Indian Authorised Representatives\Agents of Foreign Suppliers
[Supplementary Instructions of the Ministry of Defence, Government of India]
including instructions dated January 31, 1989 of the Ministry of Finance, Government of India

No. 3(2)/PO(Def)2001
Government of India
MINISTRY OF DEFENCE
(Department of Defence)

Date : 2nd November, 01

INTRODUCTORY

1.1 Purchase of stores & equipments by Government Departments is governed by the provisions of the General Financial Rules (GFR) of the Government of India. The policy of Government has been that in the procurement of articles manufactured abroad, offers received through India based establishments would receive preference. Appendix VIII of the GFR and Para 96 & 97 of the Manual of Office Procedure for Supplies, Inspection and Disposal also refer to the same principle. On 31st January, 1989 the Ministry of Finance (Department of Expenditure) vide their Office Memorandum No.F.23(1)-E.II(A)/89 issued its letter on ‘Indian Agents of Foreign Suppliers – Policy on ’ (Appendix – 1). Based on this order the Ministry of Defence vide letter No.2250 – A/JS(O)/89,dt. 17th April,1989 issued guidelines on this subject. This order, under the umbrella of the instructions quoted above , seeks to reflect the changed policy of the government in the matter of its Policy on role of Authorized Representatives \ Agents .

1.2 A comprehensive formulation of the role, if any, which Authorized Representatives \ Agents \ or Sales Consultants or by whatever name called and employed by Foreign suppliers for the promotion of their product , may legitimately be expected to play, has been receiving the attention of Government for some time. The entire policy has been extensively reviewed recently with the objective of defining the scope, extent and the conditions within which such Authorized Representatives \ Agents may be allowed to represent a foreign supplier or suppliers

1.3 While it is not the policy of Government to encourage agents if the requisite supplies could be obtained and satisfactory after-sales service ensured, on reasonable terms, without their intercession, upon detailed examination the Ministry of Defence, concluded that there are advantages in involving Authorized representatives \ Agents . Such an involvement of Authorized Representatives \ Agents would enhance transparency levels, provide the Service HQs with additional information about latest advances in sophisticated combat and non-combat technology. Authorized Representatives \ Agents would also be of assistance in trial evaluation of the systems, price negotiations, enhance the quality of after-sales service, resolving performance and warranty issues. Payments to Authorized Representatives \ Agents would be covered under the
Income Tax Act and attract Income Tax which would be deducted at source.

1.4 This revised order, therefore covers: the regulation of representational arrangements through a system of registration; categorical and open declaration by the foreign suppliers of the services to be rendered by their Authorized Representatives \ Agents; and the remuneration payable to them by way of fees, Commission or any other method.

1.5 As the aforesaid Circular of the Department of Expenditure states the general policy of the Government of India in the matter, and the instructions contained therein, are applicable to all `civil purchases’ of imported stores by all Government departments and public sector enterprises under the administrative control of different Departments/ Ministries, thus, Ministry of Defence are required to issue ‘Supplementary Instructions’ in respect of `defence purchases’.

1.6 In that context, the following paragraphs lay down instructions supplementary to those contained in Appendix-I. These instructions would apply to all the Departments including the Integrated HQs of the MoD, the three Services, the Coast Guard and all subordinate agencies under the administrative control of the Ministry of Defence.

REGULATORY PROVISIONS IN RESPECT OF INDIAN AUTHORIZED REPRESENTATIVES \ AGENTS WHERE PERMISSIBLE

2.1 An individual, a partnership, an association of persons, a limited company private or public can be appointed as Authorized Representative \ Agent \ Sales Consultant \ Adviser of a Foreign supplier \ suppliers, who is either paid a retainer or is reimbursed his expenses or paid commissions or a combination of either, on completion of a specified obligation, by the Original Equipment Manufacturer.

2.2 Purchase of all imported stores shall be undertaken in conformity with the policy laid down in the Department of Expenditure Circular of 31st January, 1989(Appendix-I) and also subject to the additional clarifications in the ensuing sub-paragraph.

2.3 Whenever representation of a foreign supplier by an Indian Authorized representative \ Agent is permissible, as per the afore-stated policy, it will be an open and declared representation, along with a simultaneous commitment about observance of prescribed guidelines, norms by the foreign firm as well as its agent. These Authorized representatives \ Agents and the Foreign suppliers will have to fulfill the conditions stipulated below :-

(i) A Foreign firm wishing to appoint an Indian Authorized Representative \ Agent will formally inform the Ministry of Defence and furnish in full, the below stated information;
(a) Details of the business entity to be so engaged as Agent etc; whether functioning as an individual, a partnership, a private limited company, etc; since when established; registered address, names and addresses of Directors, Chief Executive and executives of the company, specifically indicating those who are retired civilian or Defence Service Officers; principal place of business; whether the company has any partner/agency/office abroad; if so, full details thereof etc.

(b) Previous professional background and suitable details of the nature of business undertaken by the Authorized Representative \ Agent since establishment.

(c) The Authorized Representative \ Agent must be an income tax payee; have a permanent income-tax account number; disclose name and address of bankers within and outside the country etc.

(d) Attested photo copies of all agreements with the Principal, including supplementary agreements, covering appointment as Authorized Representative \ Agent, and terms relating thereto.

(ii) a) The accreditation of an Authorized Representative \ Agent would be granted after approval at the level of Secretary of the Department or an Officer authorized by him.

b) The obligations of an Authorized Representative \ Agent shall be spelt out in the accreditation letter to be issued.

(iii) a) To ensure against foreign suppliers offering \ making illegal payments, of any kind, directly or indirectly, for the purposes of winning a Contract, they shall be asked, before the appointment of an Authorized Representative \ Agent, to furnish a legally effective undertaking which, if infringed, shall bind them to specified penalties. A foreign supplier will be entitled to make only openly declared payments, in Indian rupees, of the agreed fee \ commission, to his duly Authorized Representative \ Agent, for rendering specifically defined obligations recorded in the Contract.

b) As part of the standardized clause, a suitable clause for enforcement of the disclosure provision should be incorporated to provide in the contract that in the event of any breach or default on the part of the supplier to disclose the agency arrangements in India, there would be a penalty of banning business dealings with the Government or damages or payment of a named sum. This clause will be formulated by the Department of Supply, in consultation with the Ministry of Law and forwarded to all concerned Departments thereafter for appropriate necessary action.(Para 5 (iv) of Appendix-I)

(iv) a) In all purchases effected through the Authorized Representative \ Agent the scale of commissions payable shall be as per the guidelines approved from time to time. These would be determined by MoD in consultation with MoD (Finance).

b) All particulars relating to agency commission should be reported to the Enforcement Directorate. The Enforcement Directorate will send this information also to CBDT, CBEC and RBI to prevent leakage of foreign exchange and tax
(v) The nature of services to be rendered by an Authorized Representative \ Agent and the commission payable to him shall unambiguously be reflected in the contract. For this purpose, the model contractual clauses applied by the Department of Supply may be adopted with suitable modifications, whenever found necessary. (Reference DGS & D form 237, a copy of which is at Appendix – II ).

(vi) (a) All foreign suppliers along with their response to the Request For Proposal should provide an undertaking signed by their Chief Executive, that except for the Authorized Representative \ Agent, they are not employing any other middleman, sales consultant or Adviser to influence the outcome of the contract through any means.
(b) The foreign supplier, whenever they change their Authorized Representative \ Agent or employ another will provide detailed information regarding changes, if any in their arrangements with such representatives.
(c) The foreign supplier, in case they are using any Authorized Representatives \ Agents other than their regular employee, must provide an undertaking that no payment has been made by them in India or outside India to such persons except those which are included by them in the Form 16A under the Income Tax Act.
(d) The Foreign suppliers \ supplier will be clearly directed that the accreditation granted to his Authorized Representatives \ Agents shall be valid subject entirely to the non-infringement by him as well as his Authorized Representatives \ Agents, of the terms of accreditation. The Ministry of Defence reserves the right to inform the Foreign supplier that the Authorized Representative \ Agent (either proposed or already registered) is not acceptable without assigning any reason. Such a communication may be sent to the Foreign supplier at any time and the said supplier will have to replace the said Authorized Representative \ Agent.

(vii) (a) The agent shall not have any business contacts with any other than the authorized personnel of the establishment dealing with the equipment to be procured;
(b) correspondence will be exchanged with the agent, only by officers specially authorized for the purposes.

These instructions would only apply to future contracts.

4. In case of any doubts, necessary clarification may be sought from the Department of Defence.

(Ranjit Issar, Joint Secretary)
OFFICE MEMORANDUM

Subject: Indian Agents of Foreign Suppliers- Policy on.

The attention of Government has been drawn to certain doubts expressed regarding existing instructions on the role of Indian agents of foreign suppliers and agency commission they get in contracts entered into by Government departments for purchase of imported stores and equipments. It is, therefore, considered necessary to restate the policy with a view to strengthening and streamlining the existing monitoring arrangements and introducing control mechanisms.

2. Purchase of stores and equipments by Government departments is governed by the provisions of the General Financial Rules (GFRs) of the Government of India. So far as imported items are concerned, Appendix VIII of the GFRs provides that for articles manufactured abroad which need to be specially imported, preference be given to offers received for supply through India-based establishments. The same policy is laid down in the Manual of office Procedure for supplies, inspection and disposal (1960 Edition), namely, that in the procurement of articles manufactured abroad, offers received through India-based establishments would be given preference (Para 96 of the Manual). Para 97 goes further and states:

“Subject to the period of delivery, quality and price of goods being suitable and subject to the existence of adequate after sales service in India, wherever required, the DGS&D should place orders on authorized Indian agents and not cross-mandate the indent to the foreign manufacturers direct.”

3. The Public Accounts Committee, in a series of reports in 1974-75, 1975-76 and 1976-77, examined the involvement of Indian agents and payment of agency commission to them. In a follow-up of the recommendations made in the 160th
Report of PAC (1974-75), an Inter-Ministerial Working Group was set up by the Government in June, 1975, with the Director General, Revenue Intelligence as the convener, to study the matter in depth. The recommendations of the Working Group were, by and large, accepted by the Government and reported to PAC, which are incorporated in the 185th Report of the PAC (1975-76). These recommendations were also communicated to the concerned purchasing Departments, vide Department of Supply No.P.III-3(5)/76 dated the 19th July, 1976.

4. The Policy has been that involvement of Indian agents may be allowed where they have to render after-sales-service; the quantum of agency commission would be determined on the merits of each case and the commission would be paid in Indian Rupees. Following a further recommendation made by the PAC, in the 231st Report (5th Lok Sabha 1976-77) on procurement of oil, the Department of Supply prepared and adopted standardized clauses requiring inter alia disclosure of the details of their principals by the Indian agents and of agency commission payable by the foreign suppliers. The said clause are contained in DGS&D Form-237.

5. Briefly, the instructions governing Indian agents of foreign suppliers in matters of Government purchases are restated below:

It is not the policy of Government Per se to look for, encourage or engage agents. Wherever it is possible to secure supplies and ensure after-sales-services etc., on reasonable terms without the intercession of agents, there is no need for engaging any such agent. In all other cases, the employment of Indian agents by foreign supplies, as may be found necessary, on a case to case basis, shall be regulated by the following:

(i) There shall be compulsory registration of agents. Pending enactment of necessary legislation in this regard, this will immediately be achieved by issue of appropriate administrative instruction by the purchasing Departments by making compulsory registration a condition in the Tender Inquiry/Contract.

(ii) All cases of agency arrangements and the amount of commission payable should be brought on record and made explicit so as to ensure compliance of tax laws and prevent leakage of foreign exchange. A photostat copy of the Agency Agreement should also be mandatory filed by the registered agent while bringing on record the agency arrangements. All purchasing organizations should continue and ensure that the commissions payable are paid in Indian rupees only in compliance with the existing provisions of FERA, 1973, and the Handbook on Import/Export Procedure.

(iii) For the above, a set of model clauses on the lines already prepared and
adopted by the Department of Supply may be adopted with suitable modifications, wherever found necessary.

(iv) As part of the standardized clauses, a suitable clause for enforcement of the disclosure provision should be incorporated to provide in the contract that, in the event of any breach or default on the part of the supplier to disclose the agency arrangements in India, there would be a penalty of banning business dealings with the Government or damages or payment of a named sum. This clause will be formulated by the Department of Supply, in consultation with the Ministry of Law and forwarded to all concerned Departments thereafter for appropriate necessary action.

(v) All particulars relating to agency commission should be reported to the Enforcement Directorate. The Enforcement Directorate will send this information also the CBDT, CBEC and RBI to prevent leakage of foreign exchange and tax evasion on agency commission.

6. The above guidelines will be applicable to all civil purchases of imported stores by all Government Departments and public sector enterprises under the administrative control of different Ministries/Departments. A review mechanism is being separately set up to ensure compliance with the guidelines, as aforesaid and orders in this regard would be issued later. The Financial Advisers of different Ministries/Departments will ensure meticulous compliance of these instructions. Supplementary instructions in regard to defence purchases will be issued by the Ministry of Defence.

7. The arrangements indicated above are intended to build further safeguards into the existing system keeping in view various recommendations of the Public Accounts Committee and other expert bodies.

8. Hindi version will follow.

Sd/-

(A. JAYARAMAN)

JOINT SECRETARY TO THE GOVT. OF THE INDIA.

To

1. All Ministries/Departments and C&AG, UPSC etc., with usual number of spare copies.
2. All Financial Advisers
Appendix - II

DGS&D 237

Special conditions for stores in Addition to those contained in form DGS&D-230

I. Offers should be admitted by the tenderers on the basis of FOB/FAS port of Shipment of their Principals/Manufacturers; CIF. Indian Port/FOR. The Purchaser reserves the right to place order on any such basis.

II. In case of FOB/FAS offers, the tenderers should indicate separately:

(i) The net ex-factory Prices.
(ii) The net FOB/FAS prices exclusive of profit, commission and
(iii) The commission payable to the Indian agent, if any, in rupees in terms of Agreement (enclosing copy of the same). The Agency Commission payable to the tenderer in terms of agreement with their Principals/ Manufacturers should be indicated in rupees as a separate item which would not be subject to variation on account of variation in exchange rate.

III. (A) Indian Agents/Associates quoting on behalf of the Principal/ Manufacturer abroad on FOB/FAS/CIF basis:-

(i) Certify that net prices are exclusive of commission, profit etc to paid to their Principals/Manufacturer, in foreign currency and indicate separately the amount of remuneration/ commission/profit which Indian Agents/ Associates are entitled in terms of their Agreements with the foreign Principals;
(ii) Produce their Principal’s/ Manufacturer’s Performa invoice or certificate indicating remuneration/Commission/ discount, etc to be allowed in the particular transaction, to their Indian Agents/ Associates and the nature of their sales service to be rendered by Indian Agents/ Associates;

(B) Foreign firms quoting direct against the inquiry and who have Indian Agents/Associate and/or servicing facilities in India should indicate in their offer the name of their Indian Agents/Associates or the representative they have for servicing in India. They should quote net FOB/FAS. Price, exclusive of the amount of remuneration or commission provided for the Indian Agents/Associates. It should be understood that the purchaser will indemnify the supplier against payment of such commission and would undertake to pay such commission to the Indian Agents/ Associates in rupees in India in respect of a contract arising out of invitation to the tender, where the Indian
Agents/Associates remuneration/or commission covers a part of the price against the tender.

(C) Besides the above, the following particulars should also be furnished by the tenderers, the Indian Agents/Associates/and/or the foreign firms:-

(i) The precise relationship between the foreign manufacturer/Principal and their Indian agents/Associates;
(ii) The mutual interest which the manufacturer/Principal and the Indian agents/associates have in the business of each other;
(iii) Any payment which the Agent/Associate receives in India or abroad from the manufacturer/Principal whether as a commission for the contractor as a general retainee fee;
(iv) Indian agent’s Income-tax Permanent Account number;
(v) The Foreign supplier’s Income-Tax permanent Account number;
(vi) All services to the rendered by the Agent/Associate whether of general nature or in relation to the particular contract.

N.B. Tenders which do not comply with the above stipulations are liable to be ignored.

(D) In case of FOB/FAS offers, the prices to be quoted should be Foreign Principals/Manufacturer’s net FOB/FAS prices exclusive of profit, commission etc. The Agency Commission payable to the tenderer/Indian Agent/Associate in terms of the Agreement with their Principals/manufacturers should indicated both in foreign currency as well as in Indian rupee to be converted by supplying TT. Buying rate of Exchange ruling on the date of offer. The agency commission finally payable to tenderer under the contract will, however, be converted in Indian rupees at the TT buying rate of exchange ruling on the date of placement of order which shall not be subject to any further exchange variations. Quotation on FOB/FAS basis should be supported by the Manufacturer’s Invoice.

(E) In case of FOR offers

(a) The tenderer should clearly indicate the break up of prices viz. Net FOB/FAS value insurance, freight supported by manufacturer’s/supplier’s Performa invoice and clearing/handling charges at the India Port, profit margin and charges for dispatch up to destination.

(b) Exchange Rate Variation.

(i) Tenderers quoting for imported stores in rupees on forward delivery basis should base their prices on a rate of exchange according to TT selling rate as quoted by any authorized Exchange Bankers approved by Reserve Bank of India and Ruling on the date of tender. The base date and rate of exchange adopted for the quotation, should be invariably indicated in the tender.
(ii) In the event of variation by more than 1 percent (up or down) between the base rate and the rate of remittance to foreign Principals, the contract prices (limited only to that portion of the FOR prices that are required to be remitted according to the contractual terms to the firm’s foreign principals in foreign currency) will be subject to adjustment (up or down) in accordance with the TT selling rate of exchanges as quoted by any authorized Exchange Bankers ruling on the date the payment is made by the firm to their Principals abroad which should not be beyond two weeks for the date on which initial payment is made by the purchaser to the contractor. No variation in price will, however, be allowed if the variation in the rate of exchange remains within the limit of 1 percent plus or minus.

(iii) Any increase or decrease in the customs duty by reason of the variation in the rate of exchange will be to the buyer’s account.

(iv) No other charges will be affected by the change in the rate of exchange.

(c) Custom Duty Variation.

(i) For imported stores offered against forward delivery the tenderer shall quote prices thereof exclusive of customs duty. The tenderers shall specify separately the CIF prices and total amount of customs duty, payable. They will also indicate correctly the rate of customs duty applicable along with Indian customs tariff number. Customs duty as actually paid will be reimbursed on production of the necessary documents i.e. (1) triplicate copy of the bill of entry and (2) copy of Bill of Lading and (3) a copy of foreign Principals Invoice. Where, however, the tenderer imports the stores in question against his own commercial quota Import License, he will also be required to submit, in addition to the triplicate copy of Bill of Entry etc a certificate from the his International Auditor on the Bill itself to the effect that the following items/ quantities in the Bill of Entry relate to the stores imported against DGS&D contract number…………dated.

(ii) Subsequent to the reimbursement of customs duty, the tenderer shall submit to the concerned Controller of Accounts, a certificate from his Statutory Auditor after the commercial audit of his account to the effect that he had not obtained any refund of the customs duty subsequent to the payment of duty to the customs authorities by him. In addition he shall also submit to the Controller of Accounts concerned a certificate from firm’s Director/Manager/Proprietor/Accountant immediately after a period of three months from the date of payment of the duty to Customs authorities to the effect that he had not applied for any refund of the customs duty subsequent to the payment of duty to the customs authorities by him.

(iii) In case the tenderer obtains any refund of customs duty subsequent to the payment of the same by him to the Customs authorities and reimbursement of the customs duty to him by the Controller of Accounts, he shall forthwith furnish the details of the refund obtained and afford full credit of the same to the purchaser.

(iv) In case it is, proposed to supply the stores partly imported and partly manufactured in this country, tenderers are requested to indicate clearly in their
tender full details of the components which are proposed to be manufactured in India and the components, which are proposed to be imported and their CIF price.

(IV) Payment Terms:

(i) Unless otherwise prescribed the payment for FOB/FAS contracts shall be as under:

(i) The Principals/Foreign Manufacturers will be paid 100 per cent of the net FOB/FAS price excluding the Indian Agent’s commission on presentation of the following documents:

4 copies - Commercial invoice
1 copy - Packing List
1 copy - Non-negotiable Bill of Lading
1 copy - High Commission of India Supply certificate of Inspection (if applicable).
And certificate from the Supplier confirming that original shipping documents etc have been dispatch in accordance with the requirements of the A/T.

(ii) Agency Commission payment terms against FOB/FAS contracts:-
The terms of payment of agency commission respect of the under mentioned categories of FOB/FAS contracts are as indicated against each:

(a) Contracts for Plant and Machinery requiring installation/erection at site, which is the responsibility of the Indian Agent.
(b) Contracts for Plant and Machinery supplied against firms warranty/guarantee and where erection/ installation is to be done by the indentor consignee himself but the Indian agent is to render after sale service.
(c) Contracts for spares placed on Indian Agents not requiring the rendering of any after sale service.
(d) Contracts for stores other than spares placed on Indian agents, not requiring the rendering of any after sale service.

50% commission may be paid to the Indian Agent on installation, erection, commissioning etc on the expiry of the six months from receipt of supply portion of plant by the consignee, which ever is earlier, and the balance 50% on taking over of the plant/machinery, by the consignee and issue of Engineer’s certificate.

80% commission may be paid to the Indian Agent on proof of payment to the foreign supplier/Principals and the balance 20% on receipt of stores by the consignee in good condition.

100% commission to be paid on proof of payment to the supplier Principals
abroad.

100% commission to be paid on proof of payment to the supplier Principals abroad.__(iii) Terms of Payment against CIF/C&F contracts placed on supplier in East European Countries:-

The payment terms applicable to different types of contract are mentioned below:-

(a) Contracts where stores are inspected prior to dispatch and the suppliers also undertake to furnish a warranty/Guarantee for a reasonable period.
(b) Contracts of value not exceeding Rs.20000/-where the stores are not departmentally inspected prior to dispatch but the suppliers undertake to give a warranty/ guarantee.
(c) Contracts of value of Rs.20000 and above where the stores are not departmentally inspected prior to dispatch but the supplier undertakes to give a warranty/Guarantee.
(d) Contracts providing for departmental inspection after arrival of stores in India.
(e) Contracts for plant and machinery which have to be inspected at sites after erection/ installation._90% payment to be made on the basis of inspection. Note and lading certificate certifying receipt on stores at port of entry in India; balance 10% of consignee’s receipt.

90% payment to be made on the basis of maker test certificate and on proof of dispatch from Indian port, balance 10% on consignee’s receipt.

50% payment to be made on the basis of (i) Make Test Certificate or Govt. Inspector of Supplies Country and (ii) a landing certificate certify in receipt of stores at port of entry in India. Further 25% after 4 months and final 25%, 8 months after receipt of stores at destination on production of consignee’s receipt.

90% payment to be made after inspection in India on the basis of Inspection Note; balance 10% on consignee’s receipt.

80% payment to be made on the basis of (I) Makers Test Certificate (ii) Inspection Certificate of Govt Inspector of Suppliers country and (iii) Landing Certificate certifying receipt of stores at port of entry in India, and dispatch from the port of Disembarkation and balance 20% after erection, inspection and test at site and on receipt of Acceptance Certificate from the Consignees.___

N.B. :- In regard to the contracts categorized against items (a), (b) and (c) in the foregoing para, the suppliers will, interalia, be required to issue a Warranty requiring quality to be valid for a period of 15 months after delivery or 12 months after the arrival of the stores at ultimate destination in India, whichever is earlier. This Warranty to be provided by the manufacturers/suppliers shall be backed
and enforced by the provisions of acceptable performance Bond in the contracts for stores like Power Plant Equipments or complete Power plant.

V. Inspection

Unless, otherwise prescribed the Inspection Clause shall be as under:-

Inspection Authority – Deputy Director General (Inspection), DGS&D, New Delhi.
Inspecting Officer – Director General, Supply Wing, High commission of India, London or his authorized representative at Principal’s factory premises.

VI. Guarantee/Warranty

As contained clause 27 of DGS&D 230 Guarantee/warranty shall apply except that it shall be for a period of twelve months from the date of receipt of equipment in good condition at site by the consignee in case of supply Contracts and twelve months from the date of the installation and satisfactory taking over of the equipment at site by Consignee where installation and commissioning is involved.

VII. Insurance

If a contract is placed as a result of this invitation to tender, and if Indentor requires insurance of stores tenderers are required to effect insurance of stores only through the Life Insurance Corporation of India and payment should be made in rupee only. The tenderer should indicate in their tender FOB cost freight and Insurance separately in addition to the CIF value.

VIII. Liquidated damages for delay in suppliers.

It may be noted that clause 14(7) (I) of General conditions of contract (Form No.DGS&D-68 Revised) which will govern contracts placed as a result of this invitation to tender, provides for recovery of liquidated damages on the cost of delayed supplies at the rate of 2 per cent per month or a part of a month delayed. Liquidated damages for delay in supplies thus accrued will be recovered by the overseas paying authority specified in the contract from the Bills for payment of the cost of stores submitted by the Contractor or his foreign principals in accordance with the terms of the contract.

IX. Submission of tender.

The tenderers in their own interest are requested to send their offers by Registered Air Mail Post instead of by Air Parcel to avoid delay in clearance and in receipt of tenders by the Govt. purchaser. While forwarding the tender documents by Air Mail Post, they should clearly indicate on the packet that the
same contains only tender documents.

Tender samples, if any, should be forwarded separately also by Registered. Air Mail Post, enclosing a clear declaration on the effect that the same is only a free tender sample against the tender inquiry No_______ dated______ floated by DGS&D and also enclosing a copy of the uncharged invoice. The original copy of the uncharged invoice should be enclosed with a covering letter addressed to DGS&D intimating particulars regarding the date when parcel has been sent and this should be forwarded DGS&D separately by Air Mail.

The Purchaser will not be responsible for any de caused by the dispatch of tenders by Air Parcel through the Airlines as the clearance of such packet from the customs involves unavoidable cumbersome procedure.

X. Shipping instructions and documentation : As per Annexure I,II and III attached.

XI. Export License, import from USA. On FAS/FOB basis.

For items on order requiring an export License the contractor shall furnish to the Indian Supply Mission, Washington DC, USA Export License application at the contractors own cost and expenses on the appropriate form duly filled in showing Indian Supply Mission as the applicant (in case of commodities requiring Export License from US Department of Commerce, schedule ‘B’ number and processing code No 1 shall also be indicated). On receipt, Indian Supply Mission, Washington DC, USA Export License application at the contractors own cost and expenses on the appropriate form duly filled in showing Indian Supply Mission as the applicant (in case of commercial ties requiring Export License from US Deptt., Commerce, schedule ‘B’ number and processing code No 1 shall also be indicated). On receipt, Indian Supply Mission will forward the application to USA Government authorities for issue of the requisite export License. In case the Export License is of any account not issued by the US Government be revoked subsequently by the US Government on contract would be deemed to be frustrated and the parties discharged of all the liabilities under the contract.

Nodal Officer — For cases of Appointment of Authorised Representative of Foreign Suppliers :

(i) Department of Defence Production And Supplies :

Shri Adhir Jha , Deputy Secretary(SY & BEL)
Department of Defence Production & Supplies
Ministry of Defence
South Block New Delhi 110011
INDIA'