in the Directive.
- 8.3 The Parties acknowledge that, in respect of all Personal Data and processed by the Vendor for the purpose of the provision of Supplies under this Contract, MTNL alone as data controller shall determine the purposes for which and the manner in which such Personal Data will be processed by the Vendor acting as data processor.
- 8.4 Other than at MTNL's request, or where required to provide the Supplies, or where required by law, the Vendor shall not disclose or allow access to any Personal Data other than, subject to Paragraph 8.6(d) to a person placed by the Vendor under the same obligations as contained in this Condition who is employed or engaged by the Vendor or within the control of the Vendor in the performance of the Contract.
- 8.5 The Vendor shall not use Personal Data for any purpose other than the provision of the Supplies and shall return any Personal Data to MTNL immediately upon request at any time providing such return does not prevent the Vendor from fulfilling its obligations under this Contract. The Vendor shall retain Personal Data no longer than is necessary for the provision of the Supplies, in accordance with the relevant Data Protection Legislation and such instructions as MTNL may provide from time to time. Upon expiry or termination of this Contract for whatever reason, the Vendor shall immediately return to MTNL all Personal Data and certify that no copies have been made or retained by the Vendor or any third party acting on its behalf.
- 8.6 The Vendor shall:
- (a) process Personal Data only on the instructions of MTNL and to the extent necessary for the performance of this Contract; and
  - (b) not modify, amend or alter the contents of the Personal Data except as required or permitted by this Contract or with MTNL's prior written consent; and
  - (c) implement the appropriate technical and organisational measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and against all other unlawful forms of processing, which measures are set out in more detail in Condition headed "Security of Information" and provide to MTNL a written description of the measures taken when requested by MTNL; and
  - (d) comply with all relevant provisions of any MTNL codes of practice notified to the Vendor from time to time and the Data Protection Legislation; and
  - (e) keep all Personal Data secure and confidential, act only on MTNL's instructions with respect to it, and comply with such further reasonable requirements from time to time of MTNL for the security of it; and
  - (f) ensure that, of the Vendor's staff, only those of the Contract Personnel who need to have access to the Personal Data are granted access to the Personnel Data only for the purposes of the performance of this Contract and the Contract Personnel are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Condition; and
  - (g) notify MTNL forthwith, and in any event, no later than 12 hours from the time it comes to the Vendor's attention, that Personal Data transferred by MTNL to the Vendor has been the subject of accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, or any other unlawful forms of processing; and  
notify MTNL in the event that it receives a request or notice from any data subject to have access to that person's Personal Data held by it and will provide MTNL with full co-operation and assistance in relation to any complaint or request including providing MTNL with any relevant Personal Data it holds within the timescales provided by the request or notice or as otherwise required by MTNL.
- 8.7 In respect of Transfer of Personal Data the following conditions shall apply:
- (a) obtain MTNL's prior written consent before transferring Personal Data to any Subcontractors in connection with the provision of the Supplies;

- (b) prior to any Transfer of Personal Data, enter into or procure that any Subcontractor delivering the Supplies will enter into contracts for the transfer of personal data. In respect of Personal Data transferred by MTNL to the Vendor or acquired by the Vendor from MTNL's systems to a country outside of India shall be on the basis of the Legislation issued by the Indian Government pursuant to the Directive or such other data protection model contract terms as may be agreed between the Parties from time to time, except where the relevant Data Protection Legislation provides for a derogation from this requirement.
- 8.8 In the event any Personal Data is processed in the India, the Vendor warrants that it, and/or, as the case may be, any relevant third party:
- (a) is safe harbour registered as at the Commencement Date; and
  - (b) shall maintain its safe harbour registration throughout the Term; and
  - (c) acknowledges that the processing of any Personal Data by it or any relevant third party in India is conditional on its and/or their safe harbour registration and that if such registration is not maintained for any reason it shall immediately notify MTNL in writing and shall immediately discontinue the processing of Personal Data in India
- 8.9 Any breach of this Condition by the Vendor shall be deemed to be a material breach of the Contract and the Vendor shall indemnify MTNL from and against any costs, losses, damages, proceedings, claims, expenses or demands incurred or suffered by MTNL which arise as a result of such breach.
- 8.10 The Vendor shall, upon MTNL giving reasonable notice, allow MTNL or its nominated representatives such access to its premises, Information and records and those of its agents subsidiaries and sub contractors, as may be reasonably required by MTNL from time to time to assess the Vendor's and/or Contract Personnel's compliance with this Condition.
- 8.11 This Condition shall survive the Contract.
- 9. Regulatory Matters**
- 9.1 In this Clause:
- a) "Regulatory Matter(s)" means all relevant regulations, laws, rules, guidelines, notifications, determinations, directions, decisions and the like, and any formal or informal Undertakings, governing the conduct of MTNL under the Licence provided to MTNLs & notified by Government or its authorized person.
  - b) "Vendor Regulatory Contact" means whose identity and contact details are notified by the Vendor to the MTNL Regulatory Contact from time to time.
  - c) "Undertaking" means any undertaking or assurance (however described) given by MTNL to a relevant regulatory authority in response to, or with the object of avoiding being made, any determination, direction, decision or intervention by the authority.
- 9.2 The Vendor shall, at its own cost:
- (a) comply with all Regulatory Matters including, without limitation, any actions that MTNL may require in connection with any Regulatory Matter, that are notified to the Vendor Regulatory Contact from time to time by the MTNL Regulatory Contact in so far as they relate to the performance of the Contract by the Vendor;
  - (b) within 14 days of the Commencement Date, ensure that the Vendor Regulatory Contact contacts the MTNL Regulatory Contact to establish the nature and extent of any guidance and training that the MTNL Regulatory Contact considers necessary for the MTNL or the LICENSOR or any other person nominated by the LICENSOR to comply with and undertake in relation to Regulatory Matters ("the Required Training"). The instructions of LICENSOR shall be binding in this regard and shall have overriding effect;
  - (c) ensure that the vendor and its Contract Personnel have undergone the proper and adequate Training for the purpose of execution of this agreement;
  - (d) Create and maintain records of training and any access to MTNL's electronic systems of all Contract Personnel ("Records"). Records shall include:
    - Name of Contract Personnel

- Unique Identification Number (UIN)
  - Company Name
  - Location
  - Project Name
  - MTNL Client
  - System Profile
  - Training details - including course title and date completed
- (e) promptly provide such information to MTNL as shall be necessary for MTNL to respond fully and to the timescale required to any request or requirement for information from a government or any regulatory authority, to the extent that such information relates to the performance of the Contract by the Vendor; and
- (f) permit MTNL and/or its authorised agents such access to the Vendor's premises and such Access to and copies of its Information and Records (and to and of those of any Contract Personnel) as is required by MTNL to assess and/or validate the Vendor's performance of its obligations under or in relation to this Clause.

#### **10. Confidentiality**

- 10.1 In this Clause , MTNL Information which MTNL from time to time identifies to the Vendor as being commercially confidential, or is by its nature commercially confidential or defined by MTNL as confidential, or confidential as per the applicable law.
- 10.2 Except with MTNL's agreement, the Vendor shall not disclose Information to any MTNL employee, not authorized to receive
- 10.3 Subject to the Condition headed 'Intellectual Property", either party receiving Information ("the Recipient") from the other shall not without the other's prior written consent use such Information except for Contract purposes or disclose such Information to any person other than MTNL's employees, agents and contractors or Contract Personnel who have a need to know and who are bound by equivalent obligations of confidentiality. Any breach of such obligations by Contract Personnel or MTNL's employees, agents or contractors (as the case may be) shall be deemed to be a breach by the Vendor or MTNL respectively.
- 10.4 Paragraphs 2 and 3 of this clause shall not apply to Information that is:
- (a) published except by a breach of the Contract; or
  - (b) lawfully known to the Recipient at the time of disclosure and is not subject to any obligations of confidentiality; or
  - (c) lawfully disclosed to the Recipient by a Vendor without any obligations of confidentiality; or
  - (d) replicated by development independently carried out by or for the Recipient by an employee or other person without access to or knowledge of the Information.
- 10.5 The Vendor shall not publicise this Agreement without MTNL's prior written consent and shall ensure that any subcontractor is bound by similar confidentiality terms to those in this clause.
- 10.6 Either party that has during the course of this Agreement received Information in a recorded form from the other (or has recorded received Information) shall return or destroy in a complete irrecoverable mode (at the option of the disclosing party) such records upon:
- (a) expiry or termination of this Agreement; or
  - (b) upon earlier request
- unless such records are part of the Supplies.
- 10.7 This clause shall survive termination / expiry of this Agreement.

#### **11. INTELLECTUAL PROPERTY**

Each Party will retain its right, title and interest in its respective trademarks, service marks and trade names as well as rights in respect of any patent, copyright, trade secrets or other intellectual property used during the performance of this Agreement. Both Parties recognise that except as otherwise expressly provided herein or agreed between the Parties, they shall have no right, title, interest or claim over the others' intellectual property.



**12. Security Review**

**The Vendor shall:**

- (a) give to (or procure the giving to) MTNL (or any person authorised by MTNL) such access at all reasonable times to the Vendor's and any Subcontractor's records and premises related to this Agreement as MTNL may require from time to time to assess the Vendor's compliance of these policies in this Agreement; and
- (b) such assessments may include assessments of all elements of physical and logical audits, penetration testing of the Vendor's Systems. The Vendor shall facilitate this assessment by permitting MTNL to collect, retain and analyse information to identify potential security risks including trace files, statistics, network addresses and the actual information or screens accessed or transferred; and
- (c) provide such reports to MTNL and attend such meetings as may be reasonably required by MTNL.

**13. NETWORK AUDIT, TEST AND CERTIFICATION:**

The process of networks Audit and certification must be performed by Third Party/Parties to include following activities:

- (I) **Network forensics** to identify existing unwanted running processes\ malwares\ backdoors etc. on all networks' elements. The operation includes sniffing of live traffic to identify unwanted redirection and interception of traffic.
- (II) **Network Hardening** to map all networks elements and to calibrate them to optimized secured state.
- (III) **Network penetration test** to assure system durability against any kind of attack.
- (IV) **Risk assessment** to understand what actions should be taken to minimize future damage to carrier and what risks are inevitable.
- (V) **Actions** to fix found problems by setting systems to default or acquiring relevant IT security technologies to prevent such problems from reoccurring.

The Third party audit and certification is initially limited to Core Equipments such as Routers, Switches, Firewall, IDS, IPS and VOIP and the software associated with all the Telecom operations and services. The Licensor has the option to issue direction to add more systems to the list of Core Equipments. **The list of Test and Certification Agencies (Third Parties) in various countries who may take up the regular Technical Audit of Networks and Security Certification is at Annexure I.** The List is tentative and Licensor has the discretion to add and delete agencies in this list. The MTNL may propose name of any other Network Audit and Security Certification agency to be engaged as Third Party subject to prior approval of Licensor.

**14 Investigation:**

**14.1 If MTNL believes that there has been a breach by the Vendor of the provisions of this Agreement, MTNL will inform the Vendor Security Contact. The Vendor shall cooperate with MTNL fully in any ensuing investigation. The Vendor shall provide list of users who have had access to MTNL Systems and MTNL Information to MTNL and/or any law enforcement agency. MTNL shall have unrestricted access to the Vendor Systems and MTNL Information in the Vendor's premises which will include the right to make unannounced visits.**

**14.2** The Vendor shall report to MTNL Security Contact promptly of any potential misuse of MTNL Information or improper or unauthorised access to MTNL Systems and MTNL Information. Upon request, the Vendor shall promptly provide to MTNL a written report with details of the potential misuse of MTNL Information or improper or unauthorised access to MTNL Systems and MTNL Information, a remedial plan and a timetable for achievement of the planned improvements and steps to be taken to avoid the repeat of the potential misuse of MTNL Information or improper or unauthorised access to MTNL Systems and MTNL Information. Please see note at the end of the clause 14.

- 14.3 If any audit or investigation reveals that there is a potential risk to the confidentiality, integrity or availability of MTNL Information in the Vendor's processes or Vendor Systems, Vendor shall promptly correct any security risk in the Vendor's processes or Vendor Systems promptly.
- 14.4 During investigation, the Vendor shall co-operate with MTNL, providing reasonable access, accommodation, facilities and assistance to all Vendor Systems as reasonably necessary to investigate the breach of the provisions of this Agreement including permitting interview of any sales, engineering or other operational personnel of Vendor. MTNL shall, or at MTNL's request shall instruct the Vendor to, confiscate for evaluation any tangible or intangible asset belonging to the Vendor to aid the investigation.

**Note: The clause No. 14.1 to 14.4 relates investigation of all the security aspects and other relevant provisions contained in the earlier paras/clauses.**

**15 Limitation of Liability**

- I) Subject to Paragraph (III) of this Clause, neither Party shall be liable to the other under the Contract for any indirect or consequential loss or damage.
- II) Subject to Paragraph (III) of this Clause the liability of MTNL under or in connection with the Contract shall not exceed 50 CRORE FOR EACH PURCHASE ORDER, HOWEVER, VENDOR SHALL BE LIABLE TO REIMBURSE TO LICENSEE, ALL SUCH COST, CHARGES, EXPENSES, LOSS, LIABILITIES, DAMAGES INCURRED BY OR ARE LEVIED UPON, BY LICENSOR OR ANY REGULATORY OR GOVERNMENT AUTHORITY, AGAINST THE BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT BY VENDOR. **This liability of the Vendor shall be in addition to the limitation of liability defined under the main frame supply & services contracts executed between MTNL and the Vendor**
- III) Paragraphs (I) and (II) of this Clause shall not apply to loss or damage arising out of or in connection with death or personal injury caused by negligence.

This CLAUSE shall survive TERMINATION / EXPIRY OF the Contract.

**16 Termination**

This Agreement shall be effective from the date hereof and shall continue to be in full force and effect concurrently with the Vendor agreement ("Term") unless terminated earlier by MTNL in accordance with the provisions below.

Any breach of this Agreement by the Vendor shall be deemed to be a material breach of the Contract and MTNL reserves the right to forthwith terminate this Agreement in the event Vendor fails to rectify the breach within 15 days of receipt of written notice to rectify. MTNL shall have the right but not the obligation to terminate the supply agreement in the event of any breach of this agreement by the Vendor. The Contract may also be terminated on directions of the Licensor along with Penalty under the Laws of the land in India in relation to breaches noticed.

Without prejudice to MTNL's rights and remedies under the Agreement, the Vendor shall at its own cost and expense take all steps necessary to restore the lost or corrupted MTNL Information to the last back-up and/or terminate the unauthorised use of or access to the Information to the extent it caused such loss, corruption or unauthorised use of the MTNL Information.

**17 Other Parties**

A person who is not a party to this Agreement may not enforce any of its terms under the Contracts, to specify law prevalent in India.

**18. DISPUTE RESOLUTION, ARBITRATION, APPLICABLE LAW AND JURISDICTION:**

- 18.1 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, then, such disputes or

differences, whatsoever arising between the parties in respect of this agreement 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 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 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 alongwith the letter invoking the Arbitration. The other party shall convey its consent for one of the said Arbitrators from the said list 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 a one name from the aforesaid panel, as its Nominee, alongwith the letter invoking the arbitration. The other Party shall 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/CMD MTNL or any other officer on his behalf. In case, the office of ED Delhi/CMD MTNL becomes non-existent due to restructuring or any other reason whatsoever, the officer who shall look after the work of ED Delhi/CMD MTNL shall issue the appointment order.
- (f) Payment terms of Arbitration fees and transport allowances 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 only
- (g) In the event of such an Arbitrator(s) 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 proceeding 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 New Delhi.

**18.1 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”.

**19 NOTICES**

*All notices, requests, consents, waivers or other communication required or permitted hereunder shall be delivered as per the Notice clause agreed between the Parties under the Supply & Services Agreement.*

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed.

**SIGNED** for and on behalf of MTNL  
**[ TO BE SIGNED BY MTNL ]**

**SIGNED** for and on behalf of the Vendor

.....  
Signature

.....  
Signature

.....  
Name .....  
Position

.....  
Name .....  
Position

Annexure I

**List of Test and Certification Agencies (Third Parties) in various countries who may take up the regular Technical Audit of Networks and Security Certification.**

The List is tentative and Licensor has the discretion to add and delete agencies in this list. The MTNL may propose name of any other Network Audit and Security Certification agency to be engaged as Third Party subject to prior approval of Licensor.

**CC Evaluation Labs**

**Australia and New Zealand**

- 1      *Computer Sciences Corporation (CSC)*  
[http://www.csc.com/security/offerings/26694-common\\_criteria\\_at\\_csc](http://www.csc.com/security/offerings/26694-common_criteria_at_csc)  
Contact: Andrew Coggle  
212 Northbourne Avenue  
Braddon ACT 2612  
Tel: +61 2 6246 8000  
Fax: +61 2 6246 8181  
E-mail: [aisef@csc.com.au](mailto:aisef@csc.com.au)  
Web: <http://www.csc.com/commoncriteria>
- 2      *Logica*  
<http://www.logica.com.au/>  
Contact: Bruce Legge  
1 Torrens Street  
BRADDON ACT 2612  
Tel: +61 2 6246 1900  
Fax: +61 2 6262 8827  
E-mail: [aisef.au@logica.com](mailto:aisef.au@logica.com)  
Web: <http://www.logica.com/au>
- 3      *Startsec*  
<http://www.stratsec.net/Home>  
Contact: Aleks Lubiejewski  
Unit 1, 50 Geils Court  
DEAKIN ACT 2600  
Tel: +61 2 6260 8878  
Fax: +61 2 6260 8828  
E-mail: [lab@stratsec.net](mailto:lab@stratsec.net)  
Web: <http://www.stratsec.net>

**Germany**

- 1      *CSC Deutschland Solutions GmbH*  
Contact: Herrn Dr. Goswin Eisen  
Sandstr. 7-9  
80335 München  
Telefon: +49 89.5908.6504  
Fax.: +49 89.5908.6503  
E-Mail: [geisen@csc.com](mailto:geisen@csc.com)  
Web: [http://www.csc.com/security/ds/11371/15880-german\\_laboratory\\_experience](http://www.csc.com/security/ds/11371/15880-german_laboratory_experience)
- 2      *atsec information security GmbH*  
<http://www.atsec.com/us/addresses-contact.html>

Contact: Gerald Krummeck  
Steinstr. 70  
81667 München  
Telefon: 089 44249-830  
Fax: 089 44249-831  
E-Mail: [gerald@atsec.com](mailto:gerald@atsec.com)  
Web: <http://www.atsec.com>

**United Kingdom**

- 1 EDS  
<http://h10134.www1.hp.com/>
- 2 Logica  
[www.logica.com](http://www.logica.com)
- 3 SiVenture  
<http://www.siventure.com>

**USA**

- 1 *Arca Common Criteria Testing Laboratory*  
<http://www.savvis.net/en-US/Pages/Home.aspx>  
Contact: Pete Feeney  
45901 Nokes Boulevard  
Sterling, VA 20166  
Tel: +1 703-667-6684  
Fax: +1 509-691-7440  
Mobile: +1 703-999-1075  
E-mail: [arca-cctl@savvis.net](mailto:arca-cctl@savvis.net)
- 2 *Cygnacom Solutions' Security Evaluation Laboratory*  
<http://www.cygnacom.com/labs/common-criteria/index.htm>  
Contact: Ms. Nithya Rachamadugu  
7925 Jones Branch Drive, Suite 5200  
McLean, VA 22102-3305  
Tel: +1 703.270-3563  
Tel: +1 858-509-0180  
Fax: +1 703-848-0985  
E-mail: [selinfo@cygnacom.com](mailto:selinfo@cygnacom.com)  
Web: <http://www.cygnacom.com>
- 3 *SAIC Common Criteria Testing Laboratory*  
<http://www.saic.com/infosec/testing-accreditation/common-criteria.html>  
Contact: Robert L. Williamson  
Ctr. for Information Security Tech. SAIC  
7125 Columbia Gateway Drive, Suite 300  
Columbia, MD 21046  
Tel: +1 410-953-6819  
Fax: +1 410-953-7001  
E-mail: [robert.l.williamson.jr@saic.com](mailto:robert.l.williamson.jr@saic.com)  
Web: <http://www.saic.com>
- 4 Computer Sciences Corporation (CSC)  
[http://www.csc.com/security/offerings/26694-common\\_criteria\\_at\\_csc](http://www.csc.com/security/offerings/26694-common_criteria_at_csc)  
Contact: Charles Nightingale  
7231 Parkway Drive  
Hanover, Maryland 21076  
Tel: 443.445.8400

## **T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

Fax: 443.445.8002

E-mail: [STCL@csc.com](mailto:STCL@csc.com)

Web: <http://www.csc.com/commoncriteria>

- 5 *Booz Allen Hamilton Common Criteria Testing Laboratory*  
900 Elkridge Landing Road, Suite 100, Linthicum, MD 21090  
<http://www.boozallen.com/doingbusiness/contractvehicles/gmacs/alliant/alliant/38447966/38470558>
- 6 *COACT Inc. CAFE Laboratory*  
9140 Guilford Road  
Suite N, Columbia, MD 21046-2585  
<http://www.coact.com/>
- 7 DSD Information Assurance Laboratories (DIAL)  
1160 Johnson Ave.  
Suite 101, Bridgeport, WV 26330  
<http://dsdial.com/>
- 8 InfoGard Laboratories, Inc.  
709 Fiero Lane  
Suite 25, San Luis Obispo, CA 93401  
<http://www.infogard.com/>

### **Taiwan (not from CC portal)**

Telecom Technology Center, Taipei, Taiwan

[http://www.ttc.org.tw/english/its\\_e.asp](http://www.ttc.org.tw/english/its_e.asp)

[http://www.ttc.org.tw/english/its\\_e\\_01.asp](http://www.ttc.org.tw/english/its_e_01.asp)

### **The Netherlands**

*BrightSight IT Security Evaluation Facility*

Contact: Mr. Dirk-Jan Out

Delftechpark 1

2628 XJ Delft

The Netherlands

Telefon: +31 15 269 25 00

Fax: +31 15 269 25 55

E-Mail: [info@brightsight.com](mailto:info@brightsight.com)

Web: <http://www.brightsight.com>

### **Israel**

ALTAL Security Consulting, Israel

<http://www.altalsec.com/index.php?langpage=eng&&language=eng>

### **Canada**

Electronic Warfare Associates (EWA), Canada

<http://www.ewa-canada.com/>

### **Routers Tested as per CC:**

#### **Cisco Routers**

*Cisco Systems Routers (800, 1700, 1800, 2600XM, 2800, 3700, 3800, and 7200 running Cisco IOS Release 12.4(11)T2; 7300, 7400, and 7600 running Cisco IOS Release 12.2(18)SXF8; 10000 and 12000 running 12.0(32)s7) and Cisco Secure ACS version 4.1.2.12*

TOE evaluation was sponsored by Cisco Systems, San Jose

Evaluation was carried out by: "Arca Common Criteria Testing Laboratory"

<http://www.savvis.net/en-US/Pages/Home.aspx>

Contact: Pete Feeney  
45901 Nokes Boulevard  
Sterling, VA 20166  
Tel: +1 703-667-6684  
Fax: +1 509-691-7440  
Mobile: +1 703-999-1075  
E-mail: [arca-cctl@savvis.net](mailto:arca-cctl@savvis.net)

**Juniper Routers**

Juniper Networks J-Series Family of Service Routers running JUNOS 7.3R2.14  
ST was prepared by:  
Science Applications International Corporation(SAIC)  
Common Criteria Testing Laboratory  
7125 Columbia Gateway Drive, Suite 300  
Columbia, MD 21046  
<http://www.saic.com/>

Evaluation was carried out by:  
Science Applications International Corporation(SAIC)  
Common Criteria Testing Laboratory  
7125 Columbia Gateway Drive, Suite 300  
Columbia, MD 21046  
<http://www.saic.com/>

**VoIP equipments tested as per CC:**

**AVAYA VoIP PBX System**

ST prepared by:

*CSC Deutschland Solutions GmbH*

Contact: Herrn Dr. Goswin Eisen  
Sandstr. 7-9  
80335 München  
Telefon: +49 89.5908.6504  
Fax.: +49 89.5908.6503  
E-Mail: [geisen@csc.com](mailto:geisen@csc.com)  
Web: [http://www.csc.com/security/ds/11371/15880-german\\_laboratory\\_experience](http://www.csc.com/security/ds/11371/15880-german_laboratory_experience)

Evaluated by:

*CSC Deutschland Solutions GmbH*

Contact: Herrn Dr. Goswin Eisen  
Sandstr. 7-9  
80335 München  
Telefon: +49 89.5908.6504  
Fax.: +49 89.5908.6503  
E-Mail: [geisen@csc.com](mailto:geisen@csc.com)  
Web: [http://www.csc.com/security/ds/11371/15880-german\\_laboratory\\_experience](http://www.csc.com/security/ds/11371/15880-german_laboratory_experience)



## Annexure II

*Commands that should be used with nmap are detailed below:*

- *TCP Scan: nmap -sS -v -PN -n -p- -r -oN <Target IP Address>*
- *UDP Scan: nmap -sU -v -PN -p- -n -r -oN <Target IP Address>*
- *Protocol Scan: nmap -sO -v -PN -n -oN <Target IP Address>*

*The parameters used are:*

*-sS = TCP SYN scan*

*-sU = UDP scan*

*-sO = Protocol scan*

*-v = Verbose output*

*-PN = Assume host is up don't ping first*

*-n = No DNS lookup*

*-p- = Scan all ports from 1 to 65535*

*-r = Scan port consecutively - don't randomise*

*-oN = Output scan in normal format*

*If desired a filename can be given before the target IP address for the results to be written into.*

*NOTE: These commands are for nmap version 4.5 and above, every effort should be taken to use the most recent version of nmap. If an older version must be used or a different scanner software then matching parameters should be given and detailed within the test results.*

*It should also be noted that nmap does not produce accurate results when executed from a Windows XP host, if possible all scans should be performed from a Unix based host (Linux, Mac OS X, Solaris, etc).*

**Some of the known types of attacks on GSM and CDMA networks**

- **Eavesdropping**  
This is the capability that the intruder eavesdrops signaling and data connections associated with other users. The required equipment is a modified MS.
- **User Impersonation**  
An intruder sends signaling and/or user data to the network, in an attempt to make the network believe they originate from the target user. The required equipment is again a modified MS.
- **De-registration spoofing**  
An attack that requires a modified MS and exploits the weakness that the network cannot authenticate the messages it receives over the radio interface. The intruder spoofs a de-registration request (IMSI detach) to the network. The network de-registers the user from the visited location area and instructs the HLR to do the same. The user is subsequently unreachable for mobile terminated services.
- **Location update spoofing**  
An attack that requires a modified MS and exploits the weakness that the network cannot authenticate the messages it receives over the radio interface. The user spoofs a location update request in a different location area from the one in which the user is roaming. The network registers in the new location area and the target user will be paged in that new area. The user is subsequently unreachable for mobile terminated services.
- **Passive Identity Caching**  
A passive attack that requires a modified MS and exploits the weakness that the network may sometimes request the user to send its identity in cleartext.
- **Active Identity Caching**  
An active attack that requires a modified BTS and exploits the weakness that the network may request the MS to send its permanent user identity in cleartext. An intruder entices the target user to camp on its false BTS and subsequently requests the target user to send its permanent user identity in cleartext perhaps by forcing a new registration or by claiming a temporary identity mismatch due to database failure.
- **Impersonation of the network**  
This is the capability whereby the intruder sends signaling and/or user data to the target user, in an attempt to make the target user believe they originate from a genuine network. The required equipment is modified BTS.
- **Camping on a false BTS**  
An attack that requires a modified BTS and exploits the weakness that a user can be enticed to camp on a false base station. Once the target user camps on the radio channels of a false base station, the target user is out of reach of the paging signals of the serving network in which he is registered.
- **Camping on false BTS/MS**  
An attack that requires a modified BTS/MS and exploits the weakness that a user can be enticed to camp on a false base station. A false BTS/MS can act as a repeater for some time and can relay some requests in between the network and the target user, but subsequently modify or ignore certain service requests and/or paging messages related to the target user.
- **Man-in-the-middle**  
The intruder puts itself in between the target user and a genuine network and has the ability to eavesdrop, modify, delete, re-order, replay, and spoof signaling and user data messages exchanged between the two parties. The required equipment is modified BTS in conjunction with a modified MS.
- **Compromising authentication vectors in the network**

The intruder possesses a compromised authentication vector, which may include challenge/response pairs, cipher keys and integrity keys. This data may have been obtained by compromising network nodes or by intercepting signaling messages on network links.

- Overbilling Attack

Involving a malicious user hijacking a subscriber's IP address and then using that connection to initiate fee-based downloads or simply use that connection for their own purposes. In either case, the legitimate user is billed for activity which they did not authorize or actually conduct.

- Spoofed PDP context

Exploiting the weakness in the GTP (GPRS Tunneling Protocol)

- Spoofed delete PDP context packets

Which would cause service loss or interruption for end users

- Spoofed create PDP context packets

Which would result in unauthorized or illegal access to the Internet or customer data networks

- GTP packet floods

Which is a type of Denial of Service attack.

- Vulnerabilities with SIP-based VoIP systems

That might allow hackers to:

Reconfigure VoIP settings and gain access to individual users' account information

Eavesdrop on VoIP communications

Hijack a user's VoIP subscription and subsequent communications.

SECTION IV B

ANNUAL MAINTENANCE CONTRACT

1. 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 **Nine (09) 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 AMCIn both situations 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(09)\* 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 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(iii) and 7(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 up to 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 DGM (TX-MM) unit 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 9<sup>th</sup> 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**

This AGREEMENT is made on this .....day of .....(Month).....to be effective from ..... to.....

**BETWEEN**

MAHANAGAR TELEPHONE NIGAM LIMITED DELHI a company registered under the Indian Companies Act and having its registered office at 5<sup>th</sup> Floor Mahanagar Door Sanchar Sadan, 9, C.G.O. Complex Lodhi Road, New Delhi-110003 (hereinafter called the MTNL Delhi .) of the ONE PART

The term MTNL shall unless repugnant to the context of contrary to the meaning shall include all its assigns, successors and persons nominated or appointed by MTNL and inter alia deal with the supervise the execution of this contract.

**AND**

..... A COMPANY REGISTERED UNDER THE INDIAN Companies Act having its registered office at ..... acting through Mr. ....duly constituted attorney/authorized person pursuant to the General Power of Attorney dated .....executed as per terms of the Board Resolution dated ....., (hereinafter called The Vendor, also called Supplier or vendor, which expression shall include its affiliates, subsidiaries, successors and permitted assigns) on the Other Part.

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

WHEREAS the SUPPLIER has undertaken to furnish a Performance Guarantee for a sum of Rs. .... only in the form of Bank Draft drawn in favour of MTNL Delhi on any schedule bank at Delhi or an unconditional irrevocable Bank Guarantee in favour of MTNL Delhi for a minimum period of **116 months**.

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 .....years from ..... to .....from the date of completion of .....years 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 Centers at least one in Delhi/NCR. 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 Centers 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 Centers 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 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**
- 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 stock of ..... at the Technical Support Center or to distribute the spare ..... over Delhi 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 if 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 they 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 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.

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- 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 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 :**

- 18.1 If at any time, during the continuance of this contract, the performance in whole or in part by either party of any obligations under this contract is prevented or delayed by reason of any war, or hostility, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts or acts of God (herein after referred to as events) provided notice of happenings, of any such eventuality is given by the 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 MTNL 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 reason of any such event for a period exceeding 60 days either party may, at its option, terminate the contract.
- 18.2 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 manufacturer which may be in possession of the supplier at the time of the 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 concurrence of the purchaser elect to retain.

### **19. FAULTS: SEVERITY LEVELS, RESTORATION TIME & PENALTIES**

- 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.

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 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 /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 DelhiCMD 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
- (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.

**22.1 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".

**23 SET OFF:**

Any sum of money due and payable to the Supplier (including Security Deposit / PBG 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 i.e. 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.

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 MTNL by  
.....  
.....

Signed on behalf of M/s .....  
by Sh. .... holder of General Power of Attorney dated ..... executed in  
accordance with the Resolution No. Dated ..... passed by Board of Directors.

In presence of :

Witness:

(1) ..... (2) .....  
.....

\*\*\*\*\*

## 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. 5<sup>th</sup> 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 6<sup>th</sup> year onwards upto 9<sup>th</sup> year based on average rate duly increased by CAGR rate for each year. The 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> 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:**

Year	Tender AMC Rate	Average AMC Rate	CAGR (%)	Notional AMC Rate	Actual AMC Rate
1 <sup>st</sup>	3%				
2 <sup>nd</sup>	3.5%				
3 <sup>rd</sup>	4%				
4 <sup>th</sup>	4.5%				
5 <sup>th</sup>	5%	5%			
6 <sup>th</sup>	5.5%			5.49%	5.5%
7 <sup>th</sup>	6%			6.03%	6%
8 <sup>th</sup>	6.5%			6.63%	6.5%
9 <sup>th</sup>	7%		9.87%	7.28%	7%
10 <sup>th</sup>	-			8%	8%
11 <sup>th</sup>	-			8.79%	8.80%
12 <sup>th</sup>	-			9.66%	9.66%

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

$$\begin{aligned}\text{Notional AMC Rate for 6<sup>th</sup> Year} &= \{(9.87 \times 5)/100\} + 5 = 5.49 \\ \text{Notional AMC Rate for 7<sup>th</sup> Year} &= \{(9.87 \times 5.49)/100\} + 5.49 = 6.03 \\ &\text{and so on}\end{aligned}$$

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

- Calculation of CAGR:

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

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

- Calculation of Average AMC:

$$\text{Average AMC} = \text{Sum of AMC of all the nine years} / 9 (\text{i.e. No. of Years of AMC})$$

- (ii) For AMC support after 9<sup>th</sup> year post warranty (10<sup>th</sup> 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 10<sup>th</sup> year onward based on average CAGR of previous 9 years. However AMC rate beyond 9<sup>th</sup> 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.*

Appendix : "A" to the CAMC

Details of Technical support Centers

Sl. No.	Location of Technical support Center	Area/Nodes Served	Postal Address	Telephone Numbers Minimum two	Mobile Phone Number	FAX Number	E-mail Address
1		1 2 3 4 5					
2							
3							
4.							
5							

Appendix-B to the CAMC

MAHANAGAR TELEPHONE NIGAM LIMITED

Fault Docket for

Name of Node :

Docket Sl. No:

File No:

Date:

From:-

Name:

(of the officer in charge /duty officer of the station)

Designation:

To,

M/s ----- ( the SUPPLIER)

Address:

(of the Technical support / Center)

1. 1. Date ----- Time----- ( of occurrence of fault)

1.2. Date.----- Time----- (of Reporting of Fault )

2. Fault Reported to: Technical support Center ( Name of the person) on phone :

3.1 Mode of Reporting : Phone, FAX, e-mail/ ☐ ☐  
(Tick whichever is applicable)

3.2 Fault observed in: ☐ ☐ ☐ ☐  
☐ ☐

4. Description of fault & observation of the reporting officer:

5. Details of Services affected:

6. Percentage of Service affected:

7. Date\_\_\_\_\_ Time \_\_\_\_\_ ( of receiving the 1<sup>st</sup> assistance  
over phone from Technical support Center)

8. Details of Assistance received :

(Note: Add additional sheet if needed.)

9. Date\_\_\_\_\_ Time \_\_\_\_\_ ( of receiving the 2<sup>nd</sup> assistance  
over phone from Technical support Center)

10. Details of assistance received:

(Note: Add additional sheet if needed.)

11. Was the fault restored by following the instructions given over phone?

A- YES ☐ B- NO ☐ (Tick whichever is applicable)

12. If Yes, record date & time of restoration & duration of fault :

Date\_\_\_\_\_ Time \_\_\_\_\_( in hours & minutes)

Duration of Fault: \_\_\_\_\_ days \_\_\_\_\_ Hours \_\_\_\_\_minutes.

13. Was the fault restored:

A- Partially B- Fully (Tick whichever is applicable)

14. If the fault is not restored or restored only partially, give details of observation:

(Note: Add additional sheet if needed)

15. Note date & time of giving feedback vide Sl No.14 above to the Technical support Center: (only in the event of partial / non restoration of faults)

Date \_\_\_\_\_ Time \_\_\_\_\_ (in hours & minutes)



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16. Date & Time of arrival of SUPPLIER's Expert at site / station of fault:  
Date \_\_\_\_\_ Time \_\_\_\_\_. (in hours & minutes)
17. Brief observation and works done by the SUPPLIER's staff / expert:  
(detailed entry to be made by SUPPLIER's staff in the station Log-Book)
18. Date & Time of complete restoration of the system:  
Date \_\_\_\_\_ Time \_\_\_\_\_. (in hours & minutes)
19. Total Duration of Fault: \_\_\_\_\_ days \_\_\_\_\_ hrs \_\_\_\_\_ minutes.
20. Remarks of Node in charge (if any):
21. Remarks of visiting engineer (of SUPPLIER), if any:

Signature :  
Name :  
Designation :  
(of MTNL staff / in charge of the station)

Note: 1. Each page of the Docket must be signed by designated officer of MTNL  
(including the additional sheets, if attached)

1. A copy of the Fault- Docket must be sent to the Technical support Center of the SUPPLIER, immediately by FAX / Post after restoration of fault.

At the time of first reporting it may not be possible to pinpoint the fault. Hence more than one box can be ticked against SI.3.2. Similarly observation of the local impact of fault may not be possible against SI.5. The duty officer shall provide observations which are immediately available.  
Date on percentage of services affected shall be made available by the supplier though NOC as provided under special conditions.

**APPENDIX – C to CAMC**

PROFORMA FOR HISTORY SHEET  
(To be submitted by the Bidder)

**APPENDIX – D to CAMC**

CAMC CHARGES  
(To be filled up as per P.O.)

**Section –V**  
**( SCHEDULE OF REQUIREMENTS. )**

**1. Description of Items**

Sl. No.	Items	Quantity (Nos.)	Specification
1.	2x1G (Optical) Uplink + 8x1FE (Electrical) Downlink, Managed Switch with Single Fibre BI-DI SFPs 1310/1550 nm with 40 Km range for U/L port remote configuration and monitoring. <b>AC Operated with EMS Application License.</b>	500	As per specifications given in Section-VI (Technical Specifications) of tender document
2.	2x1G (Optical) Uplink + 8x1G (Optical) Downlink, Managed LAN Switch with single fiber Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L ports and 40 Km range for D/L ports (all port equipped) compatible SFPs with remote configuration and monitoring. <b>DC Operated with EMS Application License</b>	40	
3.	2x10G (Optical) Uplink + 24x1G (Optical) Downlink, Managed Switch with Dual fiber SFPs 1310 nm with 20 Km range for U/L ports and Bi-Directional SFPs 1310 /1550 nm with 40 Km range for D/L ports (all port equipped) with single fiber SFPs for both sides and compatible Dual fibre XFPs 1310 nm with 20 Km range for Cisco MPLS routers with remote configuration and monitoring. <b>DC Operated with EMS Application License.</b>	20	

2. Delivery requirement : Supply should be made as per the purchase order, which will be final.
3. Place of Delivery : SDE (TX-Store), MTNL Telephone Exchange Basement, Sector-9, Rohini, New Delhi-110085.
4. Date of Delivery : To be completed in **03** months from the date of issue of P.O. Actual delivery schedule shall be given in P.O.
5. Paying Authority : AO (Cash), Transmission, MTNL, Kidwai Bhawan, New Delhi.
6. Inspection Authority : As specified in the P.O.

**NOTE:-**

- (a) The bidder shall quote for all 3 categories of Managed LAN Switches (560 Nos.) **inclusive of the cost of EMS software license.**
- (b) The bidder does not need to provide the Hardware for EMS, **only the EMS software will be provided by the bidder.** The Hardware Required for EMS will be made available by MTNL.

Signature of Proprietor/Director/Partner/Authorized Signatory  
 (Sh./Smt./Miss. \_\_\_\_\_)  
 DATED .....

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**Section-VI****Technical Specifications**

<b>Sl. No.</b>	<b>Item</b>	2x10G (Optical) Uplink + 24x1G (Optical) Downlink, Managed Switch with Dual fiber SFPs 1310 nm with 20 Km range for U/L ports and Bi-Directional SFPs 1310 /1550 nm with 40 Km range for D/L ports (all port equipped) with single fiber SFPs for both sides and compatible Dual fibre XFPs 1310 nm with 20 Km range for Cisco MPLS routers with remote configuration and monitoring. <b>DC Operated with EMS Application License.</b>	2x1G (Optical) Uplink + 8x1FE (Electrical) Downlink, Managed Switch with Single Fibre BI-DI SFPs 1310/1550 nm with 40 Km range for U/L port remote configuration and monitoring. <b>AC Operated with EMS Application and License.</b>	2x1G (Optical) Uplink + 8x1G (Optical) Downlink, Managed Switch with single fiber Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L ports and 40 Km range for D/L ports (all port equipped) compatible SFPs with remote configuration and monitoring. <b>DC Operated with EMS Application and License.</b>
1	Make & Model	To be filled by vendor	To be filled by vendor	To be filled by vendor
2	Interface	1000 Base TX, SX, LX Gigabit	Gigabit optical & Fast Ethernet	1000 Base TX, SX, LX Gigabit
3	Port Standard	SFP	SFP + Copper	SFP
4	Switching Capacity	128 Gbps	8 Gbps	24 Gbps
5	Packet Forwarding rate in millions PPS	95 MPPS	6 MPPS	29.76 MPPS
6	MAC address Table size	16 K	4 K	16 K
7	Flash Memory	32 MB	16 MB	32 MB
8	Forwarding Method	Store and forward	Store and forward	Store and forward
9	POE	No	No	No
10	Diagnostic LEDs	YES	YES	YES
11	MTBF (Hours) Min	300 K	300 K	300 K
12	Power Input / Power Supply Redundancy	-42 V to -50 V DC	150 V to 240 V, 50 Hz AC	(-42-50 Volt DC)
13	Max Power Consumption	60 W	15 W	15 W
14	Cooling Method	To be filled by vendor	To be filled by vendor	To be filled by vendor
15	Operating Temp	-5 to 50°C (23 to 122°F)	-5 to 50°C (23 to 122°F)	-5 to 50°C (23 to 122°F)
16	Management Port (Type)	Web Page & CLI	Web Page & CLI	Web Page & CLI

**T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

17	VLAN	<ul style="list-style-type: none"> <li>• 802.1Q tagged VLAN <ul style="list-style-type: none"> <li>• VLAN group</li> </ul> </li> <li>• Max. 4096 VLAN group <ul style="list-style-type: none"> <li>• Port-based VLAN</li> <li>• Asymmetric VLAN</li> </ul> </li> <li>• Max. 256 dynamic VLAN</li> <li>• 802.1v protocol VLAN <ul style="list-style-type: none"> <li>• VLAN trunking</li> <li>• MAC-base VLAN</li> </ul> </li> <li>• Port- based Q-in-Q</li> </ul>	<ul style="list-style-type: none"> <li>• 802.1Q tagged VLAN <ul style="list-style-type: none"> <li>• VLAN group</li> </ul> </li> <li>• Port-based VLAN</li> <li>• Max. 256 dynamic VLAN <ul style="list-style-type: none"> <li>• VLAN trunking</li> <li>• MAC-base VLAN</li> </ul> </li> <li>• Port- based Q-in-Q</li> <li>• VLAN Bridge</li> </ul>	<ul style="list-style-type: none"> <li>• 802.1Q tagged VLAN <ul style="list-style-type: none"> <li>• VLAN group</li> </ul> </li> <li>• Max. 4096 VLAN group <ul style="list-style-type: none"> <li>• Port-based VLAN</li> <li>• Asymmetric VLAN</li> </ul> </li> <li>• Max. 256 dynamic VLAN</li> <li>• 802.1v protocol VLAN <ul style="list-style-type: none"> <li>• VLAN trunking</li> <li>• MAC-base VLAN</li> </ul> </li> <li>• Port- based Q-in-Q</li> </ul>
18	Protocol	<ul style="list-style-type: none"> <li>• Spanning Tree</li> <li>• Logical Link Control <ul style="list-style-type: none"> <li>• Flow Control</li> <li>• SNMP</li> <li>• TFTP</li> <li>• Telnet</li> <li>• SSh</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Spanning Tree</li> <li>• Logical Link Control <ul style="list-style-type: none"> <li>• Flow Control</li> <li>• SNMP</li> <li>• TFTP</li> <li>• Telnet</li> <li>• SSh</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Spanning Tree</li> <li>• Logical Link Control <ul style="list-style-type: none"> <li>• Flow Control</li> <li>• SNMP</li> <li>• TFTP</li> <li>• Telnet</li> <li>• SSh</li> </ul> </li> </ul>
19	Port Mirroring	Support mirroring group - Support One-to-One, - Many-to-One,	Support mirroring group - Support One-to-One, - Many-to-One	Support mirroring group - Support One-to-One, - Many-to-One
20	Flow Control	<ul style="list-style-type: none"> <li>• 802.3x Flow Control</li> <li>• HOL Blocking Prevention</li> </ul>	<ul style="list-style-type: none"> <li>• 802.3x Flow Control</li> <li>• HOL Blocking Prevention</li> </ul>	<ul style="list-style-type: none"> <li>• 802.3x Flow Control</li> <li>• HOL Blocking Prevention</li> </ul>
21	DHCP	<ul style="list-style-type: none"> <li>• DHCP Snooping</li> <li>• DHCP Server Screening</li> <li>• DHCP Client Filtering <ul style="list-style-type: none"> <li>• DHCP Client</li> </ul> </li> <li>• DHCP Auto-Configuration <ul style="list-style-type: none"> <li>• DHCP Relay</li> </ul> </li> <li>• DHCP Relay Option</li> <li>• DHCP Client Option</li> </ul>	<ul style="list-style-type: none"> <li>• DHCP Snooping</li> <li>• DHCP Server Screening</li> <li>• DHCP Client Filtering <ul style="list-style-type: none"> <li>• DHCP Client</li> </ul> </li> <li>• DHCP Auto-Configuration <ul style="list-style-type: none"> <li>• DHCP Relay</li> </ul> </li> <li>• DHCP Relay Option</li> <li>• DHCP Client Option</li> </ul>	<ul style="list-style-type: none"> <li>• DHCP Snooping</li> <li>• DHCP Server Screening</li> <li>• DHCP Client Filtering <ul style="list-style-type: none"> <li>• DHCP Client</li> </ul> </li> <li>• DHCP Auto-Configuration <ul style="list-style-type: none"> <li>• DHCP Relay</li> </ul> </li> <li>• DHCP Relay Option</li> <li>• DHCP Client Option</li> </ul>
22	Storm Suppression	Broadcast/Multicast/Unicast storm control	Broadcast/Multicast/Unicast storm control	Broadcast/Multicast/Unicast storm control
23	Security	<ul style="list-style-type: none"> <li>• SSH v2</li> <li>• SSL v1/2/3</li> <li>• Port security (Up to 64 MAC addresses per port)</li> <li>• IP-MAC-Port Binding (IMPB) <ul style="list-style-type: none"> <li>-- ARP inspection</li> <li>-- IP inspection</li> <li>-- IPv6 DHCP snooping</li> </ul> </li> <li>• Broadcast/Multicast/Unicast storm control <ul style="list-style-type: none"> <li>• Safeguard Engine</li> </ul> </li> <li>• DHCP server screening</li> <li>• DHCP client filtering</li> <li>• ARP spoofing prevention</li> <li>• BPDU attack protection</li> <li>• DoS attack prevention</li> <li>• Traffic segmentation</li> </ul>	<ul style="list-style-type: none"> <li>• SSH v2</li> <li>• SSL v1/2/3</li> <li>• Port security (Up to 64 MAC addresses per port)</li> <li>• IP-MAC-Port Binding (IMPB) <ul style="list-style-type: none"> <li>-- ARP inspection</li> <li>-- IP inspection</li> <li>-- IPv6 DHCP snooping</li> </ul> </li> <li>• Broadcast/Multicast/Unicast storm control <ul style="list-style-type: none"> <li>• Safeguard Engine</li> </ul> </li> <li>• DHCP server screening</li> <li>• DHCP client filtering</li> <li>• ARP spoofing prevention</li> <li>• BPDU attack protection</li> <li>• DoS attack prevention</li> <li>• Traffic segmentation</li> </ul>	<ul style="list-style-type: none"> <li>• SSH v2</li> <li>• SSL v1/2/3</li> <li>• Port security (Up to 64 MAC addresses per port)</li> <li>• IP-MAC-Port Binding (IMPB) <ul style="list-style-type: none"> <li>--ARP inspection</li> <li>-- IP inspection</li> <li>-- IPv6 DHCP snooping</li> </ul> </li> <li>• Broadcast/Multicast/Unicast storm control</li> <li>• DHCP server screening</li> <li>• DHCP client filtering</li> <li>• ARP spoofing prevention</li> <li>• BPDU attack protection</li> <li>• DoS attack prevention</li> <li>• Traffic segmentation</li> </ul>

24	QoS	<ul style="list-style-type: none"> <li>• Filtering</li> <li>• Broadcast/Multicast suppression.</li> <li>• Link Load balancing in IPv4 and IPv6 (using Anycast).</li> <li>• Rate limiting of bandwidth on the switch ports <ul style="list-style-type: none"> <li>• Traffic prioritization</li> <li>• Traffic Shaping</li> </ul> </li> <li>• Rate limiting of bandwidth: shall support User bandwidth from 1Mb/s to 1Gbps in 1Mb/s increment.</li> <li>• Bandwidth management reports and statistics</li> <li>• Bandwidth management policies <ul style="list-style-type: none"> <li>• Policy based QoS</li> </ul> </li> <li>• IEEE 802.1p priority marking. All 8 values shall be supported</li> </ul>	<ul style="list-style-type: none"> <li>• Filtering</li> <li>• Broadcast/Multicast suppression.</li> <li>• Link Load balancing in IPv4 and IPv6 (using Anycast).</li> <li>• Rate limiting of bandwidth on the switch ports <ul style="list-style-type: none"> <li>• Traffic prioritization</li> <li>• Traffic Shaping</li> </ul> </li> <li>• Rate limiting of bandwidth: shall support User bandwidth from 1Mb/s to 1Gbps in 1Mb/s increment.</li> <li>• Bandwidth management reports and statistics</li> <li>• Bandwidth management policies <ul style="list-style-type: none"> <li>• Policy based QoS</li> <li>• IEEE 802.1p priority marking. All 8 values shall be supported</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Filtering</li> <li>• Broadcast/Multicast suppression.</li> <li>• Link Load balancing in IPv4 and IPv6 (using Anycast).</li> <li>• Rate limiting of bandwidth on the switch ports <ul style="list-style-type: none"> <li>• Traffic prioritization</li> <li>• Traffic Shaping</li> <li>• Rate limiting of bandwidth: shall support User bandwidth from 1Mb/s to 1Gbps in 1Mb/s increment.</li> </ul> </li> <li>• Bandwidth management reports and statistics</li> <li>• Bandwidth management policies <ul style="list-style-type: none"> <li>• Policy based QoS</li> <li>• IEEE 802.1p priority marking. All 8 values shall be supported</li> </ul> </li> </ul>
25	Management	<ul style="list-style-type: none"> <li>• SNMP Manageability</li> <li>• Access Security</li> <li>• Console and Out-of-band management <ul style="list-style-type: none"> <li>• FTP/TFTP</li> </ul> </li> <li>• Configuration Software</li> </ul>	<ul style="list-style-type: none"> <li>• SNMP Manageability</li> <li>• Access Security</li> <li>• Console and Out-of-band management <ul style="list-style-type: none"> <li>• FTP/TFTP</li> </ul> </li> <li>• Configuration Software</li> </ul>	<ul style="list-style-type: none"> <li>• SNMP Manageability</li> <li>• Access Security</li> <li>• Console and Out-of-band management <ul style="list-style-type: none"> <li>• FTP/TFTP</li> </ul> </li> <li>• Configuration Software</li> </ul>
26	Bandwidth Management	Port-based (Ingress, Min. Granularity 64 Kbps) - Flow-based (Ingress, Min. Granularity 64 Kbps) - Egress queue bandwidth control (Min. Granularity 64 Kbps)	Port-based (Ingress, Min. Granularity 64 Kbps) - Flow-based (Ingress, Min. Granularity 64 Kbps) - Egress queue bandwidth control (Min. Granularity 64 Kbps)	Port-based (Ingress, Min. Granularity 64 Kbps) - Flow-based (Ingress, Min. Granularity 64 Kbps) - Egress queue bandwidth control (Min. Granularity 64 Kbps)

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

**DATED** -----

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**PART - A**  
**(Techno – Commercial Bid)**

**SECTION: VII**

**FORM "A"**

**I.**

1. Name of Bidder
2. Location
3. Address
4. Contact Person
5. Land Line Telephone No.
6. Mobile No
7. Name of the Managing Director.
8. Name of the authorized signatory to the tender.
9. FAX Number
10. e-mail address
11. GSTN No.
12. HSN Codes of Tendered items

**II. Capacity (Product wise).**

1. Licensed capacity (as per Industrial License)
2. Installed capacity as on date
3. Fully equipped capacity for throughput
4. Total Number of pages of tender offered and its enclosures. Pages.
5. Indicate infrastructure to be provided by MTNL.  
(Power/Light/Space etc.)

**III.** Brief of facilities available for training, recruitment and quality support team.

**IV.** Whether services offered conform to particulars and specification quoted in the tender schedule and subsequent amendment(s) (if any). If not, details of deviations must be stated here.

**V.** Here state specifically whether the price tendered by you is to the best of your knowledge and beliefs not more than the price which is permissible for you to charge from a private purchaser for the same class and description of services under the provision of any law for the time being in force. If not, state the reason and the margin of profit included.

**VI** Name & Constitution of tendering firm, if the firm is registered under

- a) The Indian companies act, 2013.
- b) The Indian partnership Act, 1931.
- c) Any other act. If so please give details if any please give the names of partners.

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

**DATED**\_\_\_\_\_.

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**SECTION –VIII**  
**BID SECURITY DECLARATION**

No.....

Dated:.....

**DECLARATION**

**Subject: Declaration of bidder (Other than MSME) in lieu of submission of Bid Security deposit / Earnest Money deposit.**

Sir,

We M/s ..... are submitting this declaration in lieu of Bid Security deposit / Earnest Money deposit against MTNL Tender Enquiry No.....dated.....

2. We do hereby declare that we will not withdraw or modify our bids during the period of validity of bid specified in tender document and if we are awarded the contract we will sign the contract and submit a performance security of requisite amount before the deadline defined in the bids / Advance Purchase Order/LOI.

3. We further declare that if we are failed to comply as per our declaration at para 2 above, we M/s .....will not be eligible to participate in the MTNL tender for any item / product for one year from the date of issue of APO/LOI. We will not approach the court against the decision of MTNL in this regard.

Signature of authorize signatory

Name.....

Address.....

Office Stamp.....

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**SECTION –IX**

**LETTER OF AUTHORISATION FOR ATTENDING BID OPENING**

(In the office of Sr. Manager (TX-MM), Room No 355, Kidwai Bhawan, New Delhi-110001, before date of bid opening)

Subject: Authorization for attending bid opening on tender of:

**T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

Following persons are hereby authorised to attend the bid opening for the tender mentioned above on behalf of----- (bidder) in order of performance given below:-

<u>Order Preference</u>	<u>Name</u>	<u>Specimen Signature</u>
-------------------------	-------------	---------------------------

I.

II.

Alternate  
Representative.  
Signature of Bidder  
OR  
Officer authorized to  
Sign. The bid documents  
On behalf of the bidder.

**Note:**

1. Maximum of two representatives will be permitted to attend bid opening. In cases where it is restricted to one, first preference will be allowed. Alternate representative will be permitted when regular representatives are not able to attend.
2. Permission for entry to the hall where bids are opened may be refused in case authorization as prescribed above is not received.

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**Annexure-B**

**(Strike-off whatever is not applicable)**

**Clause-by-Clause Compliance certificate**

**Ref:T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

It is to certify that the tender document is carefully read & understood and all the Sections and Clauses are complied unconditionally & unequivocally. There is no deviation from the terms & conditions of the tender.

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

**Or**

**Declaration of Deviation (If any)**

It is to certify that the tender document is carefully read & understood and all the Sections and Clauses are complied unconditionally & unequivocally except the following deviations from the terms & conditions of the tender.

- A)
- B)
- C)
- D)

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

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**Annexure-‘C’ (Close Relative Declaration)**

**T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

“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”.

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

Station:

Date:

**Note: The bidder should give a certificate that none of his/her near relatives are working in MTNL. 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.**

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**ANNEXURE-‘D’**

**T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

I.....Son of Wife of  
Sh.....and proprietor /Director/ Partner/ Authorized  
Signatory of M/s.....do hereby solemnly affirm and declare as under :-

1. That I am the sole Proprietor/Director/Partner/Authorized Signatory of M/s.....

2. That I state & declare that the above firm M/s.....

is not debarred and /or blacklisted by any department of Central Govt./State Govt./PSU/Public Bodies/ Municipalities/ GST Authorities on the date of opening of tender.

In case the above declaration is found to be incorrect or wrong the contract, if awarded to the firm shall be terminated immediately and the firm shall liable to be blacklisted/debarred for future works/contract with MTNL. Any such action shall however be without prejudice to MTNL's right under the law.

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

Note: - The signatory should not affect any variation in the text of declaration. Declaration in any other form shall not be acceptable and render the tenderer for disqualification of the tender/bid.

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**ANNEXURE-E (1/2)**

**UN PRICED FINANCIAL BID**

(Must be submitted with Techno-Commercial Bid)

**PART-I**

**BID FORM**

**T. E. No. DGM (TX-MM)/ Managed LAN Switches /2021-22/14**

To,

DGM (TX-MM),  
Room No 355, Kidwai Bhawan,  
Janpath, New Delhi-110001.

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 guarantee of a scheduled bank for a sum of @ 5% of the contract value for the due performance of the contract.
4. We agree to abide by this bid for a period of **150 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 \_\_\_\_\_

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss. \_\_\_\_\_)

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**ANNEXURE-E (2/2)**

(Must be submitted with Techno-Commercial Bid)

PART-II

**(UN-PRICED PRICE SCHEDULE)**

Sl. No.	Items	Quantity (Nos.)	Quantity Quoted for (in Nos.)
1.	2x1G (Optical) Uplink + 8x1FE (Electrical) Downlink, Managed Switch with Single Fibre Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L port remote configuration and monitoring. <b>AC Operated with EMS Application and License.</b>	500	
2.	2x1G (Optical) Uplink + 8x1G (Optical) Downlink, Managed Switch with single fiber Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L ports and 40 Km range for D/L ports (all port equipped) compatible SFPs with remote configuration and monitoring. <b>DC Operated with EMS Application and License.</b>	40	
3.	2x10G (Optical) Uplink + 24x1G (Optical) Downlink, Managed Switch with Dual fiber SFPs 1310 nm with 20 Km range for U/L ports and Bi-Directional SFPs 1310 /1550 nm with 40 Km range for D/L ports (all port equipped) with single fiber SFPs for both sides and compatible Dual fibre XFPs 1310 nm with 20 Km range for Cisco MPLS routers with remote configuration and monitoring. <b>DC Operated with EMS Application License.</b>	20	

**NOTE:-**

- (a) The bidder shall quote for all 3 categories of Managed LAN Switches (560 Nos.) **inclusive of the cost of EMS software license.**
- (b) The bidder does not need to provide the Hardware for EMS, **only the EMS software will be provided by the bidder.** The Hardware Required for EMS will be made available by MTNL.

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

**DATED-----.**

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**ANNEXURE-F**

**It is certified that all the pages of bid and enclosures are serially numbered in print form as per Clause No.14 Section-II of the tender document.**

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

**DATED-----.**

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**Part B**

**Financial Bid**

**SECTION-X**

**PART-I  
BID FORM**

To,

DGM (TX-MM),  
Mahanagar Telephone Nigam Limited  
Room No 355, Kidwai Bhawan,  
New Delhi-110001

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 submit the performance guarantee of a scheduled bank for a sum of @ 5% of the contract value for the due performance of the contract.
4. We agree to abide by this bid for a period of **150 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 \_\_\_\_\_

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss. \_\_\_\_\_)

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SECTION-X PART-II (PRICE SCHEDULE)  
PRICE SCHEDULE FOR INDIGENOUS EQUIPMENT (Table-1)

Tender Inviting Authority: DGM (TX-MM)  
Name of Work: E-Tender for Procurement of Managed LAN Switches.  
Contract No: DGM(TX-MM)/Managed LAN Switches/2021-22/14

Name of the Bidder/ Bidding Firm / Company :													
<p align="center"><b>PRICE SCHEDULE</b></p> <p>1."We hereby certify that HSN codes shown in Col. 5 are correct &amp; Input Tax Credit for the amount shown in Col. (10) and (11) below is admissible as per GST Rules".</p> <p>2. The bidder shall quote separately for hardware and software as per special conditions of the contract.</p> <p>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 13.The vendor shall mention in the invoice prominently that it is under composition scheme under GST, ACT 2017.</p> <p>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 13.</p>													
NUMBER #	TEXT #	NUMBER #	TEXT #	NUMBER	NUMBER #	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER #	NUMBER #
Sl. No.	Item Description	Quantity	Units	HSN Code	Basic Unit Price CIF destination Inclusive of Freight, Forwarding, Packing, Insurance and any other incidental charges (Rs)	Discount offered , if any on Basic Unit Price (Rs)	Basic Unit Price CIF destination, Inclusive of Freight, Forwarding, Packing, Insurance and any other incidental charges after discount ,if any(Rs)	GST in %	GST Amount (Rs)	Unit Price inclusive of GST (Rs)	Total GST Credit Eligible Amount (Rs)	TOTAL AMOUNT Without Taxes i. e Net Cost to MTNL excluding GST Credit Eligible Amount (Rs.)	TOTAL AMOUNT With Taxes (Rs)
1	2	4	5	6	7	8	9	10	11	12	13	14	15
1	Managed LAN Switch												
1.02	2x1G (Optical) Uplink + 8x1FE (Electrical) Downlink, Managed Switch with Single Fibre BI-DI SFPs 1310/1550 nm with 40 Km range for U/L port remote configuration and monitoring. AC Operated with EMS Application License.	500	Nos										
1.03	2x1G (Optical) Uplink + 8x1G (Optical) Downlink, Managed LAN Switch with single fiber Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L ports and 40 Km range for D/L ports (all port equipped) compatible SFPs with remote configuration and monitoring. DC Operated with EMS Application License.	40	Nos										
1.04	2x10G (Optical) Uplink + 24x1G (Optical) Downlink, Managed Switch with Dual fiber SFPs 1310 nm with 20 Km range for U/L ports and Bi-Directional SFPs 1310 /1550 nm with 40 Km range for D/L ports (all port equipped) with single fiber SFPs for both sides and compatible Dual fibre XFPs 1310 nm with 20 Km range for Cisco MPLS routers with remote configuration and monitoring. DC Operated with EMS Application License.	20	Nos										
Total													
Quoted Total Rate in Words													

Signature & Seal of Proprietor/Director/Partner/Authorized Signatory  
SECTION-X PART-II (PRICE SCHEDULE)

PRICE SCHEDULE FOR IMPORTED EQUIPMENT (Table-2)

Tender Inviting Authority: DGM (TX-MM)  
Name of Work: E-Tender for Procurement of Managed LAN Switches  
Contract No: DGM (TX-MM)/Managed LAN Switches/2021-22/14

Name of the Bidder/ Bidding Firm /Company :																
<div>PRICE SCHEDULE</div> <div>1.“We hereby certify Customs Tariff Head shown in Col. 3 are correct and IGST rates and the amount shown in Col. (12), (13) below is correct. The amount as mentioned in Column (15) 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 15. 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 (12) and (13) and also fill the amount as “NIL” in the column “GST Credit Eligible” in column 15.</div>																
NUMBER #	TEXT #	NUMBER #	TEXT #	NUMBER	NUMBER	NUMBER #	NUMBER #	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER	NUMBER#	NUMBER#	
Sl. No.	Item Description	Custom Tariff Head	Quantity	Units	Unit Price Eligible for Basic Custom duty (Rs.)	Basic Custom Duty(BCD) Component in %	Basic Custom Duty(BCD) Component in Amount	Basic Unit Price CIF destination Inclusive of Freight, Forwarding, Packing, Insurance and any other incidental charges (Rs)	Discount offered , if any on Basic Unit Price (Rs)	Basic Unit Price CIF destination, Inclusive of Freight, Forwarding, Packing, Insurance and any other incidental charges after discount ,if any (Rs)	IGST (in %)	IGST Amount	Unit Price inclusive of BCD & IGST (Rs)	Total GST Credit Eligible Amount (Rs)	TOTAL AMOUNT Without Taxes i. e Net Cost to MTNL excluding GST Credit Eligible Amount (Rs.)	TOTAL AMOUNT With Taxes (Rs)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	Managed LAN Switch															
1.02	2x1G (Optical) Uplink + 8x1FE (Electrical) Downlink, Managed Switch with Single Fibre BI-DI SFPs 1310/1550 nm with 40 Km range for U/L port remote configuration and monitoring. AC Operated with EMS Application License.		500	Nos												
1.03	2x1G (Optical) Uplink + 8x1G (Optical) Downlink, Managed LAN Switch with single fiber Bi-DI SFPs 1310/1550 nm with 40 Km range for U/L ports and 40 Km range for D/L ports (all port equipped) compatible SFPs with remote configuration and monitoring. DC Operated with EMS Application License.		40	Nos												
1.04	2x10G (Optical) Uplink + 24x1G (Optical) Downlink, Managed Switch with Dual fiber SFPs 1310 nm with 20 Km range for U/L ports and Bi-Directional SFPs 1310 /1550 nm with 40 Km range for D/L ports (all port equipped) with single fiber SFPs for both sides and compatible Dual fibre XFPs 1310 nm with 20 Km range for Cisco MPLS routers with remote configuration and monitoring. DC Operated with EMS Application License.		20	Nos												
Total																
Quoted Total Rate in Words																

Signature & Seal of Proprietor/Director/Partner/Authorized Signatory

**SECTION-X****PART-II****Price Schedule for AMC of LAN Switches, EMS Software & SFP's  
(For Nine Years after one year Warranty-Hardware & Software)-Table-3**

Sl. No.	Item	% of Equipment Price	Basic Price of AMC (Rs.)	GST		Price including GST (Rs.)	GST Credit Eligible Amount (Rs.)	Net cost to MTNL excluding GST Credit Eligible Amount (Rs.)
				Rate (%)	Amount (Rs.)			
1	2	3	4	5	6	7	8	9
1	AMC for Year <b>One</b>							
2	AMC for Year <b>Two</b>							
3	AMC for Year <b>Three</b>							
4	AMC for Year <b>Four</b>							
5	AMC for Year <b>Five</b>							
6	AMC for Year <b>Six</b>							
7	AMC for Year <b>Seven</b>							
8	AMC for Year <b>Eight</b>							
9	AMC for Year <b>Nine</b>							
10.	<b>Total</b>							

**SECTION-X**

**PART-II**

**PRICE SCHEDULE**

**FINAL COST OF THE EQUIPMENT (Table-4)**

<b>Sl. No.</b>	<b>Item</b>	<b>Total Price (after all discounts and all expenses &amp; incidental charges) including all duties &amp; taxes (Rs.)</b>	<b>GST Credit Eligible Amount (Rs.)</b>	<b>Net cost to MTNL excluding GST Credit Eligible Amount (3-4) (Rs.)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>1</b>	<b>Total Equipment Price for Indigenous Equipment. (Table-1)</b>			
<b>2</b>	<b>Total Equipment Price for Imported Equipment. (Table-2)</b>			
<b>3</b>	<b>Total Cost of AMC. (Table-3)</b>			
<b>4.</b>	<b>Grand Total</b>			

ANNEXURE-I

**MAHANAGAR TELEPHONE NIGAM LIMITED**  
**DELHI TELEPHONES, NEW DELHI**

**ELECTRONIC CLEARING SERVICE (CREDIT CLEARING)**

(MODEL MANDATE FORM)

(To receive payment through Credit Clearing Mechanism)

- A. Suppliers Name :
- B. PAN Number :
- C. Particulars of Bank Account :
1. Account Number :
2. Bank Name :
3. Branch Name :
4. Address :
5. Telephone :
6. 9 digit code Number of the Bank & Branch :  
(Appearing on the MICR cheque issued by the Bank)
7. Account Type- :  
(S.B. Account/Current Account or Cash credit with code 10/11/19)  
Ledger No/Ledger Folio No.  
(As appearing on the cheque Book)

**Please attach a Bank cancelled Cheque or photocopy of a cheque or front page of your Current/ Savings Bank passbook issued by your Bank for verification of the above particulars**

**Date of Effect-**

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

Signature of Proprietor/Director/Partner/Authorized Signatory

(Sh./Smt./Miss.\_\_\_\_\_)

**DATED**\_\_\_\_\_.

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

Signature of the Authorized Official of the Bank  
With Bank Seal

\*\*\*\*\*

**Part – C**

**(Documents to be submitted at the time of award of work)**



**Section-XI.**

B. G. NO. : \_\_\_\_\_  
 DATE OF ISSUE : \_\_\_\_\_  
 VALID UPTO : \_\_\_\_\_  
 P.O.NO. : \_\_\_\_\_

**PERFORMANCE BANK GUARANTEE**

1. In consideration of the ED Delhi, 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 YEARS** 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 prior consent of the MTNL in writing.

Dated the \_\_\_\_\_ day of \_\_\_\_\_  
 for \_\_\_\_\_  
 (Indicate the name of bank)

**SECTION –XI-A**  
**ADDITIONAL BANK GUARANTEE BOND**

To

DGM (TX-MM)  
MTNL, New Delhi.

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 contractor(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 YEAR (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. ....

**SECTION-XII**

**AGREEMENT PERFORMA**

This AGREEMENT is made on this day of \_\_\_\_\_

**BETWEEN**

MAHANAGAR TELEPHONE NIGAM LIMITED DELHI a company registered under the Indian Companies Act and having its registered office 5<sup>th</sup> Floor Door Sanchar Sadan, CGO Complex, Lodhi Road, New Delhi-110003 (hereinafter called the MTNL Delhi)

The term MTNL shall unless repugnant to the context or contrary to the meaning shall include all its assigns, successors and persons nominated or appointed by MTNL and interalia deal with the supervise the execution of this contract.

**AND**

\_\_\_\_\_ A COMPANY REGISTERED UNDER THE INDIAN Companies Act 1956 having its registered office at \_\_\_\_\_ Hereinafter referred to as the SUPPLIER (which expression shall unless repugnant to the context or subject thereof, mean and include his/ its legal successors in business, legal representatives and administrators or permitted assignees) of the OTHER PART

1. WHEREAS the contractor has made the offer/ tender to duly perform the work under this contract being the supply of \_\_\_\_\_ after making himself aware and understanding fully the implications of the terms and conditions and specifications along with the contract and related documents/ agreements which offer / tender has been accepted by the MTNL Delhi on the terms and conditions mentioned herein after and after representing that he is fully capable of complying with the aforesaid terms.
2. WHEREAS contractor has undertaken to furnish a Performance Guarantee for a sum of Rs. \_\_\_\_\_ only in the form of Bank Draft drawn in favour of MTNL Delhi on any schedule bank at Delhi or an unconditional irrevocable Bank Guarantee in favour of MTNL Delhi valid for a minimum period of **24 months**.

WHEREAS THE CONTRACTOR HAS SUBMITTED THE REQUIRED Income Tax Certificate from the Income Tax Office concerned in other appropriate form.

Any delay in successful commissioning execution of the work shall attract liquidated damages at the rates prescribed in the tender document.

**3. INTERPRETATION**

- i) The contract shall comprise of all documents, referred to herein before under para \_\_\_\_\_ provided that in the event of any inconsistency between the terms thereof and the terms of any other documents or para \_\_\_\_\_ comprising part of this contract, the terms hereof shall prevail.
- ii) The words it and he and their derivates are used for any person whether male or female or a juristic person. Unless contrary appears from the contract word imparting the singular number include the plural number and words imparting the plural number include the singular number.
- iii) The marginal notes, if any, or the heading shall not control the meaning of the body of the Clauses stated hereinabove. The same shall not be referred to for the purpose of interpreting and constructing the terms of this contract.

**4. JURISDICTION**

The parties hereby agree that the courts in the city of New Delhi alone shall have the jurisdiction to entertain any application or other proceedings in respect of anything arising under this contract and any award or awards made by the sole arbitrator hereunder shall be filled in the concerned courts in the city of New Delhi only.

**5. EFFECTIVE DATE**

This contract shall become effective on from the date the Performance Bank Guarantees to the satisfaction of MTNL is furnished by the firm. On receipt of the said guarantee, MTNL shall issue a certificate which shall specify the date on which the guarantee was received by MTNL, which date shall for the purpose of this contract, be deemed to be the EFFECTIVE DATE. The Contract is valid for from ..... to .....

**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 DGM (TX-MM) , MTNL, Delhi.

In the presence of:  
Witness:

1. \_\_\_\_\_  
2. \_\_\_\_\_

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. \_\_\_\_\_

\*\*\*\*\*

**SECTION-XIII**

**WARRANTY CERTIFICATE**

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 stores, inadequate quantity of material to meet stores 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 (12) months** after the stores have been taken over.

If it becomes necessary for the Supplier to replace or renew any defective portion(s) of the stores under this Clause, the provisions of the Clause mentioned in the tender document shall apply to the portion(s) of the stores so replaced or renewed or until the end of the above mentioned period of **twelve (12) 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.

Replacement under warranty Clause shall be made by the supplier free of all charges at site including freight, insurance and other incidental charges.

Signature of Proprietor/Director/Partner/Authorized Signatory  
(Sh./Smt./Miss.\_\_\_\_\_)

**DATED**\_\_\_\_\_.

\*\*\*\*\*

Section-XIV

**Format for Self-Certification regarding local content (LC) for Telecom product, Services or Works**

**Dated: .....**

I .....S/o, D/o, W/o ....., Resident of .....do hereby solemnly affirm and declare as under:

That I agree to abide by the terms and conditions of Department of Telecommunications, Government of India issued vide Notification No:..... dated .....

That the information furnished hereinafter is correct to best of my knowledge and belief and I undertake to produce relevant records before the procuring entity or any other authority so nominated by the Department of Telecommunications, Government of India for the purpose of assessing the LC.

That the LC for all inputs which constitute the said Telecom Product/Services/Works has been verified by me and I am responsible for the correctness of the claims made therein.

That in the event of the LC of the Telecom Product/Services/Works mentioned herein is found to be incorrect and not meeting the prescribed LC norms, based on the assessment of an authority so nominated by the Department of Telecommunications, Government of India and I will be liable as under clause 9 (f) of Public Procurement (Preference to Make in India) Order 2017.

I agree to maintain all information regarding my claim for LC in the Company's record for a period of 2 years and shall make this available for verification to any statutory authorities.

- I. Name and details of the Local supplier (Registered Office, Manufacturing unit location, nature of legal entity)
  - II. Date on which this certificate is issued
  - III. Telecom Product/Services/Works for which the certificate is produced
  - IV. Procuring agency to whom the certificate is furnished
  - V. Percentage of LC claimed
  - VI. Name and contact details of the unit of the manufacturer.
  - VII. Sale Price of the product
  - VIII. Ex-Factory Price of the product.
  - IX. Freight, insurance and handling x. Total Bill of Material xi. List and total cost value of inputs used for manufacture of the Telecom Product/Services/Works
  - X. List and total cost of inputs which are locally sourced. Please attach LC certificates from local suppliers, if the input is not in-house.
  - XI. List and cost of inputs which are imported, directly or indirectly
- For and on behalf of ..... (Name of firm/entity)
- Authorized signatory (To be duly authorized by the Board of Directors)

Name.....

Designation.....

Contact Number.....

Date.....

## SECTION- XV

### 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 agency.
- 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.

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**Section XVI**  
**INTEGRITY PACT**  
**Between**

**Mahanagar Telephone Nigam Limited (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.

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 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.

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- 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 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-contracting, 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 and marked as Part-H.

### **Section 4 -Compensation for Damages**

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

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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 firm 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)

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

Place -----

Date -----

Witness 1:  
(Name & Address)\_\_\_\_\_

Witness 2:  
(Name & Address)\_\_\_\_\_

**Note: If the Contractor is a partnership firm or a consortium, this agreement must be signed by all partners or consortium members**

**Part-D**

**(Special instructions to Bidders for e-Tendering)**

**Instructions for Online Bid Submission**

The bidders are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids online on the CPP Portal.

More information useful for submitting online bids on the CPP Portal may be obtained at: <https://eprocure.gov.in/>.

**REGISTRATION**

- 1) Bidders are required to enroll on the e-Procurement module of the Central Public Procurement Portal (URL: <https://eprocure.gov.in/>) by clicking on the link “**Online bidder Enrollment**” on the CPP Portal which is free of charge.
- 2) As part of the enrolment process, the bidders will be required to choose a unique username and assign a password for their accounts.
- 3) Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.
- 4) Upon enrolment, the bidders will be required to register their valid Digital Signature Certificate (Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify /nCode / eMudhra etc.), with their profile.
- 5) Only one valid DSC should be registered by a bidder. Please note that the bidders are responsible to ensure that they do not lend their DSC's to others which may lead to misuse.
- 6) Bidder then logs in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

**SEARCHING FOR TENDER DOCUMENTS**

- 1) There are various search options built in the CPP Portal, to facilitate bidders to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.
- 2) Once the bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective 'My Tenders' folder. This would enable the CPP Portal to intimate the bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.
- 3) The bidder should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

**PREPARATION OF BIDS**

- 1) Bidder should take into account any corrigendum published on the tender document before submitting their bids.
- 2) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the bid.
- 3) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document / schedule and generally, they can be in PDF / XLS / RAR / DWF/JPG formats. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.
- 4) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can

use “My Space” or “Other Important Documents” area available to them to upload such documents. These documents may be directly submitted from the “My Space” area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

**Note:** *My Documents space is only a repository given to the Bidders to ease the uploading process. If Bidder has uploaded his Documents in My Documents space, this does not automatically ensure these Documents being part of Technical Bid.*

### **SUBMISSION OF BIDS**

1) Bidder should log into the site well in advance for bid submission so that they can upload the bid in time i.e. on or before the bid submission time. Bidder will be responsible for any delay due to other issues.

2) The bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.

3) Bidder has to select the payment option as “offline” to pay the tender fee / EMD as applicable and enter details of the instrument.

4) Bidder should prepare the EMD as per the instructions specified in the tender document. The original should be posted/couriered/given in person to the concerned official, latest by the last date of bid submission or as specified in the tender documents. The details of the DD/any other accepted instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.

5) Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard BoQ format with the tender document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the BoQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the bidder, the bid will be rejected.

6) The server time (which is displayed on the bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.

7) All the documents being submitted by the bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid opener’s public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.

8) The uploaded tender documents become readable only after the tender opening by the authorized bid openers.

9) Upon the successful and timely submission of bids (i.e. after Clicking “Freeze Bid Submission” in the portal), the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.

10) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

### **ASSISTANCE TO BIDDERS**

1) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Tender Inviting Authority for a tender or the relevant contact person indicated in the tender. 2) Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk.

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