

OEM's Company Letterhead

File Ref No and other details as on Company's Letterhead

Director (Acquisition)
Acquisition Wing, Defence Procurement Board
Ministry of Defence
Room no 115 A, Sena Bhavan,
Rajaji Marg, New Delhi, 110011

**ORIGINAL EQUIPMENT MANUFACTURER'S (OEM's) APPLICATION FOR
REGISTERING HIS INDIAN AUTHORIZED REPRESENTATIVE/AGENT**

Dear Sir,

1. We, M/s (name of the OEM), wish to register our Indian Authorized Representative/Agent, M/s / Mr (name of the Authorized Representative/Agent) to represent our company's interest in India.
2. Following documents are attached as Appendices and Annexures: -
 - (a) Original Equipment Manufacturer's Application Form for registering his Indian Authorized Representative/ Agent. (Appendix 'A')
 - (b) Undertaking to be given by the Original Equipment Manufacturer with regard to self and Authorized Representative/Agent. (Appendix 'B')
 - (c) Photocopy of Certificate of Incorporation from the Registrar of Companies. (Annexure 1)
 - (d) Obligations of the Authorized Representative/Agent. (Annexure 2)
 - (e) Commission to be paid to the Authorized Representative/Agent. (Annexure 3)
 - (f) Penalty for use of Undue Influence. (Annexure 4)
 - (g) Agents/ Agency Commission. (Annexure 5)
3. Following documents are also enclosed as they are explanatory notes to our responses in the Appendices, and are placed at Annexure 6 and onwards: -
 - (a)

Yours sincerely,

Company Seal

**Signature of the
CEO/MD, OEM**

ORIGINAL EQUIPMENT MANUFACTURER'S APPLICATION FORM
FOR REGISTERING HIS INDIAN AUTHORIZED REPRESENTATIVE/AGENT

1	Name of the Original Equipment Manufacturer (OEM).	
2	Address of the OEM.	
3	<p>(a) As OEM for defense equipment, is this a general application for registration of Authorized Representative / Agent?</p> <p>(b) Or is the application to register the Authorized Representative/Agent in response to a RFP?</p> <p>(c) If answer to column 3(b) is 'Yes', then quote ref no of the RFP and state the equipment OEM proposes to offer.</p> <p><u>Note.</u> It is clarified that there is no difference in the procedure for application under 3 (a) or 3 (b), nor are the categories different.</p>	
4.	<p>(a) Does the OEM proposes to be a first time supplier to the Indian Ministry of Defence (IMoD)?</p> <p>(b) Or has the OEM been a supplier of his equipment/s to the IMoD? If so, please list out the equipment/s as an annexure.</p>	
5	Name of proposed Authorized Representative/Agent.	
6	<p>Whether the status of the Authorized Representative/Agent is:</p> <p>(a) An individual.</p> <p>(b) A partnership firm.</p> <p>(c) A Public Limited Company.</p> <p>(d) A Private Limited Company.</p>	
7.	<p>Registration Number of the partnership firm or the company, if the Authorized Representative is a firm or a company. (Please attach a photocopy of Certificate of Incorporation from the Registrar of the Companies as Annexure 1).</p>	
8.	<p>Permanent Account Number (PAN) of the individual, partnership firm or the company.</p>	

9.	<p>Terms of payment to the Authorized Representative/Agent, whether:</p> <p>(a) On retainer basis.</p> <p>(b) Reimbursement of expenses.</p> <p>(c) Commission basis.</p> <p>(d) Combination of more than one of those above.</p>	
10	<p>Business information regarding Authorized Representative/Agent:</p> <p>(a) Office address.</p> <p>(b) Nature of business and since when established.</p> <p>(c) Since when supplying defense equipment.</p> <p>(d) Principal place of business.</p> <p>(e) Details of partners/agency/offices abroad.</p>	
11.	<p>Information in respect of Chief Executive of the Authorized Representative:</p> <p>(a) Name, Address and Permanent Account Number (PAN) of the Chief Executive.</p> <p>(b) Previous professional background.</p> <p>(c) Details of previous dealings with the IMoD.</p> <p>(d) Details of current business.</p> <p>(e) If Chief Executive is a retired civilian \ armed forces employee, then details regarding:</p> <p>(i) Name of service.</p> <p>(ii) Date of retirement.</p> <p>(iii) Last designation / rank held.</p> <p>(iv) Last posting in Government.</p> <p>(v) Whether permission taken from Government for seeking re-employment.</p>	
12.	<p>Information in respect of senior executives of the Authorized Representative:</p> <p>(a) Names of Director(s) / Partner(s).</p> <p>(b) If Director(s)/ Partner(s) is/are retired civilian/ armed forces employee, then details regarding:</p> <p>(i) Name of service.</p> <p>(ii) Date of retirement.</p> <p>(iii) Last designation / rank held.</p>	

	(iv) Last posting in Government. (v) Whether permission taken from Government for seeking re-employment.	
13.	Name and address of bankers of the Authorized Representative/Agent in India and abroad.	

**Signature of the
Authorized Representative/Agent**

**Signature of the
CEO/MD,OEM**

Appendix 'B'

**UNDERTAKING TO BE GIVEN BY THE ORIGINAL EQUIPMENT MANUFACTURER
WITH REGARD TO SELF AND AUTHORISED REPRESENTATIVE OR AGENT
(WHICHEVER APPLICABLE*)**

1. This is to certify that M/s _____, seeking to appoint M/s / Mr _____ as their Authorized Representative/Agent, are the Original Equipment Manufacturers.
2. M/s _____ hereby confirm that the information given by us in Appendix 'A' for appointment of M/s / Mr _____ as Authorized Representative/Agent is correct. We are aware that in case this information is found at any stage to be incorrect, the application for appointment of M/s / Mr _____ as Authorized Representative/Agent can be cancelled.
3. M/s _____ hereby give an undertaking to abide by the prescribed guidelines / instructions in force regarding involvement of Authorized Representative/Agent.
4. M/s _____ hereby give an undertaking that M/s / Mr _____, appointed as Authorized Representative/Agent will also abide by the prescribed guidelines \ instructions in force regarding involvement of Authorized Representative/Agent.
5. The 'Obligations of the Authorized Representative/Agent' that have been finalized between M/s _____ & the Authorized Representative/Agent and are given at Annexure 2.
6. M/s _____ hereby given an undertaking that all payments to the Authorized Representative/Agent would be as defined in 'Commission to be Paid to the Authorized Representative', placed at Annexure 3. Should the OEM be the single vendor for the equipment proposed to be procured by the Government of India, the commission to be paid to the Authorized Representative would be fixed within the ceiling as proposed by the Indian MoD. We further give an undertaking that all payments would be in Indian rupees and that no other payment, except that specified in the Agreement would be paid to the Authorized Representative/Agent.
7. We, M/s _____ and our Authorized Representative/Agent, M/s /Mr _____ are fully aware of the provisions of the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988 and are liable to be prosecuted for any violation thereof.
8. It is understood by us that the accreditation granted to the Authorized Representative/Agent is valid subject to non-infringement by OEM or the Authorized Representative/Agent of the terms of accreditation. It is also understood that the Indian MoD reserves the right not to accept our request for appointing the said Authorized Representative/Agent without assigning any reason, and that in case such a communication is received from the Indian MoD, we shall replace the said Authorized Representative/Agent.
9. Further, we give an undertaking that the OEM and the Authorized Representative/Agent would be liable for penalties in the event of IMoD establishing any malafide that intends to subvert any of the declarations made in the application. This could include cancellation of the contract, cancellation of accreditation of our Authorized Representative/Agent and also liable to payment of fine to be determined by MoD, banning of all future dealings with the Government of India, forfeiture of Bank Guarantee, refund of the amounts paid by the MoD, etc.

10. It is also confirmed that we, M\s_____are only employing M\s /Mr _____as our Authorized Representative/Agent and that except for M\s / Mr_____, we are not employing any other middleman, sales consultant or advisor to influence the outcome of the contract through any means.

11. It is also certified that no payment has been made to the employees of the firm in India or outside India except those which are included in the Form 16A under the Income Tax Act.

12. It is clearly understood by us that the provisions contained under the heading "Penalties for the use of Undue Influence' at Annexure 4 and "Agents \ Agents Commission ' at Annexure 5 have been read and understood by us. Our Authorized Representative/Agent and we agree to abide by these conditions.

13. Any change of Authorized Representative/Agent will be notified to the IMoD without delay. A fresh application will be submitted for requesting new appointment, which will be considered afresh by IMoD.

14. The OEM and the Authorized Representative / Agent agree to abide by the laws of India.

* Delete whichever is not applicable in the text.

**Signature of the
Authorized Representative/Agent**

**Signature of the
CEO/MD, OEM**

Annexure 1

CERTIFICATE OF INCORPORATION FROM
THE REGISTRAR OF COMPANIES

Annexure 2

OBLIGATIONS OF THE AUTHORIZED REPRESENTATIVE/AGENT
(WHICHEVER APPLICABLE*)

1. The OEM is required to specify the role that the Authorized Representative/Agent will play during the various stages of the transaction, which may include involvement in the following activities:-

- (a) During vendor selection by providing technical information.
- (b) During trial evaluation of the equipment.
- (c) During the PNC negotiations.
- (d) Role of the Authorized Representative/Agent to service the contract during deliveries, opening of LC, attending to complaints of quantity and quality claims and other issues that may arise.

2. In case no contract is signed with the IMoD, the Authorized Representative/Agent would still perform the following duties: -

- (a)
- (b)

3. The appointment of the Authorized Representative/Agent is fixed for ____ months from the date of this application or from _____ to _____.

Note. The obligations that the OEM would assign to the Authorized Representative/Agent would be solely theirs. The obligations mentioned at para 1 above are purely indicative.

* Delete whichever is not applicable in the text.

**Signature of the
Authorized Representative/Agent**

**Signature of the
CEO/MD, OEM**

Annexure 3

COMMISSION TO BE PAID TO THE AUTHORIZED REPRESENTATIVE/AGENT.
(WHICHEVER APPLICABLE*)

1. The Agreement on the payment of Commission and other compensations arrived at with the Authorized Representative/Agent is as below: -

Note. Should the OEM be the single vendor for the equipment proposed to be procured by the Government of India, the commission to be paid to the Authorized Representative/Agent would be fixed within the ceiling as proposed by the IMoD.

* Delete whichever is not applicable in the text.

**Signature of the
Authorized Representative/Agent**

**Signature of the
CEO/MD, OEM**

PENALTY FOR USE OF UNDUE INFLUENCE

1. The OEM and/or his Authorized Representative/Agent* undertake(s) that he has not given, offered or promised to give, directly or indirectly, any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the Buyer or having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other Contract with the Government, or showing or forbearing to show favor or disfavor to any person in relation to the Contract or any other Contract with the Government. Any breach of the aforesaid undertaking by the OEM or the Authorized Representative/Agent employed by him or acting on his behalf (whether with or without the knowledge of the OEM) or the commission of any offence by the OEM or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1988 or any other Act enacted for the Prevention of Corruption, shall entitle the Buyer to cancel the Contract and all or any other contracts with the OEM and recover from the OEM the amount of any loss arising from such cancellation. A decision of the Buyer or his nominee to the effect that a breach of the undertaking has been committed shall be final and binding on the OEM.

2. Giving or offering of any gift, bribe or inducement or any attempt to commit any such act on behalf of the OEM towards any officer/employee of the Buyer or to any other person in a position to influence the decision of the Buyer, directly or indirectly or any attempt to influence any officer/employee of the Buyer for showing any favor in relation to this or any other contract, shall render the OEM & his Authorized Representative/Agent to such liability/penalty as the Buyer may deem proper, including but not limited to termination of the Contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

* Delete whichever is not applicable in the text.

**Signature of the
Authorized Representative/Agent**

**Signature of the
CEO/MD, OEM**

AGENTS / AGENCY COMMISSION

The OEM confirms and declares to the Buyer that the OEM is the original manufacturer of the stores referred to in this Contract/contract at a later stage, and except for his Authorized Representative/Agent*, has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the Contract to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. The OEM agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage is discovered by the Buyer that the OEM or his Authorized Representative/Agent has engaged any such individual/firm, and paid or intended to any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the OEM will be liable to refund that amount to the Buyer. The OEM will also be debarred from entering into any Supply Contract with the government of India for minimum period of five years. The Buyer will also have right to consider cancellation of the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such event be liable to refund all payments made by the Buyer in terms of the Contract along with interest at the rate of 2% annum above the LIBOR Rate. The Buyer will also have the right to recover any such amount from any Contracts concluded earlier with the Government of India.

* Delete whichever is not applicable in the text.

**Signature of the
Authorized Representative/Agent**

**Signature of the
CEO/MD, OEM**