

NOTE:

1. Tenderers are required to refer to the Instructions to Tenderers for e-Tenders
2. These conditions will be applicable for Tenders published on or after the date of uploading of new/revised conditions

1.0 Acceptance of the Offers:

The Controller of Stores is not bound to accept the lowest or any offer nor to assign any reason for doing so and reserve to himself the right to accept any offer in respect of the whole or any portion of the item specified in the tender and contractor shall be required to supply at the rate quoted.

- 1.1. Railways reserves the right to cancel the tender for full or part quantity tendered without assigning any reason. The rates quoted by the tenderers for the full quantity would be taken as valid.

2.0 Splitting of tendered quantity:**2.1. Case of no prior decision to split the order -**

- 2.1.1. Normally full order should be placed on L-1 firm. However, if after due processing, it is discovered that the quantity to be ordered is more than what L-1 alone is capable of supplying and there was no prior decision to split the quantities, then this aspect should be recorded in TC Minutes / acceptance in direct acceptance cases. The quantity being finally ordered will be distributed among the other bidders in a manner that will be fair, transparent and equitable. The manner of splitting will take specific note of the following parameters

- i) Past Performance of bidders
- ii) Capacity of bidders
- iii) Delivery requirements in the tender
- iv) Quantity under procurement
- v) Vital / Safety nature of the items.

- 2.1.2. In the absence of any differentiation on the above parameters, the manner of splitting will be based on the stipulation given in para 2.2.2. below.

2.2. Case of pre-decided split ordering:

- 2.2.1. Railway may decide in advance to have more than one source of supply on account of delivery requirement in tender, past performance and capability of bidders, quantity under procurement and vital/safety nature of items.

- 2.2.2. Following provisions (2.2.2(A) to 2.6) shall be applicable in all such cases of pre-decided split ordering –

Signature valid

Digitally signed by
DUVORI LAKSHMI
NARASIMHA
PRASHAKAR
Date: 2022.03.17
12:36:14 IST
Reason: IREPS-CRIS
Location: New Delhi

- A. The Purchaser reserves the right to distribute the procurable quantity on one or more of the eligible tenderers. Zone of consideration of such eligible tenderers will be the right of the Purchaser. The zone of consideration will be a dynamic mix of inter-se position of firms, supply performance of the firms, quantity being procured, critically of and lead time of supply of the item, number of established suppliers, their capacity etc.
- B. Whenever such splitting of the procurable quantity is made, the quantity distribution will depend (in an inverse manner) upon the differential of rates quoted by the tenderers (other aspects i.e. adequate capacity-cum-capability, satisfactory past performance of the tenderers, outstanding orders load for the Railway making the procurement, quoted delivery schedule vis -a -vis the delivery schedule incorporated in the tender enquiry etc., being same/similar) in the manner detailed in the table below:

Price differential between L1 and L2	Quantity distribution ratio between L1 and L2
Upto 3%	60 : 40
More than 3% and upto 5%	65:35
More than 5%	At least 65% on the L1 tenderer. For the quantity to be ordered on the L2 tenderer, TC/TAA shall decide.

In the phrase 'differential rates quoted by the tenderer', the quoted rate would mean

- (i) When no price negotiation has been called for, the original rates as obtained at the time of tender opening. However, the rate of the highest eligible tenderer within the zone of consideration has to be per se reasonable.
 - (ii) When price negotiation has been called for, the reference L1 rate for assessment of ration will be the original rate of L1 firm (suitable for bulk quantity) – say firm “A” - as obtained at the time of tender opening.
- B (I) If splitting of quantity is required to be done by ordering on tenderers higher than the L2 tenderer, then the quantity distribution proportion amongst the tenderers will be decided by transparent/logical/equity based extrapolation of the model as indicated in above Para.

2.2.3. In cases of pre-decided splitting if the purchaser decides not to split the ordered quantity, the reason for the same should be recorded in TC minutes/acceptance in direct acceptance cases.

2.5 For cases where the RIys/PUs had entered into ToT/JV agreements, the

following clause should be stipulated as tender conditions.

As the Rly. has entered into ToT/JV agreement with.....no.of firms, they reserve the right to place orders on all such ToT/JV agreement partners. However, for ratio/proportion of quantity distribution among such agreement partners, conditions as detailed in Para 2.2.2 (b) shall apply with the exception that the aspect of 'per-se reasonability' will not be applicable.

2.6 In the cases of inadequate Capacity-cum-capability, dissatisfactory past performance, large quantity of outstanding orders (liquidation of which will take very long time) etc., the Purchaser shall have the right to distribute the procurable quantity amongst tenderers with due consideration to these constraints and in such a manner that would ensure timely supply of material in requisite quantity to meet the needs of operation, maintenance, safety etc., of the Railways, regardless of inter-se-ranking of the tenderers and in a fair and transparent manner with due conformity to the Principles of Natural Justice and Equity.

2.7 Quantity Option Clause:

For the tenders valuing Rs.1.5Cr and above. The purchaser shall be entitled to vary the order quantity upto(+) 30% anytime within the delivery period(including extended delivery period) on the same terms and conditions. The increase in quantity with respect to the tender quantity can be done even at the time of ordering and the tenderer shall be bound to accept the quantity so ordered on the basis of his original offer. The purchaser shall be entitled to exercise (+) 30% option clause in one or more than one instalment as long as the total variation in quantity does not exceed the limit of 30% of ordered quantity.

3 Procurement from Approved Sources :

3.1. Approved by RDSO:

3.1.1. Wherever necessary, as per policy of procurement, bulk purchases will be made only from those firms who have been approved by RDSO for such ordering before opening of tender. The tenderers are to attach scanned copies of RDSO approval letters along with their offer. The status of the firm will be reckoned as on the date of tender opening and not there after.

3.1.2. However, cases of downgrading/removal/suspension/banning etc. after Opening of tender shall be taken into account while considering the offers.

3.1.3. Wherever, RDSO has assessed the capacity cum capability of the firm and has cleared the source as RDSO vendors for placement of developmental orders, developmental order upto 20% of NPQ may be placed on such sources.

(a) Developmental Vendors shall be eligible for developmental order of 20% of NPQ in regular tenders. Total quantity to be ordered on

developmental sources shall be limited up to 20% of NPQ in regular tenders.

(b) Approved Vendors shall be eligible for bulk order, as per predefined tender conditions.

(c) (1) Where there are not more than three Indian Suppliers categorized as Approved Vendor for a particular item, developmental vendors can be considered for placement of bulk order without any quantity restrictions. However, while considering such vendors, factors including past performance, capacity, delivery requirements quantity under procurement, nature of item, outstanding order load etc. Shall be considered in a transparent manner, subject to rates being reasonable. Quantity allocation among eligible vendors shall be based on pre decided tender criteria. Such orders shall be treated as bulk orders.

2) A supplier or bidder shall be considered to be from India if

- i) The entity is incorporated in India, or
- ii) A majority of its shareholding or effective control of the entity is exercised from India, or
- iii) more than 50% of the value of the item being supplied has been added in India.

3.1.4. Wherever the vendor approving agency (Other than RDSO) has not classified any of the vendors for placement of development order, developmental order may be placed upto 20% of the NPQ on unregistered/untried firms about whom Railway is prima facia satisfied that they are capable of executing the order. This 20% quantity will be within the NPQ. However, there may be some case of procurement of materials where Railways may not be willing to undertake the risk of failure on the part of the supplier on whom the development orders have been placed. In such cases. Railway may go in for increased purchase quantity and keeping in view budgetary and other aspects so that 100 per cent order could be placed as a developmental order outside the NPQ. This is subject to:-

a) Such tendering firms which are not approved by vendor approving agency (other than RDSO) for placement of developmental orders must submit their credentials details ie: Machinery & Plant, Testing facilities, QAP, Technical Man power etc.

b) Such offers are technically suitable.

c) Credential of the firms i.e. firms who have submitted adequate evidence towards their capacity-cum-capability, past performance etc. and prima facia the Railways are satisfied that the Tenderer is capable of

executing the orders but whose capacity to supply bulk quantity has not been established in the past, the capacity-cum-capability claimed/exhibited in their offers submitted, will be verified by the Railways wherever considered necessary before placement of Purchase Order on unapproved firms either by deputing their representative or by engaging agencies of RDSO/RITES etc., at the discretion of Railways.

d) Failure to furnish requisite credentials details ie., machinery and plant, testing facilities, QAP technical manpower etc., will make the offer liable to be ignored.

3.2. Approved by DLW/CLW/ICF/CORE/RCF/CME/CEE-S.C.RLY:

Same conditions shall apply as in the case of RDSO approved sources as detailed in Para 3.1 above with the exception that wherever "RDSO" is appearing, the same should be replaced by "DLW/ CLW/ ICF/ CORE/ RCF/CME/CEE-S.C.RLY."

Procurement of materials falling in the category other than those in Para 3.1 and 3.2 above:

In these cases, the Railways reserves the right to make bulk procurement from the tenderers who conform to/comply with the eligibility criteria (as detailed in the special conditions of tender) whereas developmental orders may be considered for placement on other sources whose offers are competitive and who have submitted adequate evidence towards their capacity-cum-capability and prima facie the Railways are satisfied they are capable of executing the orders but whose capacity to supply bulk quantity has not been established in the past.

4.1 Purchase / Price Preference Clause:

The purchaser reserves the option to give a purchase / price preference to the offers from Public Sector units and /or from Small Scale/Cottage Industries Units, over those from other firms, in accordance with the policies of the Govt. from time-to-time. The price preference above cannot however, be taken for granted and every endeavor need be made by them to bring down cost and achieve competitiveness.

5. Quotations for Imported items:

5.1 Quotations in Foreign Currency:

5.1.1. Please note that, in case of Quotations in Foreign Exchange the firms should quote on FOB basis.

5.1.2. Any additional expenditure incurred by the purchaser on account of increased Custom Duty, Freight charges as also extra cost which may arise on account of Variation in Exchange rate during the extended delivery schedules, shall be borne by the Contractor.

5.2 Imported Stores offered by Indian Agents in Indian Currency:

Any authorized dealer / agent / recognized industrial distributor quoting on behalf of their foreign principal in Indian Rupees shall have to comply with the following:-

1. To quote with tender specific authorization from the foreign manufacturer.

2. (i) While quoting on behalf of foreign principals tenderers are required to furnish the principal's invoice/ proforma invoice along with their quotation.

(ii) Proforma invoices however, may be accepted in exceptional cases where, it is not possible to obtain the invoices before the contract is placed.

3. The tenderer shall have to undertake in the tender to comply with the following

(a) Consent to furnish copy of customs out passed bill of entry for the goods, relevant to each consignment Manufacturer's Test and Guarantee certificate issued by the manufacturer, Copy of Bill of Lading/AWB relevant to the consignment; Copy of commercial invoice of the foreign manufacturer/principals relevant to each consignment.

(b) Current and valid authorization/dealership certificate of foreign manufacturer/principal.

(c) Compliance of sea/air worthy packing condition in manufacturer's original packing with manufacturer's tamper proof seal and compliance of the Packing condition as laid down in IRS Conditions of Contract Para- 1800. Failure to comply with any of the aforesaid conditions as referred above will make the offer liable to be rejected.

4. Tenderer has to indicate the following while submitting the offer:

(a) The precise relationship between the foreign manufacturer/principal and their agents/associates.

(b) The mutual interest which the manufacturer/principal and the Indian agent/associates have in business of each other is to be indicated.

(c) Indian agent's Permanent Account Number is to be indicated.

5. Any additional expenditure incurred on account of Customs Duty and exchange Rate variation during pendency of the Contract will be on contractor's account.

6. For bearings manufactured in foreign countries, Visual inspection by RITES inside India after receipt is acceptable with import documents and original manufacturer's test and Warranty/ Guarantee certificate. Firm should consent to deposit security money as per IRS conditions for due execution of the contract if asked to do so. This is irrespective of the fact whether the firm is registered with this Railway or not.

6. Payment Terms:

- 6.1. Payment for the stores or each consignment thereof will be made to the contractor on submission of bill accompanied by the prescribed documents mentioned in the contract.
- 6.2. 95% payment for the stores or each consignment thereof will be made against Inspection Certificate and proof of dispatch. For dispatch of material by road, it is the challan of the supplier duly certified by the consignee Gazetted Officer towards receipt of material at consignee's end will constitute the proof of dispatch for the purpose of payment. For rail dispatch, clear and unqualified RR/PWB may be considered as the proof of dispatch.
- 6.3. For balance 5%, payment will be made on receipt and acceptance of stores by the consignee, signified by granting of Receipt Note. In other words, balance 5% payment shall be made against Receipt Note.
- 6.4. However, in this connection it is to be made clear that for orders valuing upto Rs.5 lakhs, no advance payment will be made and only 100% payment will be made against receipt and acceptance of the material by the consignee i.e., against Receipt Note.
- 6.5. In deserving cases, 98% / 2% payment can also be considered within the framework of extant rules and procedures.
- 6.6. For Machinery & Plant items: 80% payment will be allowed after receipt of the machine in good and acceptable condition at consignee's end against inspection certificate and the supplier's challan certified by the consignee Gazetted Officer. Balance 20% payment will be made on successful installation, commissioning and testing of the machine and also furnishing of a Bank Guarantee towards warranty obligations of the contractor for 10% of the value of the machinery or plant.
- 6.7. Discounts / rebates linked with early payment and / or early granting of Receipt Note etc within specified days will not be considered for determination of inter-se ranking of the offers. However, the Railways reserves the rights to avail themselves of such rebates / discounts.

6.8. For MSME Firms:

- i) 100% payment on or before 45th day from the date of delivery of goods/services along with inspection certificate at the nominated place/Depot in good condition by the consignee.
- ii) Where the department makes any objection in writing regarding acceptance of goods or services within fifteen days from the date of the delivery of goods at the nominated place/Depot, the 100% payment will be made on or before the 45th day from the day on which such objection is removed by the employer.
- iii) If a micro or small enterprise firm has not submitted any documentary evidence along with the tender documents to prove its status of micro or small enterprise, it would not be admissible to claim any benefit under the MSMED Act 2006 against the orders placed in this tender.

6.9. SI.No.6.9: Mode of payment through Letter of Credit(LC) as option in Supply/Works contracts: (APPLICABLE ONCE IMPLEMENTED)

1. Ministry of Railways has decided that henceforth, all Tenders invited by Zonal Railways and Production Units, both for Supplies/ Works (including all service and maintenance contracts), having estimated value of Rs 10 lakhs and above, shall include in tender conditions, an option for the supplier/contractor to take payment from Railways through a letter of credit (LC) arrangement. This would be subject to the following:
 - (i) The bidder, at the time of bidding itself, shall exercise an option in writing, in favour of taking payment due against the said tender, through LC arrangement.
 - (ii) The option so exercised, shall be an integral part of the bidder's offer. Option once exercised shall be final and no change shall be permitted, thereafter, during the course of execution of contract.
 - (iii) The incidental cost towards issue of LC and operation thereof (LC operating charges, including bank charges for opening of LC) shall be borne by the supplier/contractor.
 - (iv) The above arrangement should be made a part of the Tender conditions and Contract conditions.
 - (v) The LC will be a sight LC.

2. The Banker for Railways for the ensuing one year, for opening domestic letters of credit shall be State Bank of India through its branches. The arrangement would cover all such contracts finalized against tender issued in the said year and shall extend till final execution of these contracts.
3. The schedule of payment liability arising in the contract shall be established by the Railways based on the prescribed delivery schedule/stages of supply/work, in consultation with supplier/contractor. The Railway's Banker should also be involved in the process to assess value of LC and terms and conditions of LC.
4. The LC condition of Railways shall inter-alia provide that Railways will issue a Document of Authorization (format enclosed as Ann 1) on claims preferred by supplier/contractor, for completed Work/Supply to enable them to claim the authorized amount from their Banker. The Document of Authorization will be issued against each Bill submitted for payment by supplier/contractor, after exercising laid down checks as per Railways' Codes and Manuals, in executive and accounts branches. The Accounts Officer responsible for passing the claim will issue the Document of Authorization. Issue of Document of Authorization will be captured in IPAS and IREPS to ensure that there is no duplicate payment against the said Bill and also to enable the supplier/contractor to view status of the claim. The Letter of credit signed between the bank and Railway should specifically mention that any excess/wrong payment made by the bank and later detected by the Railways, will be recovered from the bank.
5. The Railways will ensure that Document of Authorization is generated well within the time prescribed. Non-issue of Document of Authorization must be communicated, with reasons thereof, to concerned supplier / contractor electronically.
6. The supplier/contractor will present the Document of Authorization to his/her Banker for necessary payments as per LC terms and condition. After release of payment to the supplier, the banker of the supplier/Contractor will send this Document to the Railways' Banker for release of payment to them (supplier's Banker). The Railway's Banker will reimburse, claim made by Banker of supplier/contractor, against original Document of Authorization after verifying signatures of authorized signatory of Railways and Bill of Exchange issued by contractor/supplier.
7. The LC charges paid by the Railways for opening and operation of LC shall be charged to the relevant expenditure head:

Misc Advance (LC charge paid to bank)	Dr
Misc Adv ST (IGST/CGST/SGST)	Dr.
Cheques & Bills	Cr

The amount of GST paid shall be available for set off against output liability.

8. On issue of Document of Authorization, following accounting entries shall be made:-

Relevant Expenditure head Misc. Adv.	Cr
Misc. Adv.	Cr

(Clearance of LC charges paid to bank from LC operating charges collected from party GST on incidental charges shall be paid by the party on reverse charge basis)

Sundry Other Earnings -	Cr
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(Amount recovered over and above LC charges paid to Bank)

Demands Payable/ Misc Advance Cap*	Cr.
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(As the case may be- as per letter authorization - *Demands Payable for Revenue and Misc Advance Cap for capital transaction)

An invoice shall be issued against party for collecting the incidental charges at the time of issue of Document of Authorization.

9. The reimbursement procedure in case of accredited banks selected as Railways' banker will be directly debiting the amount to the government account through scrolls. In case of non-accredited banks, the Accounts Officer concerned while authorizing a non-accredited bank to open LC will send copy of their letter to RBI/ Public Accounts Department / Mumbai and after verification/checks regarding authorization, RBI/ PAD will forward the papers to RBI/ CAS/ Nagpur with appropriate instructions for debiting Govt. account and make reimbursement to the paying bank on demand. After making the payment, the non-accredited bank authorized to open LC will send documents and also Accounts Officer's letter in original to RBI/CAS /Nagpur for debiting Govt account and getting reimbursement. After making payment to the party, the paying bank will also send a copy of the scrolls/documents to the PAO who issued the authorization for opening of LC. A copy of the scroll will also be sent to Local Point Branch of the bank for settlement and

reporting as per extant system in vogue. The scroll should contain LCDA no. on scroll to facilitate reconciliation. Daily MIS thereof shall also be sent to CRIS.

10. On receipt of debit scrolls /documents, the Accounts Office will conduct necessary checks and debit Demands Payable /Misc. Advance (Cap) by credit to suspense head 8660-PSB Suspense. This suspense will be cleared by the Accounts Officer on receipt of the clearance memo from CAS/Nagpur.
11. The Railways will get confirmation from their Banker once the payment is released to supplier's/contractor's Banker. Acknowledgment will be placed in Purchase Order/Contract file and Contractors ledger and works Register/ Purchase Suspense Ledger will be updated accordingly.
12. It is expected that Railways would see reduction in rates offered in works and supply contract. The impact of release of payment through LC should, therefore, be evaluated after a year and reported to Board for appraisal.
13. Necessary modifications in General Conditions of Contract and IRS condition of contract, relevant Railway Codes will follow. Relevant applications viz IREPS, IPAS including integration with SBI software and protocol thereof are being carried out. Once these modifications are made, this pilot initiative will apply on all Notice inviting Tenders (NIT) of stores/ works/ services for tenders having value of Rs.10 lakh and above, w.e.f. April/ 2018.

SI.No.6.9.14 Instructions for tenderers on LC mode of Payments.

Scheme of Letter of Credit for Domestic Supplies (including all service and maintenance Contracts) tenders, having estimated value of Rs.10 lakhs and above.

- a. All Tenders invited by Zonal Railways and Production Units, having estimated value of Rs. 10lakhs and above.
- b. The LC will be a sight LC.
- c. The bidder, at the time of bidding itself, shall exercise an option, in favour of taking Payment due against the said tender, through LC arrangement, The option so exercised, Shall be an integral part of the bidders offer.
- d. Option once exercised shall be final and no change shall be permitted, thereafter, during execution of contract.
- e. The incidental cost @0.15% of LC value, towards issue of LC and operation thereof shall be borne by the supplier/contractor and shall be recovered from their bills.

- f. State Bank of India through its branches shall be the Banker for Railways for opening domestic letters of credit for ensuing year. The arrangement would cover all such contracts finalized against tender issued during the said period and shall extend till final execution of these contracts.
- g. The schedule of payment liability arising in the contract shall be established by the Railways based on the prescribed delivery schedule/stages of supply.
- h. The acceptable, agreed upon document for payments to be released under the LC so opened: shall be a Document of Authorization.
- i. The supplier/contractor shall submit their bills for completed supply to the bill processing authority mentioned in supply/contract agreement to issue Document of Authorization to enable supplier/contractor to claim the authorized amount from their Banker.
- j. Accounts officer responsible for passing the claim will issue the Document of Authorization.
- k. The supplier/contractor shall take print out of the Document of Authorization available on IREPS portal and present his claim to his banker(advising bank) for necessary payments as per LC terms and conditions. The claim shall comprise LC Document of Authorization, Bill of Exchange and invoice.
- l. The bank shall also recover any amount as may be advised by Railway against the contractor/supplier.
- m. The contractor/vendor shall indemnify and save harmless the railway from and against all losses, claims and demands of every nature and description brought or recovered against the Railways by reason of any act or omission of the Contractor/Vendor, his agents or employees, in relation to the letter of Credit(LC). All sums payable/borne by Railways on this account shall be considered as reasonable compensation and paid by Contractor/vendor.

7. Inspection Clause:

- (a) Material peculiar to Railways such as parts and fittings of rolling stock except raw material, which have been found rectified during inspection and which could not be rectified, are required to be defaced by the inspecting authority to avoid recycling of such rejected material and to avoid ultimate failures to assets. All such rejected materials peculiar to Railways should be mechanically defaced to prevent sale to Railways again.
- (b) (i) Material to be pre-inspected by RDSO or RITES at Railways option, or as stated in this Tender Enquiry. Tenderers are requested to quote, to quote accordingly. At a alter date any request for change in inspection clause will not be considered.

ii) In case the firm fails to offer the material for inspection against call issued to the inspecting agency or if the material has to be re-inspected due to rejection of the material at firm's premises by the inspecting agency or due to non-dispatch of material within validity of Inspection Certificate then 50% of the inspection charges applicable for the offered quantity subject to maximum of Rs 5,000/- and actual cost of the test charges incurred will be paid by the supplier to the inspecting agency.

(iii) Traders/ authorized agents are required to offer material for inspection at manufacturer's premises only. Inspection of materials at Godowns etc will not be accepted.

(c) Final inspection and acceptance of the supplied material will be done by the Consignee after receipt of the material.

(d) The rejected material for exclusive use of Railways will be defaced to ensure that the rejected item is not recycled and supplied to other Railways or purchasers.

7.1. Statutory Variation Clause:

Statutory Variation Clause is applicable on all Statutory levies such as Duties, Taxes etc. during the Original Currency of Contract subject to production of documentary evidence.

7.2. The Tenderer should submit Service Tax Registration Certificate indicating Service Tax Registration number (STRN) along with the Tender.

8. Terms of Delivery:

- (a) Mode of dispatch should be preferably by road.
- (b) Suppliers should clearly quote-FOR Conditions i.e. station of dispatch or destination. If firm's offer is FOR Destination then applicable freight charges should be clearly indicated.
- (c) Transit Insurance for risk in transit should be arranged by the supplier, since risk in transport in all such cases rests with the supplier.
- (d) The firms who offer to dispatch the Stores by Road on FOR Station of Despatch basis, but freight prepaid up to the Destination may seek reimbursement of such freight charges. Such reimbursement shall be made at actual and against documentary evidence within the upper ceiling of Freight charges as indicated by them or Rail freight by Passenger Train whichever is lower. However for evaluation of Offers, it is the quoted Freight which will be considered.

9. Delivery Schedule:

(a) The tenderers are to note the Railway's required delivery schedule given in the Tender schedule/ Offer Form and quote accordingly. Vague Delivery terms like 2/ 32 weeks etc must be avoided and if quoted will be taken as commercially unresponsive to railway's requirement.

(b) Liquidated Damage (LD) on delayed supply:

Recovery of Liquidated shall be levied @1/2%(half percent) of the price of the store per week or part of the week during which delivery is accepted and the upper limit for recovery of LD in supply contracts is 10%(ten percent) of the value of contract irrespective of delays, unless otherwise provided, specifically in the contract.

10. Cartel Formation:

- a) Whenever all or most of the approved firms quote equal rates and cartel formation is suspected, Railways reserves the right to place order on one or more firms with exclusion of the rest without assigning any reason thereof.
- b) Firms are expected to quote for a quantity not less than 50% of the tendered quantity. Offers for quantity less than 50% of tendered quantity will be considered unresponsive and liable to be rejected in case Cartel Formation is suspected. Railways however reserve the right to order on one or more firms any quantity.
- c) The firms who quote in cartel may be warned that their names are likely to be deleted from list of approved sources.
- d) Whenever tender is floated with purchase restriction from sources approved by nominated authorities and there exists a suspected Cartel situation by approved sources or the rates available from approved source/Sources are adjudges unreasonably high, despite fair efforts as permissible, the purchaser reserves the right to place orders on firms outside the approved vendors list, without any restrictions.

11. Time for making Risk Purchase:

Whereas this will be governed by the relevant clauses of IRS Conditions of Contract, such Risk Purchase shall be made within 9 months from the date of breach of Contract.

12. Warranty Bank Guarantee:

For items like machinery and Plant, Costly equipment, capital Spares , the tenderer will have to furnish a warranty Bank Guarantee of 10% of

Material value to cover their warranty obligation. The Format of the Warranty bank guarantee is enclosed herewith.

13. Marking of Material Supplied:

The tenderer should agree to indicate the Manufacture's Name, Month and Year of manufacturing by casting/stamping/etching/embossing, at an appropriate place of each piece supplied, without affecting the functional utility and structural stability of the components/material.

14. Procurement from Manufacturers authorized agents/ Distributors:

Only Manufacturers or their authorized dealers/ distributors need to quote with Tender specific authorization from the manufacturers failing which offers are liable to be ignored. Where a manufacturer appoints an agent or a distributor on the basis of a written agreement with him for a specific territory or specific set of items, he shall give an undertaking to the following effect.

1. Inspection by RITES/RDSO at the manufacturing premises of the relevant manufacturer. RITES/RDSO shall categorically confirm in the Inspection Certificate, that inspection of the material has been actually made in the manufacturing premises of the manufacturers and not in the ware house/ godown. Shop of the dealer.
2. Direct dispatch from the premises of the manufacturer to the Railways consignee after inspection and acceptance by RITES/RDSO.
3. Submission of manufacturer's Test and Guarantee Certificate with each lot of supplies.
4. The authorised agents/distributors price will not exceed that which the manufacturer would have quoted.

14(5)(a)(i) In a tender, either the Indian agent on behalf of the /OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same item/Product in the same tender.

ii) In a tender, if Indian agent on behalf of the Principal/OEM or Principal/OEM bids simultaneously for the same item/product in the same Tender, then both the offers will be considered ineligible and will be Summarily rejected.

b)(i) 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.

(iii) If an agent submits bids on behalf of the Principal/OEM and also on behalf of another Principal/OEM in the same tender for the same item/Product, then Both offers will be considered ineligible and will be summarily rejected.

(c) In view of the above, Manufacturer may note that an agent can represent only One firm in a tender and any manufacture cannot submit more than one offer Against a tender through different sole selling agents or one offer directly and Other offers through sole selling agents, in other words, in a tender, either the Indian agent on behalf of the Principle/OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same items/product in the same tender. In such a situation all the offers will be rejected. Also a "100% Indian Subsidiary" of the the foreign firm cannot bid through another agent. The Relation between the Principal/OEM & Agent or Indian Subsidiary(100% or Otherwise) should be contractually established and clear.

(d) The above conditions shall apply for all types of Tenders.

(e) The Proforma for Tender specific Authorisation from Manufacturers to be uploaded as per Annexure-II.

15. Benefits of MSE/Startups(whether Micro & Small Enterprises(MSEs) or otherwise as per Public Procurement Policy.

The Public Procurement Policy envisages extending certain benefits / preferential treatment to MSEs and making efforts for development of appropriate vendors and enhancement of their participation in government procurements. In order to avail themselves of such benefits and preferential treatment, the MSEs must be registered with any of the following:-

- (i) Udyam Registration.
- (ii) Udyog Aadhar Memorandum (valid upto 31.03.2022 or as extended by Ministry of Ministry of Micro, Small & Medium Enterprises)

In pursuance of the Public Procurement Policy on MSE, it has been decided that

- (i) Tender sets will be provided free of cost to MSEs registered with the above agencies for the item tendered.
- (ii) MSEs registered with the above agencies for the item tendered will be exempted from Payment of Earnest Money.
- (iii) In tenders, participating MSEs quoting a price within price band of L1 + 15% shall be allowed to supply a portion of the requirement by bringing down their

price to L1 price in a situation where L1 price is from someone other than a MSE and such MSEs can be together ordered upto 25% of the total tendered value.

(iv)a)Quantity reserved for ordering on MSE Vendors under the MSMED Act 2006 has been enhanced to 25% against the existing 20%

b)The sub-target for procurement from MSEs owned by SC/ST shall remain at 4% and for MSEs owned by Women the sub-target shall be 3% out of the total 25%.

(b)(I) MSEs who are interested in availing themselves of these benefits have to enclose with their offer the proof of their being MSE registered with any of the agencies mentioned in the notification of Ministry of MSME as indicated below.

(i) Udyam Registration.

(ii) Udyog Aadhar Memorandum (valid upto 31.03.2022 or as extended by Ministry of Ministry of Micro, Small & Medium Enterprises)

(b) (II) Firm failing to submit the information as indicated in Para **15 (iv)(b)(I)** above, such offers will not be liable for consideration of benefits detailed in Revised FAQs in respect of Public Procurement Policy for MSEs Order,2021 issued/circulated vide Ministry of Micro, Small & Medium Enterprises Office memorandum No.F.No.1(3)/2018-MA.Part-III dtd.27.01.2022.

(c) (i) In exercise of Para 16 of Public Procurement Policy for Micro and Small Enterprises order 2012.the condition of prior turnover and prior experience with respect to Micro and Small Enterprises in all Public Procurement is relaxed subject to meeting of quality and technical specifications.

(ii) Prior turnover and prior experience in Public Procurement to all Startups (whether Micro & Small Enterprises (MSEs) or otherwise) is relaxed, subject to meeting of quality and technical specifications in accordance with the relevant provisions of GFR 2017 or as amended latest

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

16.Payment through NEFT/RTGS:

National Electronic Fund Transfer is mandatory from 01-01-2008. No Registration/Renewal of firms will be granted without NEFT system after 01-01-2008. All payments after 01-04-2008 are made only through NEFT/RTGS. Firms have to fill and attach the Mandate form (as per Annexure – B) along with their offers, if not already executed. Purchase Order will not be issued without mandate forms duly filled and attached scanned copy duly signed by the Authorized Representative.

17. Force Majeure Clause:

Force Majeure is an event beyond the control of the Supplier and not involving the supplier's fault or negligence and which is not foreseeable. Such events may include, but are not restricted to acts of the purchaser either in its sovereign or contractual capacity, wars or revolutions, hostility, acts of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts and freight embargoes. This should not be used by a party to effectively to escape liability for bad performance.

If there is delay in performance or other failures by the supplier to perform its obligation under the contract due to event of a Force Majeure, the supplier shall not be held responsible for such delays/failures.

If a Force Majeure situation arises, the supplier shall promptly notify the purchaser in writing of such conditions and the cause thereof within 21 days of occurrence of such event with reasonable evidence thereof.

Unless otherwise directed by the Purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

If the performance in whole or in part or any obligation under the contract is prevented or delayed by any reason of Force Majeure for a period exceeding 60 days, either party may at its option terminate the contract without any financial repercussion on either side.

“There may be a Force Majeure situation affecting the purchase organization only. In such a situation the purchase organization will take up with the supplier on similar lines as mentioned above. “

18. Requirement of BIS Certification for raw Materials:

If the specification of material used to manufacture the tendered item comes under the mandatory certification of BIS, (the details of mandatory certification are indicated on the Bureau of Indian standards (BIS) website- www.bis.org.in under “Product Certification” _ Mandatory Certification” the

firm will ensure the purchase of material from the sources which are having BIS License and with ISI mark. The necessary related documents will be required to be submitted by the firm if the same is asked for by inspecting agency or any third party. The firm will produce the trail of documents and test certificates to show that the said item has been sourced from BIS license and with ISI mark This will be applicable to individual item and/ or a part in the assembly/ Fabricated item. ISI stamp should be demonstrated by the vendor/supplier/ Contractor on the item or its salvage, which should be available in vendor's Premises.

19. Case where L1 Bidder withdraws:

If the bidder, whose bid has been found to be the lowest evaluated bid withdraws Or whose bid has been accepted, fails to sign the procurement contract as may be Required, or fails to provide the security as may be required for the performance of the contract or otherwise withdraws from the procurement process, the procuring Entity shall cancel the procurement process. Provided that the Procuring Entity, on being satisfied that it is not a case of cartelization and the integrity of the procurement process has been maintained, may for cogent reasons to be recorded in writing, offer the next successful bidder, and if the offer is accepted, award the contract to the next successful bidder at the price bid of the first successful bidder.

20.1. Technical Bid and Initial Price Offer:

- i) **Bidder will be simultaneously required to submit a Technical & Commercial Bid and Initial Price offer. Offers found eligible for bulk order shall be categorized as qualified for bulk order for the purpose of RA, offers found eligible for developmental order shall be categorized as Qualified for Development order for the purpose of RA.**
- ii) **Offers not complying with essential technical & commercial requirements of the tender shall be declared as Ineligible for any order.**
- iii) **Initial Price Offer of only those bidders categorized as Qualified for Developmental Order or Qualified for Bulk Order, shall be opened and tabulated by system separately, category wise. Extent instructions for tabulation shall apply for tabulation of Initial Price Offers.**
- iv) **Minimum admissible bid value will be last bid value minus minimum decrement as specified by the tendering authority before starting of reverse auction. Starting point for reverse auction shall be the lowest Initial Price Bid of the tenderer eligible for award of contract.**
- v) **After close of the RA, tabulation of last (minimum) bids received from all the tenderers will be generated and made visible to Railways and participating tenderers.**

- vi) **Bidders not be allowed to withdraw their last offer.**
- vii) **The final tabulation statement will include the initial price offer of a firm who has not participated in the RA process.**

2. Financial Bid: Financial Bid shall comprise of Final Price offer obtained through Reverse Auction.

Following conditions and procedure will be followed in selecting the bidders for conduct of Reverse Auction.

(a) Selection of vendors for Reverse Auction for award of bulk ordering in Stores tenders

Number of tenderers Qualified for Award of Contract/Bulk Order	Number of tenderers to be selected for Reverse Auction	Remarks
<3	NIL*	The bids disallowed from participating in the Reverse Auction shall be the highest bidder(s) in the tabulation of Initial Price Offer.
3 to 6	3	
More than 6	50% of Vendors Qualified for Bulk Order/award of contract (rounded off to next higher integer).	
		In case the highest bidders quote the same rate, the Initial Price Offer received last, as per time log of IREPS, shall be removed first, on the principle of last in first out, by IREPS system itself.

Note

*** "If the number of tenderers qualified for Bulk Order / Award of Contract is less than 3, RA shall not be done and tender may be decided on the basis of Initial Price Offer(s).**

(b) In case of stores tenders, selection of vendors for Reverse Auction for developmental ordering:

- i) **Offers qualified for development order, with initial price offer lower than the highest initial price offer of a vendor qualified for bulk order and selected for Reverse Auction after elimination. Shall be allowed to participate in RA.**
- ii) **However, for the items where it is considered essential to also consider the offers for placement of development order, from vendor categorized as qualified for development order whose received rates are higher than the rate applicable for offers categorized as Qualified for bulk order, all bids categorized as qualified for Developmental order shall be allowed to participate in**

Reverse Auction.

Suitable clause for applicability of one out of these two options for participation/elimination of vendors qualified for Development order shall be mentioned in the tender.

- (c) **Maximum time allowed for Reverse Auction, both for bulk ordering or developmental ordering shall be 05 days.**
- (d) **During Reverse Auction process, bidders shall not be allowed to bid a rate higher than their lowest Initial price offer.**
- (e) **MSE Criteria: All MSEs (Micro & Small Enterprises) found Qualified for Bulk/Development Orders/Award of Contract but could not be selected for Reverse Auction as per criteria stipulated in para 20.2 (a) and 20.2(b) above, but are within the range of 15% of lowest Initial Price Offer of the bidder qualified for bulk order shall be permitted to participate in the Reverse Auction, irrespective of their inter-se ranking on the basis of Initial Price Offer. Such MSEs shall be over and above the number of vendors selected for Reverse Auction, as per Para 20.2 (a) and 20.2(b) above. In this regard, lowest initial price bid shall mean lowest initial price bid of vendor qualified for bulk order. However, in case all the bidders qualifying for bulk as well as for developmental order (before applying elimination criteria) are within MSE category, this clause shall not apply.**
- (f) **Make in India criteria: All bidders eligible for benefits under Public Procurement Preference to Make in India) Order 2017, found qualified for Bulk/Developmental Order/Award of Contract and are within the specified range of price preference, under the Make in India Policy, of lowest Initial Price offer of the vendor qualified for bulk order shall be permitted to participate in the Reverse Auction, irrespective of their inter-se ranking on the basis of Initial Price offer. Such bidders shall be over and above the number of vendors selected for Reverse Auction, as per para 20.2 (a) and 20.2 (b) above. However, if all the bids qualified for bulk order as well as for developmental order (before applying elimination criteria) also qualify under “Make in India Order, 2017” criteria, this clause shall not apply.**

3. **Reverse Auction among bidders categorized as Qualified for Developmental Order and Qualified for Bulk Order shall be conducted concurrently on IREPS/Suitable Platform in Stores tenders. Qualified Bidders shall be able to see both the auction screens i.e. auction screen of Reverse Auction**

amongst bidders qualified for bulk order and auction screen of Reverse Auction amongst bidders qualified for developmental order. However, bidders shall only be permitted to bid on the respective screens relevant to them as per their qualification. Purchaser shall not be permitted to see any of the auction screens. Purchaser should only be intimated on website about the status of Reverse Auction, i.e. when the auction will start/ had started, whether the auction is live or whether the auction has closed

4. Developmental order upto 20% of NPQ can be placed by Zonal Railways/Pus on eligible vendors, Without waiting for capacity/capability assessment by nominated centralized agency. Capacity/Capability assessment by nominated centralized agency shall be done subsequent to placement of Developmental order, if not already done. In case a developmental order is placed prior to Capability/Capacity assessment by nominated agency developmental order shall be issued with a Condition that the developmental order is subject to outcome of Capacity/Capability assessment.
5. Quantity to be covered on developmental orders shall be limited to 20% of the net Procurable Quantity. The quantity covered on developmental orders may be within or outside NPQ.
6. After obtaining the final price offers through Reverse Auction, the lowest bid of only those bidders who had participated in the Reverse Auction shall be tabulated and considered for ordering. The offers of bidders which were eliminated from Reverse Auction in terms of Para 20.2 shall be tabulated separately and shall not be considered for any ordering. All the relevant policies at the relevant time shall be applicable.
- 7) Neither Railway nor CRIS can be held responsible for consequential damages such as no power supply, system problem, inability to use the system, loss of electronic information, power interruptions. UPS failure, etc.
- 8) On any issue or area of material concern respecting Reverse Auction not specifically dealt within these Rules, the decision of the Railways shall be final and binding on all concerned.
- 9) Procedure for conduct and reporting of R.A
 - 1) The tendering authority shall solicit bids through an invitation to the electronic Reverse Auction to be published or communicated in accordance with the provisions similar to e-procurement.
 - 2) Convener of the tender committee shall fix the following on case to case basis, depending upon the nature of item/work/service and complexity of case on hand. These shall be indicated in the tender for e-RA itself.

- a) Initial e-RA period: This shall be the initial time interval for e-RA shall be open for this duration.
- b) Auto extension period: In case any offer is received in the time period equal to auto extension period before close of initial e-RA period, the e-RA shall be extended for time equal to auto extension period from the time of last bid. There shall be no upper limit on number of auto extensions. When no offer is received in the last auto extension period e-RA shall close.
- c) Minimum decrement in percentage of value of the last successful bid.
- d) Declaration regarding e-RA participation/elimination criteria for vendors categorized as Qualified for Development order for the purpose of e-RA as per clause 20.2(b) of the General Tender conditions and setting the matching option in e-RA application.
- 3) Date and time for start of e-RA shall be communicated to qualified tenderers by the convener after evaluation of the Technical Bids.
- 4) After submission of the initial price bid, tenderers will not be allowed to revise the taxes and other levies.
- 5) During auction period, identities of the participating tenderers will be kept hidden.
- 6) Minimum admissible bid value will be last bid value minus minimum decrement as specified by the tendering authority before starting of reverse auction. Starting point for reverse auction shall be the lowest initial price bid of the tenderer eligible for award of contract.
- 7) After close of the RA, tabulation of last (minimum) bids received from all the tenderers will be generated and made visible to Railways and participating tenderers
- 8) Railway users can also view the bidding history in chronological order.
- 9) Bidders not be allowed to withdraw their last offer.
- 10) L-1 will be defined as the lowest bid obtained after the closure of R.A. session for Goods, Works and Services tenders.

Special Conditions of Contract for Handling of rejection of pre-inspected item and warranty rejections.

The following conditions for handling of rejection of pre-inspected item and warranty rejections, are incorporated as special conditions of contract in General Tender Conditions in IREPS.

1.1 Two kinds of rejection occur in case of pre-inspected supplies made by vendors –

- A. Pre-inspected material rejected by consignee at the time of receipt
- B. Material rejected in warranty.

The methodology to handle these rejections are given below.

A. Pre-inspected material rejected by consignee at the time of receipt

- i) In case of rejection of pre-inspected goods at consignee end, the material rejection advice/ rejection memo should be sent by consignee to all concerned i.e. firm, purchaser, pre-inspecting agency, paying authority as per the contract etc. without fail.
- ii) Financial Recovery: In case payment has been made to the firm for the material, the concerned paying authority as per contract should note the rejection advice details in its recovery register for effecting recovery of payments made, as the case may be.
- iii) If the firm desires to have joint inspection, joint inspection of rejected material will be held with pre-inspecting agency and the firm. In case of failure of either of the two parties to associate with joint inspection, the joint inspection should be held by the consignee with whichever of the two parties comes for joint inspection. Irrespective of whether the party(ies) attend joint inspection or not, the modality of joint inspection etc will have to be

completed within 21 days of communication of rejection advice to the supplier(in line with IRS Conditions of Contract Clause 703). For imported material, the time limit will be 45 days.

- iv) Firm may be permitted to collect the rejected goods only after the firm has deposited the payments already made by Railway (if any) to the firm or equivalent amount has been recovered for this purpose.
- v) In case of replacement supply against the rejected goods, the same should be pre-inspected by same pre-inspecting agency who passed the material earlier. In line with IRS Conditions of Contract clause 703, no inspection charge will be paid by Railway to the inspection agency for the replacement supply.
- vi) However, in case of component level rejection in an pre-inspected item (which is an assembly) the replacement supply of that component can be accepted based on firms internal inspection certificate/guarantee certificate and final inspection by consignee.

B. Material rejected in warranty.

I. Material are rejected in warranty in the following situations:

- (a) the material rejected was issued to the user (shop/shed etc) from its associate stores depot.
- (b) The material rejected was received by the user from a PU or from a stores depot which is not the associate stores depot of the user.

Cat.B.I (a) : For Warranty failure in shop / shed of material issued from its associate stores depot :

All warranty claims will be lodged by the associate depot officer after getting the warranty rejected material from user under advice note of return stores with reasons of warranty rejection indicated therein. Before lodging the warranty claim the associate depot officer will satisfy himself about the correctness of PO and ensure that other details including reason(s) of warranty rejection are available with the advice note of return stores. The warranty claim will be processed following procedure indicated in sub-para A(i), (ii), (iii) and (iv) of para 1.1A above except for the following changes: The 'rejection advice' mentioned in para 1.1A(i) will be replaced by the 'warranty rejection advice'. The time which can be taken for the completion of modality of joint inspection as per para 1.1A(iii) will be 45 days (instead of 21 days) from the date of communication of rejection advice to the supplier. More time is being given for joint inspection because this is a case wherein supplies have already been taken into the usage system of Railways. Thus, either the pre-inspection agency or the firm or the railways may like to have a more detailed understanding of the failure.

Cat.B.I (b) : For warranty failure in shop/shed of material received from PU (either under sale issue note or as a purchased component of rolling stock manufactured at the PU or from a stores depot (under inter depot transfer/sale issue note) which is not the associate stores depot of the end user.

(i) In such cases it may not be convenient for the end user to return the material to the stores depot (against which the original supply was made by the vendor to railway). Thus in all such cases, the warranty rejected material will be kept in safe custody by the end user and the stores depot (which received the original supply) will be advised by the end user about the warranty rejection duly indicating the reason(s) of rejection with a confirmation that the rejected material is under end user's custody.

(ii) The stores depot (which received the original supply) will raise warranty claim on the firm. Before lodging the warranty claim, the depot officer will satisfy himself about the correctness of PO and ensure that other details including reason(s) of warranty rejection are available from the end user. The warranty claim will be processed following procedure indicated in sub-para

A(i), (ii), (iii) and (iv) of para 1.1A above except for the following changes. The 'rejection advice' mentioned in para 1.1A(i) will be replaced by the 'warranty rejection advice'. The time which can be taken for the completion of modality of joint inspection as per para 1.1A(iii) will be 45 days (instead of 21 days) from the date of communication of rejection advice to the supplier. More time is being given for joint inspection because this is a case wherein supplies have already been taken into the usage system of Railways. Thus, either the pre-inspection agency or the firm or the railways may like to have a more detailed understanding of the failure.

For imported material, the time limit in Cat I(a) and Cat I(b) will be 90 days.

II Warranty quantity replacement : The warranty quantity replacement will be accounted under warranty R-note by the depot officer (which raised the warranty claim as in sub-para B.I(a) above).

Financial recovery (if any made) against the warranty failure will be refunded to the firm on warranty quantity replacement.

III Inspection of the replacement supply against warranty rejection:

(A) For cases of replacement supply against warranty failure falling in the category BI(a) above, the replacement supply should normally be inspected by the same inspection agency which inspected and passed original supply. Thus

for B.I(a), any change in inspecting authority for the warranty replacement will necessitate a formal amendment in contract.

(B) In case of warranty rejection of item of the category B.I (b) above, it may in some cases be difficult to re-use the services of inspecting agency which passed the original supply. Similarly for some items, the end user/consignee may not have the requisite inspection facility/expertise.

Thus for warranty rejection falling in the category B.I.(b) above:-

- (i) The replacement supply can be inspected by the same inspecting agency which inspected and passed the original supply. Payment of inspection charges will be borne by supplier.
OR

The replacement supply can be inspected by authorized representative of consignee.

OR

The replacement supply can be made by firm's own internal inspection certificate.

- (ii) The decision on the above will rest with the depot officer who raised the warranty claim and will be indicated in the warranty claim notice.

(C) However in case the warranty failure is of a component of an assembly supplied, the component can be accepted on firm's own Guarantee Certificate/internal inspection certificate and consignee's final inspection for both the categories (Cat B (a) and Cat B I [b]) of warranty failure.

IV Place of warranty replacement – For warranty replacement of category B.1(a), in order to ensure correct accountal of warranty replacement, the place of warranty replacement will be the depot which received the original supply. For warranty replacement of failure falling in category B.I.(b) above, an exemption can be made and the place of replacement supply can be indicated by the depot officer (at his option) in the warranty claim notice to the firm to be the end-user's place.

V. For warranty replacement of the category B.I(b), due care will be taken by the end user to ensure that accountal of replacement supply etc. are properly taken care of. After settlement of warranty claim the rejected material will be handed over by the end user to the firm's representative. The end user will also inform the depot officer who raised warranty claim about the replacement.

1.2 At the option of the depot officer/end-user, rectification of the material rejected {under category 1.1(A) and 1.1(B)} may be permitted within railway premises by the firm only after the firm has refunded the payment (if already made by Railway) or equivalent amount has been withheld for this purpose. However, from the date of communication of rejection advice, the rectification activity has to be completed within 21/45 days for indigenous/ imported material

respectively for rejection of the category 1.1(A) and 45/90 days for indigenous/imported material respectively for the rejection of the category 1.1(B). If more time is taken beyond this, applicable ground rent will be levied on the firm.

2. In order that quantity shortfall due to warranty failure of Cat.B.I(a) is made up, the depot officer may prepare an additional demand (equal to the quantity failed in warranty) for procurement, once recovery towards warranty has been confirmed by Accounts. Any warranty replacement subsequently made will automatically get reflected in stock and thus there will not be any net extra procurement. It will however ensure timely availability of materials.

Special Tender Conditions-Implementation of GST

1.0 All the bidders/tenders should ensure that they are GST compliant and their quoted tax structure/rates are as per GST Law.

2.0 1. All vendors should have GST Registration Number.

2. GST Act and Rules are applicable from time to time is applicable.

3.0(A) "In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/SGST Act, The railway shall deduct the applicable GST from his/her bills under reverse charge mechanism(RCM) and deposit the same to the concerned tax authority".

(B) Addition to the General Tender Conditions

EVALUATION OF OFFERS UNDER NEW GST REGIME:

1. Purchaser may incorporate HSN number in the tender document. However it shall be the responsibility of the bidders to quote correct HSN number and corresponding GST rate.

2.i)The offers shall be evaluated based on the GST rate as quoted by each bidder and same will be used for determining the inter se ranking. While submitting offer, it shall be the responsibility of the bidder to ensure that they quote correct GST rate and HSN number. ii)Purchaser shall not be responsible for any misclassification of HSN number or incorrect GST rate if quoted by the bidder.

iii) Wherever the successful bidder invoices the goods at GST rate or HSN number which is different from that incorporated in the purchase order, payment shall be made as per GST rate incorporated in the purchase order or billed.

iv) Vendor is informed that she/he would be required to adjust her/his basic price to the extent required by higher tax billed as per invoice to match the all inclusive price as mentioned in the Purchase order.

v) Any amendment to GST rate or HSN number in the contract shall be as per the contractual conditions and statutory amendments in the quoted GST rate and HSN number under SVC.

(C) Payment of GST on production of Documentary Evidence.

GST will be paid on production of documentary proof. All input credits should be passed on to Railways by the supplier. To this effect, the firm should give declaration that all input credits has been passed on to Railways while submitting the bills.

GST Declaration:

i) Onus of correct classification and rate is on the firm. ii) GST will be paid on production of documentary proof.

iii) The firm shall pass on (as per section 17(1) of CGST/SGST Act) any reduction in tax rate on supply of goods or any benefit of input tax credit to the Railway through a commensurate reduction in price without any undue delay. To the above effect the firm should give declaration that all the benefits accruing on account of change in tax rate and any additional input tax credit (ITC benefit) shall be passed on to the Railway.

iv) Any kind of reduction in prices obtained by the supplier due to implementation of GST is to be passed on to the purchaser as per Anti Profiteering clauses of GST Act at any point of time during the period of the contract.

Amendment IRS Condition of Contract-Para 2900.

Ref: DDRS(G)-1/Rly Bd/NDLS Ir.No.97/RS(G)779/2 dt.16.2.2017.

Revised Clause No.	Revised Clause
2900(a)(i)	<p>In the event of any question, dispute or difference arising under these conditions or any special conditions of contract, or in connection with this contract (except as to any matters the decision of which is specially provided for by these or the special conditions), i.e. accepted matters (Non-arbitrable) the same shall be referred to the sole arbitration of an Arbitrator in terms of the Arbitration and Conciliation Act, 1996 as amended by Arbitration and conciliation (Amendment) Act, 2015.</p> <p>Arbitrator shall be person possessing qualifications laid down in para 2900 (a) (ii) and shall be appointed by the General Manager in the case of contracts entered into by the Zonal Railways and Production Units;</p> <p>by any Member of the Railway Board/Director General (Railway Stores), in the case of contracts entered into by the Railway Board and</p> <p>by the Head of the Organisation in respect of contracts entered into by the other Organisations under the Ministry of Railways.</p>

2900(a)(ii)	Qualification for appointments as Sole Arbitrator: (a) Retired Railway Officer not below SAG level 3 years after his date of retirement (b) Age of Arbitrator at the time of appointment shall not exceed 70years.
2900(a) (iii)	An Arbitrator may be appointed not with standing the total no. of arbitration cases in which he has been appointed in the past. Retired Railway Officer being appointed as arbitration, however, will not be one of those who had an opportunity to deal with the course of their duties as railway servant have expressed views on all or any of the matters under dispute or difference.
2900(a)(iv)	The award of the arbitrator shall be final and binding on the parties to this contract.
2900(d)	This clause is deleted.
2900 (e) (i)	The cost of arbitration shall be borne by the concerned parties in terms of section 31 (a) of Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015. The cost shall inter-alia include fee of the Arbitrator, as per the rates fixed by Railway Board from time to time. Further, the fee payable to the Arbitrator would be Governed by instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the Arbitrator is appointed by the Railway administration under this clause or by any court of law unless specifically directed by Hon'ble court otherwise on the matter.
2900 (e) (ii)	Arbitrator shall be entitled to 50percent extra fee, if award is made

	<p>within 6months in terms of provisions contained in section 29(A) (2) of the Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act,2015.</p> <p>Besides above, Arbitrator shall also be entitled for this extra fee, in cases, where Fast Track procedure in terms of section 29 (B) of the Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015, is followed.</p>
2900 (f)	<p>Subject as aforesaid, the Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015 and the rules there time being in force shall be deemed to apply to the arbitration proceedings under this clause.</p>
2900 (g)	<p>The venue of arbitration shall be the place from which the acceptance note is issued or such other place as the arbitrator at his discretion may determine in terms of section 20 of the Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015.</p>
2900 (i) (new clause added)	<p>It is further a term of this contract that where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the of the money for any period till the date on which the award is made in terms of section 31 (7) (a) of the Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation(Amended) Act, 2015</p>

Annexure -A

PROFORMA FOR WARRANTY GUARANTEE BOND

To
THE PRESIDENT OF INDIA
Acting through the Controller of Stores,
South Central Railway,
6th Floor, Rail Nilayam,
Secunderabad-500071

Sub: Guarantee No-----for------(Amount) Covering Machine(s)
Serial No-----supplied to (Consignee/s) ----- Ref:
Contract No-----dated-----Placed on M/ s -----

1. WHEREAS M/s ----- one of our constituents, hereinafter called the "Sellers" have agreed to sell to you (hereinafter referred to as the "Government") -----Nos. of ----- (give description) as per contract No ----- dated --- ----- (hereinafter called "the said contract").

2. AND WHEREAS according to the terms of said contract, it has been stipulated that payment of 10 per cent of the value of the stores would be made, provided that the Sellers furnish to the Purchaser a Bank Guarantee from a recognized Bank, acceptable to the Purchaser for 10 per cent of the value of the said contract, valid for a period covering in full the Guarantee Period as per the Warranty clause of the said conditions of the contract, being the conditions attached to and forming part of the said contract.

3. AND WHEREAS the Sellers have approached us to give the said Bank Guarantee on their behalf in your favor for an amount representing 10 percent of the value of the contract which you have agreed to accept.

4. That in consideration of the promises and at the request, of the said Sellers, we hereby irrevocably undertake and guarantee to pay to the

Government of India or at such other place as may be determined by you forthwith on demand and without any demur, any sum

upto a maximum amount of -----(Rs. ----- -) representing 10 per cent of the value of the Stores dispatched under the said contract in case the Sellers make default in paying the said sum or make any default in the performance observance or discharge of the guarantee contained in the said contract.

5. We agree that the decision of the Government whether any default has occurred or has been committed by the Sellers in the performance, observance or discharge of the guarantee aforesaid shall be, conclusive and binding on us.

6. Government shall be at liberty, from time-to-time, to grant or allow extension of time or give other indulgence to the said Sellers or to modify the terms and conditions of the contract with the said Sellers without affecting or impairing this guarantee or our liability hereunder.

7. We undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the Sellers in any suit or proceeding pending before any Court or Tribunal relating there to our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge to our liability for payment there under and the Sellers shall have no claim against us for making such payment.

8. This Bank guarantee comes in to force when the balance ten percent of the value of the stores shipped per Vessel ----- vide Bill of Lading No. ----- dated ----- or R/ R No.----- dated ----- (in the case of indigenous contracts) under the said contract, has been paid and will remain in full force and effect up to ----- i.e. for -----months counted from the date of placing the stores in services, and shall continue to be enforceable for further six months i e. upto ----- (date), hereinafter called the said date.

9. This guarantee will not be discharged due to the change in the constitution of the Bank or the Sellers

10. That no claim under this guarantee shall be entertained by us unless the same has been preferred by the Government within the said date.

Date -----Signature-----

Place -----Printed Name -----

Witness ----- (Designation)

(Banks common Seal)

.....

Annexure-I

LC/DA NO.-----
Dt._____

DOCUMENT OF AUTHORIZATION

1. It is certified that Work job assigned in Contract No..... Dated.....under Inland Letter of Credit No.....

Dated.....

Or

Goods received/Works order completed Stage-Phas 1/2/3/4/5.

2. The beneficiary of Letter of Credit M/s.....is entitled to Receive payment aggregating INR..... out of a total LC amount of INR.....against the first/second* commercial Invoice No.....dated _____for INR raised against the above contract on the strength of this certificate.

3. PAYMENTS ALREADY MADE:
1. Invoice No.
2. Invoice No.
3. so on Total
4. THIS PAYMENT:
5. LC BALANCE AFTER THIS PAYMENT.

Signature & seal of Applicant

(Railway Authority)

*As applicable

ANNEXURE - II

This letter of Authority should be on the Letter - Head of the manufacturing business concern and should be signed by a person competent and having the power of attorney to bind the Manufacturer.

PROFORMA FOR TENDER SPECIFIC AUTHORISATION FROM MANUFACTURERS

Ref No: _____

Date: _____

To,
THE PRESIDENT OF INDIA, acting through
THE PRINCIPAL CHIEF MATERIALS MANAGER,
SOUTH CENTRAL RAILWAY,
MINISTRY OF RAILWAYS,
SECUNDERABAD 500071, TELANGANA

Dear Sir,

Subject: South Central Railway e - tender no. _____ due
on _____ For supply of _____

We, _____ (full address with PAN number)
established _____ Manufacturer _____ of
_____ having factory / factories

at _____ do hereby authorize M/s.
_____ (Company's name, full address with PAN
number) to represent us, to bid, negotiate and conclude the contract on our
behalf with you against your the subject tender. _____

It is also confirmed that:

- No Company /Firm or individual other than M/s. _____ is authorized to represent us in regard to this business against this specific tender.
- Inspection by RITES/RDSO/Consignee/your authorized representative will be allowed at our manufacturing premises and not in the ware house /godown shop of the Dealer.
- Inspected and accepted material will be directly despatched from our manufacturing premises to Consignees of South Central Railway.
- We stand guarantee for the material supplied against each lot of supply.
- We stand guarantee for successful execution of the Contract.

Yours faithfully,
(Signature, Name & Designation)
For and on behalf of M/s. _____
(Name and address of the Manufacturer)

INSTRUCTIONS TO TENDERERS FOR E-TENDERS

Dt. 07.01.2022

NOTE:

- 1) Tenderers are required to refer to the General Tender Conditions.
- 2) These conditions will be applicable for Tenders published on or after the date of uploading of new/revised conditions

1.0. Bid Submission

- a) E-bid along with the relevant documents must be uploaded and digitally signed with the digital signature of the pre-authorized personnel of the tenderer already registered with the IREPS web site. Digital signature used must be "Class III B with Company Name" obtained from G.O.I. approved Certifying Authority.
- b) Firms are advised to ensure that address furnished by them for getting digital signature from accredited agencies are same as that furnished to and available with the centralized source approving authorities such as RDSO/CLW/DLW/ICF etc. They are further advised that while registering themselves in the IREPS website for participation in E-procurement system, the same address as above is filled up, to avoid any vitiation of information and consequent impairment in their credentials
- c) Tenderers must look out for NIT as soon as it is available in IREPS website and upload their offer well in advance without waiting for closing date and time, to avoid last minute hassles in their own computer system or communication line. South Central Railway is not responsible for non-participation of vendors due to any technical problems on the day of tender closing time.
- d) Only bids received in the Electronic tender box available on the web site www.ireps.gov.in will be considered.
- e) The e-procurement system does not permit submission of any offer after the closing date and time of that e-Tender. Hence there is no scope of any Late / Delayed offers in the online bidding process.

1.1. All mandatory fields marked with (*) have to be filled in by the bidders.

2.0. Please read carefully Instructions to tenderers, IRS Conditions of Contract, General Tender Conditions, E-Tender guidelines and Special Conditions of Contract available on S.C.Railway page on the web site www.ireps.gov.in.

3.0. Your digital signature on the E-Tender form will be considered as your confirmation that you have read and accepted all the conditions laid down in the documents referred in para 2.0 above as well as schedule of tender, consisting of techno-commercial offer form (including special conditions attached to E-Tender) and Financial offer form, unless specific deviation is quoted in the techno commercial offer form.

4.0. Tenderers can download E-Tender form only after payment of tender document cost either online through payment gateway facility provided on the web site or after submitting the details of tender document cost paid offline in the form of Demand Draft,

Cash Receipt (for payment made to Chief Cashier of the Railway/ Production Unit) etc. The tenderers exempted for deposit of tender document cost have to declare the same specifying the clause under which they are exempted. They must upload a scanned copy of relevant document (such as MSE certificate) in support of their claim.

- 5.0. E-Tender document consists of
 - i. Instructions to Tenderers for E-Tenders
 - ii. General Tender Conditions
 - iii. IRS Conditions of Contract
 - iv. Special Conditions of Contract
 - v. Techno-commercial Offer Form Including Attached Documents, if Any.
 - vi. Financial Offer Form
- 6.0. No Manual offers sent by post/Fax or in person shall be accepted against such E-tenders even if these are submitted on the Firm's letter head and received in time. All such manual offers shall be considered as invalid offers and shall be rejected summarily without any consideration.
- 7.0. Railways have started making payments through NEFT system for quick money transfer to the tenderers account.
 - i. Tenderers must give their consent in the mandate form provided at Annexure 'B' of General Tender Conditions, for receipt of payment through NEFT.
 - ii. In case of non-payment through NEFT or where NEFT facility is not available payment will be released through cheque.
- 8.0. The tenderers must fill in the techno-commercial offer form (consisting of eligibility criteria, terms & conditions, performance statement, deviation statement, check list & special conditions etc.), financial offer form and attach scanned copy of:
 - i. Authorization letter from OEM in case of an agent.
 - ii. Documents in support of proven supply performance uploading copies of I/Cs, R/Notes and P.Os etc..
 - iii. Manufacturing capacity and details of technical & non-technical man power employed by the vendor.
 - iv. Details of machinery and plant in their manufacturing unit.
 - v. Quality assurance plan (QAP) and details of testing equipments including details of technical man power engaged in testing of inward and outward material.
- 9.0. E-Tender form is not transferable and the same is to be submitted with digital signature of the pre- authorized personnel of the vendor, already registered with the site.
- 10.0. The Application does not permit submission of any offer after closing date & time of the e tender. Hence there is no scope of any late or delayed offer in the online bidding process.
- 11.0. All the mandatory fields of the Techno-commercial Offer Form and Financial Offer Form (i.e. Rate page) including basic rate, all taxes & duties (including maximum percentage of Sales Tax/VAT, and E.D, or any other taxes/duties which may become applicable

during the currency of Contract), freight and any other charges have to be filled up by the vendor. The unit of rate shall be as indicated in the tender schedule and cannot be changed or altered by the vendor. All-inclusive rates on FOR destination basis shall be automatically calculated by the system and shown to the vendor before submission of offer.

12.0. Nil.

13.0. EARNEST MONEY DEPOSIT (EMD) FOR STORES TENDERS:

13.1 There shall be no exemption from submission of EMD for any tender or by any tenderer subject to provisions under clause 13.7 below, except following:

- a) Limited tenders with estimated value upto Rs.25 Lakhs (Including Single Tenders, Global Limited Tenders) & Open tenders with estimated value upto Rs.10 Lakhs-unless specially mentioned otherwise in the tender.
- b) Micro and Small Enterprises (MSEs) registered for the tendered item.
- c) Other Railways and Government.
- d) Indian Ordinance Factories.
- e) PSUs owned by Ministry of Railways and PSUs for the group of items that are manufactured by them.
- f) Vendors registered with Railways for the trade group of the item tendered, upto their monetary limit of registration status being valid on the date of tender closing.
- g) Vendors appearing on the approved vendor lists of RDSO/PUs/CORE, subject to approval status being valid on the date of tender closing.
- h) Vendors registered with Railways for supply of medicine, medical equipments and consumables shall be exempted from submission of EMD for these items, subject to valid registration on the date of tender opening.
- i) In tenders issued against PAC, OEM in whose favour PAC has been issued shall be exempted from submitting EMD. KVIC and ACASH shall be exempted from EMD for items supplied by them.

13.2 AMOUNT OF EMD TO BE REMITTED:

a)

Estimated value of tender	EMD (rounded off to nearest higher Rs.10(ten))
Upto Rs.50cr	@2% of the estimated value of the tender subject to Max.Rs.20 Lakhs
Above Rs. 50Cr.	Rs.50 Lakhs

b) Offers of the tenderers which does not qualify for exemption as indicated in Para 13.1 above and submitted without EMD shall be summarily rejected.

13.3. Tenderers seeking exemption from payment of Earnest Money as per 13.1(b) i.e. Micro and Small Enterprises (MSEs) registered for the tendered item and 13.1(f) i.e. Vendors registered with Railways for the trade group of the item tendered, upto their monetary limit of registration status being valid on the date of tender closing shall have to attach scanned copy of requisite documentary evidence in support of their claim along with offer, failing which the offer will be considered invalid and will be summarily rejected.

(NB: In two Packet Bidding System, such document must be uploaded at the time of Techno-Commercial bid).

13.4 Tenderers other than those who are exempted from paying Earnest Money or in whose favour Earnest Money Payment may be waived as detailed in the preceding paragraphs shall be required to pay Earnest Money online through Payment Gateway facility provided on the site (using debit/credit card or Internet banking), failing which, their offers shall be summarily rejected. No other mode of submission of EMD is acceptable.

13.5 FORFEITURE OF EARNEST MONEY:
Railways have the Right to forfeit the Earnest Money Deposit if the tenderer withdraws or revises his offer within the offer validity period.

13.6 EMD shall be refunded when any one of the following conditions is satisfied.

- a) After finalization of tender the bidder is an unsuccessful bidder.
- b) Validity of Offer expires and validity extension is not sought.
- c) Validity of offer expires and bidder refuses to extend validity of offer.
- d) After finalization of the tender successful bidder submits required SD.

13.7 (i) (a) All vendors exempted from submitting EMD, as per Para 13.1 above irrespective of type of tender, i.e. Single, Limited or Open, shall be required to sign a Bid Securing Declaration as per Annexure-A enclosed with instruction to tenderers. By seeking exemption of EMD by the tenderer, it will be considered that the contents of Annexure-A have been read and unconditionally agreed and accepted by the tenderer.

(b) If the tenderer are not agreeable to this Bid Securing Declaration **(Annexure-A)** they have to categorically mention about the disagreement in Techno Commercial Deviation. In such cases their offer will be treated as commercially unresponsive offer and will be summarily rejected.

ii) There shall be no exemption to such bidders from submitting EMD and SD for all tenders published during the period of time they are disqualified as detailed in the declaration signed by them.

- iii) The disqualification procedure and all correspondence thereof shall be online and digital.
- iv) This para shall be not be applicable for Govt. Departments/Ordnance Factories /other Railways/Railway PSUs/KVIC/ACASH and matter shall be taken up with them Departmentally/Administratively.

14 SECURITY DEPOSIT(SD)/PERFORMANCE SECURITY FOR STORES CONTRACTS:

- 14.1 a) (i) **Amount of Security Deposit:** Unless otherwise mentioned in the tender the amount of Security Deposit will be as given below:

Contract value	SD (rounded off to nearest higher Rs.10 (ten)
Above Rs.25 lakhs and Upto Rs 50 cr.	@ 3% of contract value subject to Max. Rs.50 lakhs
Above Rs.50 cr	Rs.1 cr.

- ii) Wherever, there is compelling circumstances to ask for Performance Security in excess of three percent as stipulated above, the same will be added in the tender as special condition.

b) Time for deposit of SD.

SD from successful tenderer should be received in Purchase Office within 21 days from the date of communication of acceptance with respect to the Purchaser, failing which action as deemed fit as per Para 14.4 of below.

- 14.2 There shall be no exemption from submission of Security Deposit (SD) for any tender or by any tenderer except following:

- i) The Store Contract cases of value upto Rs.25 (Twenty five) lakhs.
- ii) Other Railways and Government Departments.
- iii) Indian Ordnance Factories.
- iv) PSUs owned by Ministry of Railways and PSUs for the group of items that are manufactured by them.
- v) In tenders issued against PAC, OEM in whose favour PAC has been issued shall be exempted for submitting SD. KVIC and ACASH shall be exempted from SD for items supplied by them.
- vi) Vendors registered with Railways for the trade group of the item tendered shall be exempted from SD for orders valued upto their monitory limit of registration subject to registration status being valid on the date of issue of L.O.A.
- vii) Vendors appearing on the approved vendor lists of RDSO/PUs/CORE, subject to approval status being valid on the date of tender closing.

viii) Vendors registered with Railways for supply of medicine, medical equipments and consumables shall be exempted from submission of SD for these items subject to registration status being valid on the date of issue of L.O.A.

Note: Apart from claiming damages from vendors, in case of failure to comply with the contractual obligations, Railways reserve the Rights to record poor performance of the vendors for taking suitable penal action as per extant instructions.

- 14.3 Security Deposit (SD) should remain valid for a Period of 60 days beyond the date of completion of all the contractual obligations.
- 14.4 In the event of successful tender(s) failing to deposit/submit SD in acceptable form within the prescribed period as aforesaid, the EMD submitted by such successful tenderer(s) shall be automatically adjusted towards SD in view of the fact that in most of the cases, EMD amount would be adequate to meet the SD amount. In case where available EMD amount is less than required SD and the successful tenderer does not deposit the balance SD amount within stipulated time, then EMD shall be forfeited and case will be dealt with as that of withdrawal of offer by the tenderer as per extant instructions.
- 14.5 Bidders seeking waiver of Security Deposit will have to submit requisite documentary evidence by uploading the same while submitting online bids.
- 14.6 Wherever SD has been exempted, for any reason and the supplier fails to supply goods as per conditions of contract, as amended from time to time, Purchaser shall have Right to levy damages from the supplier for failing to comply with contractual conditions, not by way of penalty, an amount equal to SD amount, as would have been applicable if the contract was with a non-exempted vendor. These damages shall be treated as recoveries outstanding against the vendor and dealt with accordingly.
- 14.7 In severable contracts, in case of failure by contractor to meet deliveries for any lot, Railways may cancel the contract for defaulted part by forfeiting SD commensurate to that lot.
- 14.8 Risk Purchase clause shall not be applicable.
- 15 Security deposit is to be paid in any of the manner prescribed below:
- i. Government securities at 5 percent below the market value.
 - ii. Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds (as per annexure 'B') of the State Bank of India or any of the Nationalized Bank.
 - iii. Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds (as per annexure 'B') issued by any Scheduled Commercial Bank.
 - iv. Deposit Receipts of the Post Office Saving Bank.
 - v. The Bond of Indian Railway Finance Corporation (in case of bonds issued under non-cumulative interest scheme, postdated interest warrants should be submitted along with the bonds and the interest warrants could be given back as and when the interest becomes due) and KRCL Bonds of Rs.1000 each. Payment of Security Deposit and Earnest Money in the form of Pay Order/Demand Draft should be drawn in favor of FA&CAO only.
 - vi. If the SD is submitted in the form of Bank Guarantees, the Bank Guarantee for SD should be submitted in the prescribed format. No other format will be acceptable. If SD is

submitted under structured Financial Management system (SFMS) the Bank account details of South Central Railway are as following:

Name of the Bank	State Bank of India
Place	Himmatnagar, Secunderabad
Account Number	62337131167
Bank Code	SBIN
IFSC Code	SBIN0020244
Name of the Railway Account	FA& CAO/SC 01

(This account is to be operated for HEADQUARTERS UNITS ONLY)

The Bank Guarantees are to be sent directly by the Bank to the Principal Chief Material Manager, Stores Department, 6th floor, Rail Nilayam, Secunderabad-71 in Bank's letter head only and no BG submitted by the firm will be entertained.

16.0 DRAWINGS AND SPECIFICATIONS:

16.1 Unless Drawings and Specifications as mentioned in the tender schedule/enquiry/offer form are provided with the tender documents or made available on Railway's website for downloading by the tenderers, these may be obtained in the manner shown below:

- i. Specification/STR/Drawing of RDSO/ICF/DLW/CLW/CORE etc may be obtained from the concerned authorities who have issued these, on payment.
- ii. Drawings and Specifications framed by Railways may be obtained from the office of the purchaser such as Controller of Stores, Principal Chief Engineer etc. However, in these cases, the tenderers shall have to:
 - a) Produce the documentary evidence for having paid the cost of tender documents by them unless they are provided with these documents free of cost because of their entitlement/eligibility. In the later case, the tenderer will have to produce documentary evidence that they have been provided tender documents free.
 - b) For such tenderers who download the tender documents, they have to produce the proof of such download while asking for such drawings and specifications.

16.2 If any tenderer happen to quote with their own Drawing No./ Part No./ Specification, then, they shall have to, necessarily, scan and upload all the requisite documents and information in support of their offer being in conformity with the tender Drawing / Specification. Furthermore, copies of such drawings / specifications / catalogue are also to be uploaded, failing which the officer will be rejected.

17.0 TENDER OPENING:

No Vendor shall be required to be present in the Railways office for any E-Tender opening process. They can obtain totally transparent bid tabulation statement by logging on to the website.

Railway does not guarantee opening of tenders at the specified Date and Time due to reasons beyond control and hence tenders can be opened after due date and time also. It will, however, be ensured that no bids are submitted after tender closing Date and

Time. Vendors cannot submit any offer or attach any file after the due date and time as stipulated under the tender notice.

18.0 Documents to be attached/uploaded along with E-Bid:

Scanned copy of following documents should be uploaded along with E-Bid.

- (i) Performance statement against Railways Orders for supply of same or similar items. Correct status/supply position of pending orders if any should be invariably indicated. Supporting documents are to be uploaded.
- (ii) Supply/purchase orders including inspection certificate issued by RDSO/RITES and Receipt. Note to substantiate their past performance.
- (iii) Details of Machinery and Plant, other equipments, testing facilities, quality management/control systems and details of technical manpower available.
- (iv) Letter of approval from RDSO/ Railways indicating current validity and approval of their QAP by RDSO, wherever necessary.
- (v) Tenderers should also indicate their registration number with the Concerned Railway with monetary limit, trade groups for which registered and validity date of registration.
- (vi) MSE Certificate, if Registered with MSEs for the Tendered item (s).
- (vii) Proof for having paid EMD or grounds in favour of exemption/waiver, details of which has been submitted by the tenderer in payment detail page of E-Tender. E-Bid along with above documents must be uploaded and signed by the authorized user of the firm using his Digital Signature Certificate.

I. APPLICABLE ONLY FOR ITEMS WHICH ARE NOT COVERED BY GST:

19.0 TAXES AND DUTIES:

Each vendor must fill and submit the Financial Offer Form i.e. Rate form, as available with e-tender, encrypt his offer on his client machine with the secure encryption key available with the tender and digitally sign using his Digital Signature Certificate.

- 19.1** Tenderers should clearly indicate separately ex-works basic price, packing charges, forwarding charges, Maximum applicable percentage of Excise Duty, Educational Cess, Sales Tax/VAT and Freight charges upto destination, in the respective field of the Financial Offer Form for each unit tendered. Duties and Taxes are not payable on freight charges and forwarding charges. Therefore, if the tenderer happens to quote a composite rate, due break-up is to be given showing freight and forwarding charges separately in the field of the Financial Offer Form.
- 19.2** Tenderers are required to quote in the same rate unit (i.e. Number, set etc.) as given in the tender schedule. Any deviation in this aspect will make the offer liable to be ignored.

DENIAL CLAUSE:

Supplier will not be entitled to any benefit of upward Statutory Variations in ED & Taxes announced after expiry of the original Delivery Period as per Purchase Order.

20.0 Excise Duty:

- 20.1** Tenderers are requested to refrain from quoting vague terms like “Excise Duty as applicable”. They will have to clearly quote the percentage ED extra as applicable. If quoted rate is inclusive of ED or the item is not dutiable, the tenderer must use the drop down option in the Excise Duty type and select appropriate option such as “Inclusive” or “Nil” or “Not applicable”. If it is not done so, then, the offer will be taken as inclusive of ED at the highest rate obtained in the tender batch. General phrases as “Excise duty extra as applicable” shall not be accepted. Please mention clearly if excise duty is applicable on the tendered item or not. If Excise Duty (ED) is being charged extra, then the tenderers should clearly indicate the maximum percentage of statutory ED as will be applicable during currency of contract for the tendered stores in the appropriate field of the Financial Offer Form. If concessional ED is applicable at the time of submitting offers and the tenderer wish actual ED at the time of supply should be reimbursed, then they should clearly quote with maximum percentage of statutory ED that can become applicable later based on Turn Over. Tenders will be evaluated on the basis of maximum rate of statutory ED which may become applicable, and not the concessional rate of ED. However, ED will be reimbursed at actual (on production of documentary evidence of payment of ED) and within the upper ceiling of the maximum ED rate considered for evaluation purpose.
- If ED is not claimed in the offer and no mention is made about Excise duty, then no ED will be payable. If ED is claimed in the offer with exact rate and no statutory variation is also claimed by the firm in the offer, then the same will be considered duly evaluating the offers with exact rate of ED.

In no case the variation in ED (beyond the statutory maximum rate of ED applicable at the time of submission of offer) due to increase in turnover during the currency of contract will be admissible unless specifically mentioned in the offer. If tenderer misclassifies the goods under relevant excise tariff rules, the Railway will not pay increased Excise Duty due to such misclassification. ED will be paid subject to documentary evidence and government notifications only.

20.2 Payment of ED and Excise Duty -MODVAT Rules.

The claim for ED on each bill should be supported by the following certificates.

- (i) The rate of ED is advalorem. The ED at present legally leviable in this case is Rs. i.e. on Rs. being the unit value of the Stores assessed by the concerned authority of the Excise Department.
- (ii) Certified that the ED charged on this bill is not more than that is legally leviable and payable under the provision of the relevant act or rules made there under.

- (iii) Certified that the amount of Rs. claimed as ED in this bill is in accordance with the provision of the rules in all respects and the same has been actually paid to the excise Authorities in respect of the stores covered by the bills.
- (iv) Quarterly certificate to the effect that no refund of ED already reimbursed against this contract has been obtained during the quarter ending. In the event of any such refund being obtained by the seller, the same should be passed on to the purchaser.
- (v) **MODVAT Certificate:**
The tenderers will have to give the following certificates in their offer. We hereby declare that in quoting the above price, we have taken into effect, the full effect of the duty set-off on 'Central excise and counter veiling duties' available under the existing MODVAT scheme. We further agree to pass on such additional duties and set off as may become available in future in respect of all the inputs used for the manufacture of the final product, on the date of the supply under MODVAT scheme, by way of reduction in price and advise the purchaser accordingly."

20.3 Special MODVAT Condition for all the Lead Acid Batteries:

The tenderer has to give details of MODVAT benefit on raw material (lead), which will be passed on to the purchaser. The tenderer should indicate weight of 'Lead' used in manufacturing one battery as 'Raw Material' input. Modvat benefits/additional duty set-off on the goods supplied, if any, accrued to the tenderer will have to be passed on to the Railways (purchaser) under the MODVAT Scheme by way of reduction in prices.

21.0 Sales Tax/Value Added Tax :

Sales tax/ Value Added Taxes should be quoted 'extra' in percentage if applicable or quote "Zero" if exempted in the appropriate input box on the Financial Offer Form. Issue of Form 'D' towards CST on inter-state purchase by Railways is withdrawn. Consequent upon the withdrawal of 'D' Form, the rate of CST on inter-state sale to Railways shall be the rate of VAT/State Sales Tax applicable in the state of the selling dealer/vendor.

(a) Following may be noted wherever Value Added Tax is applicable:

- (i) The tenderer should quote the exact percentage of VAT that they will be charging extra.
 - (ii) While quoting the rates, tenderer should pass on (by way of reduction in prices) the set off/input tax credit that would become available to them by switching over to the system of VAT from the existing system of sales tax, duly stating the quantum of such credit per unit of the item quoted for.
 - (iii) The tenderer while quoting for tenders should give the following declaration: "We agree to pass on such additional set off/input tax credit as may become available in future in respect of all the inputs used in the manufacture of the final product on the date of supply under the VAT scheme by way of reduction in price and advise the purchaser accordingly."
- (b) The supplier while claiming the payment shall furnish the following certificate to the paying authorities:

"We hereby declare that additional set off/input tax credit to the tune of Rs. has accrued and accordingly the same is being passed on to the purchaser and to that effect the payable amount may be adjusted".

If any surcharge on tax is applicable the same should be indicated clearly. **All the offers shall be evaluated as per tax regime as applicable on the date of tender opening.**

22.0 Octroi Exemption Certificate:

Purchaser will not bear any Octroi charges, and if required will issue Octroi Exemption Certificate (OEC) only. In the event of Octroi exemption certificate not being honored by the concerned municipal authority, and Octroi charges become payable, the supplier will have to bear the same.

II -APPLICABLE ONLY FOR ITEMS WHICH ARE COVERED BY GST:

22.1 TAXES AND DUTIES: Each vendor must fill and submit the Financial Offer from i.e. Rate form, as available. with E-tender ,encrypt his offer on his client machine with the secure encryption key available with the tender and digitally sign using his Digital Signature Certificate.

22.2 Tenderers should clearly indicate separately ex-works basic price, packing charges, forwarding charges, GST applicable with HSN code and Freight charges upto destination, in the respective field of the Financial Offer form for each unit tendered Therefore, if the tenderer happens to quote a composite rate, due break-up is to be given Showing freight and forwarding charges separately in the field of the Financial Offer Form.

22.3 Tenderers are required to quote in the same rate unit (i.e. Number, set etc) as given in the tender schedule. Any deviation in this aspect will make the offer liable to be ignored.

DENIAL CLAUSE:

Supplier will not be entitled to any benefit of upward Statutory Variations in GST rates announced after expiry of the original Delivery Period as per purchase order & in Case of reduction in GST rates if any, benefit will be passed on to Railways at any stage Of the contract.

22.4 Goods and Services Tax:

22.5

(i) Tenderers will examine the various provisions of the Central Goods and Services Tax Act,2017(CGST)/Integrated Goods and Services Tax Act,2017(IGST)/Union Territory Goods and Services Tax Act, 2017 (UTGST)/respective state's State Goods and Services Tax Act (SGST) also, as notified by Central/State Govt. & as amended from Time to time and applicable taxes before bidding. Tenderers will ensure that full benefit Of Input Tax Credit(ITC) likely to be availed by them is duly considered while quoting Rates.

(ii) The successful tenderer who is liable to be registered under CGST/IGST/UTGST/SGST Act shall submit GSTIN along with other details required Under CGST/IGST/UTGST/SGST Act to Railway at the time of submission of offer/

After conclusion contract, without which no payment shall be released to the tenderer.

- (iii) In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/SGST Act, the railway shall deduct the applicable GST from his/their bills Under reverse charge mechanism (RCM) and deposit the same to the concerned Authority.

22.6 Tenderers are requested to refrain from quoting vague terms like “GST as applicable” They will have to clearly quote the current percentage rate of GST extra as applicable With HSN No.

22.7 The offers will be evaluated based on the GST rate quoted by bidders. While quoting it is the responsibility of the bidders to ensure that they are quoting correct GST rate and HSN No. If they quote erroneous GST rate and HSN No. then the liability for payment of the difference in GST amount if any, at a later date will lie with the bidders only and no increase in rate of GST rate will be allowed subsequently unless or until the same is changed by statute after the opening of tender and within the original delivery period.

22.8 Payment of GST:

- (i) The rate of GST at present legally leviable in this case is____% as assessed by the concerned authority. The claim for GST on each bill should be supported by following certificate.
- (ii) Certified that the GST charged on this bill is not more than that is legally leviable and payable under the provision of the relevant act or rules made there under.
- (iii) Certified that the amount of Rs. claimed as GST in this bill is in accordance with the provision of the rules in all respects and the same has been actually paid to the authorities concerned in respect of the stores covered by the bills.
- (iv) Addition:
GST will be paid on production of documentary proof. All input credits should be Passed on to Railways by the supplier. To this effect, the firm should give declaration that all input credits has been passed on to Railways while submitting the bills. We Further agree to pass on such additional duties and set off as may become available in Future in respect of all the inputs used for the manufacture of the final product, on the Date of the supply by way of reduction in price and advise the purchaser accordingly.

23.0 Price Variation Clause:

23.1 Railways, in general, prefer firm price contracts.

23.2 However, there may be cases of procurement of stores which are raw- material (Steel/ Non-Ferrous) intensive wherein the tenderers may quote with Price Variation clause. Such Price Variation Clause must be unambiguous and having clear price variation formulae. Ambiguous conditions like “Price Variation Clause applicable” will not be acceptable and such offers shall be summarily rejected.

23.3 Following Price Variation Clauses are generally recognized by the Railways

(a) IEEMA PVC for the items covered by IEEMA formulae.

(b) DGS&D's PVC for the items which are covered by such formulae.

(c) Railway Board's /**CORE's** PVC for items covered by such formula.

(d) *PVC BASED ON WPI* for items covered by such formula

(e) **PVC based on prices of HCL, HZL, SAIL, LME, BME etc.**

(f) **In case where no Price Variation Clause has been incorporated by Rlys. in the tender schedule, tenderers must quote on fixed price basis only. Offers from tenderers quoting with PVC Clause in such cases will be summarily ignored.**

(g) Tenderers are advised to quote as per the specific PV Formula given in the tender Schedule. Offers with deviation in the PVC formula and base date of prices of input raw Material than as prescribed in the tender schedule will be summarily rejected. Offers from Tenderers quoting with fixed price where Railway has incorporated pre-defined PVC will be summarily rejected.

Note:-Tenderers whose offers are with IEEMA PVC, Railway Board's PVC / DGS&D's PVC have to quote with the prices of input raw materials ruling on the base date as stipulated in the relevant PVC (IEEMA/ Railway Board/ DGS&D). For example in case of IEEMA PVC, if the Tender opening date falls in May of a year, the applicable prices of input raw materials should be those prevailing on the 1st April of that year.

23.4 For those items which are not covered by any of the aforesaid PVC, other PVC specific for such stores may be considered and accepted if found to be in order. However, in all such cases, the contract prices upward/ downward will be regulated with reference to the date of inspection of stores and will be applicable to the stores tendered for inspection after one month from the date of variation in the price of relevant input material by the specified agencies like SAIL, HZL, HCL etc. The date on which stores are offered for inspection will be treated as the date of supply for the purpose of Price Variation Clause. Furthermore, the base month for such input materials will be one month prior to that of tender opening. Admission of any claim in this regard will be subject to the suppliers furnishing all the supporting documents.

23.5 Tenderers who quote with price escalation on account of raw material in the tenders will please note that such escalation claims will be subject to verification by the Financial Adviser and Chief Accounts Officer of the Railways with reference to the records that may be called for from them. Successful tenderer will be required to produce complete records including position of ground stocks available at the time of submission of tender for verification / examination of their claims under price escalation before their claims are accepted. If the tenderer fails to establish his claim by producing satisfactory records before the FA & CAO of the concerned Railway, their claim will be disallowed and/ or proportionately reduced.

- 23.6 **In case of entire or severable contract with staggered delivery schedule, the PVC claims If any, will be restricted for that particular quantity of supply required to be completed in that period, as indicated in the original delivery schedule, irrespective of the fact, whether the supply has been made / completed subsequently within the overall delivery schedule of the contracts.**
- 24.0 **I.T.C.C.:** This will be governed by extant rules of the Government of India. Tenderers are to indicate their Income Tax PAN details and upload a scanned copy of the same.
- 25.0 **Validity:** Tenderers have to keep validity of their offer open for a minimum period of 120 days from the tender closing date. Offers with validity period of short duration may be taken as unresponsive to Railway's requirements.
- 26.0 **Evaluation Criteria:**
- (i) Rates quoted by the Tenderers with discounts if any linked to quantity will be considered for determining inter-se position of the offers. Discounts with conditions attached to early payment, early Receipt notes etc., will be ignored for calculating inter-se position. However, Railways may avail the discounts linked to early payment, early receipt notes etc. if otherwise, firm's offer is found to be acceptable.
 - (ii) **Tenderers should show discount in the rate schedule/financial bid only, instead of anywhere else in the offer. Discounts not shown at designated place will be summarily ignored for assigning inter-se ranking of offers. However, the same shall be availed while placing order(s). Conditional discount will not be considered for adjudging the inter-se position i.e. rate quoted without any conditions attached (viz. Discount / Rebates having linkages to quantity, payment, Inspection agency, destination, delivery place etc) will only be considered for evaluation purpose. In other words, discounted rates linked to quantities, prompt payment etc. will be ignored for determining inter-se position. Purchaser, however, reserves the right to use the discount rate / rates considered workable and appropriate, for counter offer to the successful tenderers.**
 - (iii) (a) **APPLICABLE ONLY FOR ITEMS WHICH ARE NOT COVERED BY GST:** Inter-se ranking of the offers will be determined on Total Unit Rate basis which will include Basic rate/Unit, all Statutory Taxes and Duties ie., ED, Educational Cess, ST/VAT, packing charges, Forwarding charges, freight, Insurance and any other charges Quoted by the tenderer.

(b) **APPLICABLE ONLY FOR ITEMS WHICH ARE COVERED BY GST:** Inter-se ranking of the offers will be determined on Total unit Rate basis which will Include Basic rate/Unit, all statutory taxes i.e.GST, packing charges, Forwarding charges, Freight, Insurance and any other charges quoted by the tenderer.
 - (iv) The criteria for evaluation of inter-se-position of bidders shall be item wise and destination wise unless otherwise some other evaluation criteria is specifically mentioned in the tender.
 - (v) Railways reserve the right to avail the benefit of financial discounts quoted by the firm irrespective of the quantity ordered on them.

27.0 The tenders are uploaded in IREPS website well in advance of closing time to give sufficient time to the vendors to participate in the tender. Vendors in their own interest are advised to quote for the tenders well in advance before the tender closing time. South Central Railway is not responsible for non-participation of vendors due to any technical problems on the day of tender closing time.

28.0 The vendors should quote financial terms and conditions in the nominated fields of financial rate page only. Any financial terms and conditions mentioned in the fields other than the nominated fields will be ignored. Similarly, any financial terms and conditions enclosed as attachments will be ignored.

29.0 Force Majeure Clause:

- Force Majeure is an event beyond the control of the supplier and not involving the supplier's fault or negligence and which is not foreseeable. Such events may include, but are not restricted to acts of the purchase either in its sovereign or contractual capacity, wars or revolutions, hostility, acts of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts and freight embargoes. This should not be used by party to effectively to escape liability for bad performance.
- If there is delay in performance or other failures by the supplier to perform its obligation under the contract due to event of a Force Majeure, the supplier shall not be held responsible for such delays/failures.
- If a Force Majeure situation arises, the supplier shall promptly notify the purchaser in writing of such conditions and the cause thereof within 21 days of occurrence of such event with reasonable evidence thereof.
- Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical and shall seek all reasonable alternative means for performance not prevented by Force Majeure event.
- If the performance in whole or in part or any obligation under the contract is prevented or delayed by any reason of Force Majeure for a period exceeding 60 days, either party may at its option terminate the contract without any financial repercussion on either side.
- " There may be a Force Majeure situation affecting the purchase organization only. In such a situation the purchase organization will take up with the supplier on similar lines as mentioned above."

30.0 Delivery of Material:

Delivery is required to be made at the place as stated. Any deviation from the same may be considered as commercially unresponsive and the offer is liable to be ignored.

31.0 IRS CONDITIONS OF CONTRACT:

Firm should accept all IRS Conditions of Contract. Any condition not in conformity with IRS Conditions of Contract should be avoided.

32.0 NOTE TO ALL CONCERNED:

It may be ensured that, the BGs/ DDs / FDRs /Guarantee Bonds towards EMD/SD/Performance Guarantee are to be obtained in favour of the concerned Accounts Officers /FA&CAO only.

Applicable only for all Global tenders & for all tenders where the minimum local content shall be 50% & tenders valuing above Rs. 5 lakhs.

33.0 "This tender complies with Public Procurement Policy order 2017 Revision dt.25.09.2020.

33.1 (A)

(a) Local content:

- i) **Minimum local content.:-** The local content requirement to categorize a supplier as 'Class-I local' supplier is minimum 50%. For 'Class-II local supplier', the 'local content' requirement is minimum 20%. Nodal Ministry/ Department may prescribe higher percentage of minimum local content requirement to categorize a supplier as 'Class-I local supplier' / 'Class II local supplier' from time to time for various items.
- ii) Local content means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.

(b) Margin of Purchase Preference:

- i) The margin of purchase preference shall be 20%.
- ii) 'Margin of Purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference.

(c) Fee for complaints:

Fee for filing a complaint under the order shall be Rs.10,000/- per case. The complaint shall be filed in the office of the PCMM/SCR. The fee shall be deposited with the office of the PFA/S.C.R.

(d) Local Supplier:

'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for 'Class-I local supplier' under this Order and as per para 33.1,(A), 'a' above.

'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, meets the minimum local content as prescribed for

'Class-II local supplier' but less than that prescribed for 'Class-I local supplier' under this Order as per para 33.1, (A), 'a' above.

'Non – Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than that prescribed for 'Class-II local supplier' under this Order

- (e) **L1:** Means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.
- (f) **'Procuring entity'** means a Ministry or department or attached or subordinate office or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.
- (g) **"Work"** means all works as per Rules 130 of GFR -2017, and will also include "turnkey works".

33.1(B) Eligibility of Class-I local supplier/Class-II local supplier/Non local suppliers for different types of procurement.

- a) In procurement of all goods, services or works in respect of which the Nodal Ministry/Department has communicated that there is sufficient local capacity and local competition, only 'Class-I local supplier as defined under the Order, shall be eligible to bid irrespective of purchase value.
- b) Only 'Class-I local supplier' and 'Class-II local supplier', as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'. In Procurement of all goods services or works not covered by sub-para.33.1,(B), 'a' above, and with estimated value of purchases less than Rs. 200 Crs, in accordance with Rule.161(iv) of GFR- 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure.
- c) For the purpose of this order, works includes Engineering, Procurement and Construction (EPC) contracts and services include system integrator (SI) contracts.

33.2 Verification of local content:

- a) The 'Class-I local supplier/Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self-certification that the item offered meets the local content requirement for

'Class-I local supplier'/'Class-II local supplier, as the case may be they shall also give details of the location(s) as which the local value addition is made.

- b) In cases of procurement for a value in excess of Rs. 10 Crores, the Class –I local supplier'/'Class-II local supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.
- c) Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement-related complaints relating to the procuring entity.
- c) (i) False declarations will be in breach of the Code of Integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law
- d) A supplier who has been debarred by any procuring entity for violation of this Order shall not be eligible for preference under this Order for the procurement made by the entity debarred and any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph '(e)' below.
- e) The debarment shall be as decided by Department of Expenditure from time to time and debarment in respect of procuring entities other than the one which has carried out the debarment and the debarment takes effect prospectively from the date of uploading on the website(s) in the such a manner that ongoing procurements are not disrupted.
- f) On a periodical basis such cases are consolidated and a centralized list of decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s).

33.3 (A) Purchase Preference:

- a) Subject to the provisions of this Order and to any specific instructions issued by the Nodal Ministry or in pursuance of this Order, purchase preference shall be given to 'Class-I local supplier' in procurements under taken by procuring entities in the manner specified here under.
- b) In the procurement of goods or works, which is covered by para 33.1(B)(b) above and which are advisable in nature, the 'class-I local supplier' shall get purchase preference over 'Class-II local supplier as well as 'Non-local supplier' as per following procedure.
 - i) Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class –I local supplier the contract for full quantity will be awarded to L1.

- ii) If L1 bid is not a Class-I local supplier, 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the 'Class-I local supplier, will be invited to match the L1 price for the remaining 50% quantity subject to the local supplier's quoted price failing within the margin of purchase preference, and contract for that quantity shall be awarded to such local supplier subject to matching the L1 price. In case such lowest eligible 'Class-I local supplier fails to match the L1 price or accepts less than the offered quantity, the next higher 'Class-I local supplier within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on 'Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.
- c) In the procurements of goods or works which are covered by 33.1(B)b) above and which are not divisible in nature and in procurement of services where the bid is evaluated on price alone, the "Class-I local supplier shall get purchase preference over 'Class-II local supplier' as well as Non-Local supplier as per following procedure.
 - i) Among all qualified bids, the lowest bid will be termed as L1. If L1 is 'Class-I local supplier the contract for full quantity will be awarded to L1.
 - ii) If L1 is not 'Class-I local supplier the lowest bidder among the 'Class-I local supplier will be invited to match the L1 price subject to local supplier's quoted price failing within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier subject to matching the L1 price.
 - iii) In case lowest eligible 'Class-I local supplier fails to match the L1 price, 'Class-I the local supplier with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the local suppliers within the margin of purchase preference matches the L1 price, then the contract may be awarded to the L1 bidder.
- d) 'Class-II local supplier' will not get purchase preference in any procurement undertaken by procuring entities.

33.3 (B). Applicability in tenders where contract is to be awarded to multiple bidders:- In tenders where contract is awarded to multiple bidders subject to matching of L1 rates or otherwise, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non local supplier', as per following procedure:

- a) In case there is sufficient local capacity and competition for the item to be procured, as notified by the nodal Ministry, only 'Class-I local suppliers' shall be eligible to bid. As such, the multiple suppliers, who would be awarded the contract, should be all and only 'Class-I Local suppliers'
- b) In other cases 'Class-II local suppliers' and 'Non local suppliers' may also participate in the bidding process along with 'Class-I Local suppliers' as per provisions of this Order.

- c) If 'Class-I Local suppliers' qualify for award of contract for at least 50% of the tendered quantity in any tender, the contract may be awarded to all the qualified bidders as per award criteria stipulated in the bid documents. However, in case 'Class-I Local suppliers' do not qualify for award of contract for at least 50% of the tendered quantity, purchase preference should be given to the 'Class-I local supplier' over 'Class-II local suppliers' / 'Non local suppliers' provided that their quoted rate falls within 20% margin of purchase preference of the highest quoted bidder considered for award of contract so as to ensure that the 'Class-I Local suppliers' taken in totality are considered for award of contract for at least 50% of the tendered quantity.
- d) First purchase preference has to be given to the lowest quoting 'Class-I local supplier', whose quoted rates fall within 20% margin of purchase preference, subject to its meeting the prescribed criteria for award of contract as also the constraint of maximum quantity that can be sourced from any single supplier. If the lowest quoting 'Class-I local supplier' does not qualify for purchase preference because of aforesaid constraints or does not accept the offered quantity, an opportunity may be given to next higher 'Class-I local supplier', falling within 20% margin of purchase preference, and so on

33.4 Exemption of small purchases: Notwithstanding anything contained in paragraph 33.3, procurements where the estimated value to be procured is less than Rs.5 Lakhs shall be exempt from the Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this order.

33.5 Indication of Local Content %:

All the Tenderers have to indicate local content % invariably in the tender at the time of submitting their offers. In case the local contents are not declared, it will be presumed that the minimum local contents is as indicated in the tender subject to minimum 50% as per the requirement of the item tendered for the items pertaining to Railways.

33.6 Specifications in Tenders and other procurement solicitations:

a) Reciprocity Clause:-

- i) Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/ Department, except for the list of items published by the Ministry/ Department permitting their participation.
 - ii) The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time.
- b)** For the purpose of sub-paragraph 33.6(a) above, a supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in the country, or (ii) a majority of its shareholding or effective control of the entity is exercised from the country or (iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect of India.

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

33.8 Power to grant exemption and to reduce minimum local content: The administrative Department undertaking the procurement (including procurement by any entity under its administrative control) with the approval of their Minister-in-charge may be written order, for reasons to be recorded in writing.

- a) Reduce the minimum local content below the prescribed level, or
- b) Reduce the margin of purchase preference below 20% or
- c) Exempt any particular item or supplying entities from the operation of this order or any part of the Order.

A copy of every such order shall be provided to the Standing Committee and concerned Nodal Ministry/Department. The Nodal Ministry/Department concerned will continue to have the power to vary its notification on Minimum Local Content.

33.9 Restrictions under Rule 144(xi) of GFRs-2017:

33.9 (A) Registration clause for bidders from country which shares a land border with India:

- i) 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.
- ii) 'Bidder' (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) 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.
- iii) "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) 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.

iv) The beneficial owner for the purpose of (iii) above will be as under:

1. 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 to 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;
 - 2. 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;
 - 3. 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;
 - 4. Where no natural person is identified under '1' or '2' or '3' above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 - 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
 - v) An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
 - vi) The successful bidder shall not be allowed to sub- contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.
- B) i) All the bidders shall submit the following certificate regarding their compliance with this Order as below. If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law.**
- a) "I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India."
 - b) "I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent authority."
 - c) I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [where applicable, evidence of valid registration by the competent authority shall be attached].

- ii). If the bidder fails to give such declaration as given in Para 33.9 (B), 'i' along with the tender than it will be considered that the contents of above declaration have been read and unconditionally agreed and accepted by the tenderer.

If the tenderer are not agreeable to this declaration they have to categorically mention about the disagreement in Techno Commercial Deviation.

33.9 (C) Notwithstanding anything contained therein; the said Order will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects.

33.9 (D) The lists of countries to which lines of credit have been extended or in which development projects are undertaken are as given in the website of the Ministry of External Affairs.

33.9(E) Modalities in this regard are being updated from time to time by Railway Board and the modality as updated on the date of tender opening shall be applicable

34.0 Suppliers are requested to visit Indian Railway website www.ireps.gov.in in which the tenders pertaining to this Railway are published and tender documents are available.

35.0 The following procedure will be adopted once Digital submission/processing of Vendors bill is implemented.

- 1) CRIS is in the process of creating the module of online bill submission by vendors on IREPS. As IMMS and IPAS have already been integrated, digitally signed bill/supplementary bill submitted by vendor on IREPS in " Bill submission utility" will be used by IPAS along with other digitally Signed documents like Receipted Challan/Receipt note/Inspection Certificate etc for registering Vendors bill(CO-6).The bill payment by the bill paying authority will hereafter be done through IPAS based on digitally signed bill and Receipted Challan,R/Note, Inspection Certificate etc.. available on IMMS without insisting on hard copies of same either from depot/consignee or from supplier.
- 2) This will be applicable for Purchase Order/contracts of both Stock, Non-stock items and services Later on, payment against Works Contracts may also be brought under purview of Digital bill submission.
- 3) It shall cover bills for advance payment and final payment to be chosen by vendor.
- 4) It shall cover bills with GST as well as Excise Duty applicability to be chosen by vendors.
- 5) Bills shall be Purchase order wise i.e, one bill shall include items of only one Purchase order which shall automatically make it Paying authority wise. There can be multiple supplies in a bill related to same purchase order. Some supplies can be by road and some by rail/courier etc.

- 6) Vendor shall select the PO item serial number and go on for submitting the bill details for that PO item serial, therefore can submit data for more than one supplies in one bill.
- 7) IREPS shall generate unique bill registration number for each bill which shall be passed on to IPAS and IREPS shall communicate through this unique number Vendor can also enquire and Track their bill status based on this number.
- 8) Vendor can prepare a bill for advance payment for road dispatches for those supplies only whose Challan number is registered in IREPS .DRR number is allotted and Receipted challan is digitally Signed by competent authority in depot. Vendor will only select from the list. Receipted challan Quantity for bill shall be auto filled by the system and vendor cannot edit the same. Once digitally Signed receipted challan with Inspection Certificate is made available online to Bill passing/paying Authority, need for original copy of IC from vendor to Bill Passing/paying authority should not be insisted for advance bill passing.
- 9) For advance payment for supplies against RR/PWB (which are still not digital) as none of the Documents are available with depot at the time of claim of advance payment by vendor, the Verification process for RR/PWB and IC against the online submitted bill shall continue to be Manual by bill passing/paying authority as is the existing process.
- 10) For final payment bill can be prepared only for Digitally signed RO available in the system for selection by vendor against the PO serial of the item and only for the RO quantity.
- 11) Bill rate shall be calculated after adjusting PVC amount and discount in purchase order rate.
- 12) Various expense amounts and taxable value shall be worked out for bill percent (i.e.95%, 5%,100%) In other words. vendor will raise bill accordingly to the prescribed percentage payment and CGST/ SGST-UTGST or IGST shall be worked out on the taxable value, in commensurate with the HSN Code of the supply of material as per the Purchase Order/Contract.
- 13) Bill amount shall be calculated as per bill percent.
- 14) Digitally signed Receipted Challan, Receipt Note, RO, Inspection Certificate etc. shall be available for view in IPAS.
- 15) Documents can be uploaded by vendor for each supply in a bill, All the uploaded documents with the bill shall be digitally signed by the vendor.
- 16) Vendor can save the bill, edit the bill, add/delete supplies to the bill, and delete the bill before Signing and submitting the bill. Once bill is digitally signed and submitted, it can neither be Amended nor withdrawn/cancelled.
- 17) Summary of bills and status of bills submitted against each, purchase order shall be available to vendor for managing his bills.

- 18) The bill date shall be taken by IPAS from IREPS/IMMS database and digitally signed bill and Vendor documents shall be available to IPAS for use.
- 19) After this, bill shall be processed by bill passing system of IPAS as their process.
- 20) Progress of bill at different stages shall also be shown to vendor in this IREPS login account.

36.0 All suppliers shall ensure that the supplies including packing materials must comply Plastic Waste Management Rules 2016 and amendments thereof.

37.0. Recovery of Income Tax @ 0.1% from the suppliers under New Section 194 Q in the Income Tax Act of Finance Act of 2021 No.13 of 2021 dated 28.03.2021:

Finance Act of 2021 No 13 of 2021 dated 28.03.2021 has Inserted a new section 194Q in the Income Tax Act as per the newly introduced section, the following are to be ensured while passing the bills pertaining to purchase of goods.

1. Income Tax to be deducted @ 0.1% on purchase of any goods from the seller, who is resident of India on the value or aggregate of such value exceeding INR 50 Lakhs in any previous year.
2. The provision is applicable from 1st July 2021.
- 3..The tax to be deducted at higher rate of 5%, if the seller doesn't hold a PAN in India.
4. Further higher rate of 5% has to be deducted if the seller has to be deducted if the seller has not filed the returns of income for both of the immediately preceding two years relevant to the year in which Tax is required to be deducted.

In the light of the above provisions of the ACT, to avoid ambiguity, it is decided to deduct the tax @ 0.1% on the stores bills excluding GST. The seller may claim, if any in case of any dispute, from the Income Tax Authorities.

All the suppliers are requested to submit the following documents along with ensuing bills through ON LINE.

- 1 .Copy of PAN CARD of the supplier.
2. Latest certificate from the Chartered Accountant regarding turnover of the supplier.
3. Copies of the IT returns submitted by the supplier for the two preceding years to the year in which bill is being processed. For ex. while submitting the bills during the year 2021-22, tax returns for financial year 2019-20 and 2020-21.

Annexure 'A'

Bid securing declaration to be signed by bidders availing exemption from submission of EMD

"I/We certify that my/our offer is eligible for exemption from submission of bid security/Earnest Money Deposit, in terms of the tender conditions.

In case my/our claim to exemption from submission of bid security/Earnest Money Deposit is not found valid as per terms of the tender. I/We understand and accept that Railways has unquestionable right to summarily reject my bid and my offer shall not be considered for ordering. Further, I/we hereby understand and accept that if I/We withdraw or modify my/our bids during period of validity, or if I/We are awarded the contract and on being called upon to submit the performance security/Security Deposit, fail to submit the performance security/Security Deposit before the deadline defined in the request for bid document/Notice Inviting Tender, I/We shall be debarred from exemption of submitting Bid Security/Earnest Money Deposit and performance security/Security Deposit for a period of 6(six) months, from the date I/We are declared disqualified from exemption from submission of EMD/SD, for all tenders for procurement of goods issued by any unit of Indian Railways published during this period."

PROFORMA FOR BANK GUARANTEE TOWARDS SECURITY DEPOSIT (SD)

To:
The President of India Acting through
PFA,
South Central Railway

GUARANTEE BOND

1. In consideration of the President of India (hereinafter called "the Government") having agreed to exempt ----- (hereinafter called "the said Contractor(s)") from the demand under the terms and conditions of an Agreement dated----- made between **Principal Chief Materials Manager**, South Central Railway, and-----for (hereinafter called "the said Agreement"), of security deposit for due fulfillment by the said Contractor (s) of the terms and conditions contained in the said Agreement on ----- production of a bank Guarantee for Rs ----- (Rupees ----- only), we (Indicate name of the bank) (hereinafter referred to as "the Bank") at the request of ----- contractor(s) do hereby undertake to pay to the Government an amount not exceeding Rs. -----against any loss or damage caused to or suffered or would be caused to or suffered by the Government by reason of any breach by the said contractor(s) of any of the terms or conditions contained in the said agreement.

2. We -----(Indicate name of the bank) do here by undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Government stating that the amount claimed is due by way of loss or damages caused to or would be caused to or suffered by the Government by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the said Agreement or by reason of the Contractor(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. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs ---

3. We under take to pay to the Government 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 a 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 -----(Indicate 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 Government under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till **Principal Chief Materials Manager, South Central Railway**, Ministry of Railway certifies that the terms and conditions of the said Agreement has been fully and 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 ----- we shall be discharged from all liability under this Guarantee thereafter.

5. We ----- (Indicate name of the Bank) further agree with the Government that the Government 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 Government 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 Government or any indulgence by the Government 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 ----- (indicate name of bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing.

Date the -----day of -----

For -----
(Indicate name of the Bank)
(Bank's common seal)

**GOVERNMENT OF INDIA (BHARAT SARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)**

INDIAN RAILWAY STANDARD CONDITIONS OF CONTRACT
(Vide Para 417 of the Indian Railway Code for the Stores Department)

0100. Definitions and Interpretation.

E-Tender means Tender document duly uploaded on Railways Authorised Website 'ireps.gov.in'.

0101. In the Contract, unless the context otherwise requires;

0102. "Acceptance of Tender" means the letter of memorandum communicating to the Contractor the acceptance of his tender and includes an advance acceptance of his tender;

0103. "Consignee" means where the stores are required by the acceptance of tender to be despatched by rail, road, air or steamer, the person specified in the Acceptance of Tender to whom they are to be delivered at the destination; Where the Stores are required by the acceptance of tender to be delivered to a person as an interim consignee for the purpose of despatch to another person, such other persons; and in any other case the person to whom the stores are required by the acceptance of tender to be delivered in the manner therein specified

0104. "Contract" means and includes the invitation to tender, instructions to tenderers, acceptance of tender, Standard Conditions of Contract, Special Conditions of Contract, particulars and the other conditions specified in the acceptance of tender and includes a repeat order which has been accepted or acted upon by the contractor and a formal agreement if executed;

0105. The "Contractor" means the person, firm or company with whom the order for the supply is placed and shall be deemed to include the contractor's successors (approved by the Purchaser), representatives, heirs, executors and administrators as the case may be, unless excluded by the terms of the contract

0106. "The Sub-contractor" means the person, firm or company from whom the Contractor may obtain any material or fittings to be used in the supply or manufacture of the stores ;

0107. "Drawing" means the drawing or drawings specified in or annexed to the Schedule or Specifications

0108. "Government" means the Central Government or a State Government, as the case may be;

0109. "The Inspecting Officer" means the person specified in the contract for the purpose of Inspection of stores or work under the contract and includes his authorised representative;

0110. "Material" means anything used in the manufacture or fabrication of the stores

0111. "Particulars" include-

- (a) Specifications
- (b) Drawings
- (c) Pattern bearing the seal and signature of the Inspecting Officer (hereinafter called the sealed pattern) which shall include also a certified copy thereof sealed by the Purchaser for the guidance of the Inspecting Officer;
- (d) Sample sealed by the Purchaser for guidance of the Inspecting Officer (hereinafter called the certified sample) which shall include a certified copy thereof sealed by the Purchaser for the guidance of the Inspecting Officer;
- (e) Trade pattern, that is to say, a pattern, stores conforming to which are obtainable in the open market and which denotes a standard of the Indian Standard Institute or other standardising authority or a general standard of the industry;
- (f) "Proprietary mark "or "brand "means the mark or brand of a product which is owned by an industrial firm;
- (g) Any other details governing the construction, manufacture or supply of stores as may be prescribed by the contract;

0112. "Purchase Officer" means the officer signing the acceptance of tender and includes any officer who has authority to execute the relevant contract on behalf of the Purchaser

0113. "The Purchaser" means the President of India in the case of stores ordered for the Indian Government Railways and includes his successors and assignees

0114. "Digitally Signed E-Bid" means online offer form including rate page filled in and submitted online after digitally signing the same by the authorized vendor, with a valid digital signature certificate as per IT Act 2000.

0115. "Site" means the place specified in the contract at which any work is required to be executed by the contractor under the contract or any other place approved by the Purchaser for the purpose;

0116. "Stores" means the goods specified in the contract which the contractor has agreed to supply under the contract;

0117. "Supply Order" means an order for supply of stores and includes an order for performance of service;

0118. "Test" means such test as is prescribed by the particulars or considered necessary by the Inspecting Officer whether performed or made by the Inspecting Officer or any agency acting under the direction of the Inspecting officer;

0119. "Unit" and "Quantity" means the unit and quantity specified in the contract;

0120. "Writing" or "Written" includes matter either in whole or in part, in manuscript, type-written, lithographed, cyclostyled, photographed or printed under or over signature or seal, as the case may be;

0121. The delivery of the stores shall be deemed to take place on delivery of the stores in accordance with the terms of the contract, after approval by the Inspecting Officer if so provided in the contract to -

- (a) the consignee at his premises ; or
- (b) where so provided the interim consignee at his premises , or
- (c) a carrier or other person named in the contract for the purpose of transmission to the consignee, or
- (d) The consignee at the destination station in case of contract stipulating for delivery of stores at destination station.

0122. Words in the singular include the plural and *vice versa*

0123. Words importing the masculine gender shall be taken to include the feminine gender and words importing persons shall include any company or association or body of individuals, whether incorporated or not;

0124. The heading of these conditions shall not affect the interpretation or construction thereof;

0125. Terms and expression not herein defined shall have the meanings assigned to them in the **Indian Sale of Goods Act, 1930** (as amended), or the **Indian Contract Act, 1872** (as amended) or the **General Clauses Act, 1897** (as amended), as the case may be.

0200. Parties-

The parties to the contract are the Contractor and the Purchaser, as defined in Clauses 0105 and 0113.

0201. Authority of person signing the Contract on behalf of the Contractor-

A person signing the tender or any other document in respect of the Contract on behalf of the Contractor without disclosing his authority to do so shall be deemed to warrant that he has authority to bind the Contractor. If it is discovered at any time that the person so signing has no authority to do so, the Purchaser may, without prejudice to any other right or remedy of the Purchaser, cancel the contract and make or authorize the making of a purchase of the stores at the risk and cost of such person and hold such person liable to the Purchaser for all costs and damages arising from the cancellation of the contract including any loss which the Purchaser may sustain on account of such purchase. The provisions of Clause 0700 shall apply to every such purchase as far as applicable.

0202. Address of the Contractor and notices and communications on behalf of the Purchaser:-

- (a) For all purposes of the contract, including arbitration there under, the address of the Contractor mentioned in the tender shall be the address to which all communications addressed to the Contractor shall be sent, unless the Contractor has notified change by a separate letter containing no other communication and sent by registered post acknowledgement

due to the Purchaser. The Contractor shall be solely responsible for the consequence of an omission to notify a change of address in the manner aforesaid.

- (b) Any communication or notice on behalf of the Purchaser in relation to the contract may be issued to the Contractor by the Purchase Officer and all such communications and notices may be served on the Contractor either by registered posts or under certificate of posting or by ordinary post or by hand delivery at the option of such officer.

0300. Quotations of rates by Contractors

- (a) The price quoted by the Contractor shall not be higher than the controlled price fixed by law for the stores or where there is no controlled price, it shall not exceed the prices or contravenes the norms for fixation of prices laid down by Government or where no such prices or norms have been fixed by the Government, it shall not exceed the price appearing in any agreement relating to price regulation by any industry in consultation with the Government.

In any case, save for special reasons stated in the tender, the price quoted shall not be higher than the lowest price charged by the Contractor for stores of the same nature, class or description to a private purchaser, domestic or foreign as well as Purchaser Governments.

- (b) If the price quoted is higher than the controlled price or where there is no controlled price, the price usually charged by the Contractor from a private Purchaser, domestic or foreign, as well as Purchaser Government for the stores of the same nature, class or description the Contractor will specifically mention this fact in his tender giving reasons for quoting higher price(s). If he fails to do so or makes any mis-statement, it shall be lawful for the Purchaser,
 - (i) to revise the price at any stage so as to bring it in conformity with the Sub-clause (a) above or
 - (ii) to terminate the contract and forfeit the Security Deposit.

0400. Contract.

0401. This contract is for the supply of the stores of the description, specifications and drawings, and in the quantities set forth in the contract on the date or dates specified therein. Unless otherwise specified, the stores shall be entirely brand new and of the best quality and workmanship to the satisfaction of the Inspecting Officer. The stores shall further be in all respects acceptable to the Inspecting Officer.

0402. Any variation or amendment of the contract shall not be binding on the Purchaser unless and until the same is duly endorsed on the contract incorporated in a formal instrument or in exchange of letters and signed by the parties.

0500: SECURITY DEPOSIT:

0501: Unless otherwise agreed between the Purchaser and the contractor, the contractor shall, within 14 days of posting of written notice of acceptance to the contractor, deposit with the Railway concerned (in cash or the equivalent in Government Securities or approved Banker's Guarantee Bond) a sum equal to 10 per cent of the total value of the stores detailed in the contract for which, the tender has been accepted, subject to **upper ceiling of Rs. 10 Lakhs for contracts valuing upto Rs.10 Crores and Rs.20 Lakhs for contracts valuing above Rs.10 Crores.**

SAFETY ITEMS: The Security Deposit (SD)/Performance Guarantee shall be taken from all the firms for contracts for all Safety Items placed against Open Tenders and Global Tenders subject to following exemptions:

a) Vendors registered with NSIC upto the monetary limit of their registration for the items ordered. Bidders seeking waiver of Security Deposit on this ground shall have to submit requisite documentary evidence.

OTHER THAN SAFETY ITEMS: The Security Deposit (SD) shall be taken from all the firms for contracts for items other than safety items placed against Open Tenders and Global Tenders subject to following exemptions:

a) Vendors registered with NSIC upto the monetary limit of their registration for the items ordered.

b) Vendors registered with Railways upto the monetary limit of their registration for the items ordered/trade groups for items ordered or vendors on approved list of RDSO/PUs/CORE/Railways etc. for those specific items for which they are on approved list or other Railways, Govt. Departments on their specific request and on merits of the case as considered by tender committee.

c) Bidders seeking waiver of Security Deposit on this ground shall have to submit requisite documentary evidence.

The usual security deposit, shall, however be taken in case the contracts are placed on unregistered/unapproved firms or for items for which a particular firm is not registered/approved.

Security Deposit should remain valid for a minimum period of 60 days beyond the date of completion of all the contractual obligations of the supplier.

0502: If the contractor, having been called upon by the Purchase to furnish security Deposit fails to make and to maintain a security deposit within the specified period, it shall be lawful for the Purchaser: -

- a) to recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the contractor under the contract or any other contract with the purchaser or the Government or any person contracting through the Purchaser or otherwise however, or
- b) to cancel the contract or any part thereof and to purchase or authorize the purchase of the stores at the risk and cost of the contractor and in that event the provisions of Clauses 0702 shall apply as far as applicable.

0503: No claim shall lie against the Purchaser in respect of interest on cash deposits or Government Securities or depreciation thereof.

0504: The Purchaser shall be entitled and it shall be lawful on his part to forfeit the said security deposit in whole or in part in the event of any default, failure or neglect on the part of the Contractor in the fulfillment or performance in all respects of the contract under reference or any other contract with the Purchaser or any part thereof to the satisfaction of the Purchaser and the Purchaser shall also be entitled to deduct from the said deposits any loss or damage which the Purchaser may suffer or be put by reason of or due to any act or other default, recoverable by the Purchaser from the Contractor in respect of the contract under reference or any other contract and in either of the events aforesaid to call upon the contractor to maintain the security deposits at its original limit by making further deposit, provided further that the Purchaser shall be entitled to recover any such claim from any sum then due or which at any time thereafter may become due to the Contractor under this or any other contracts with the Purchaser.

0600. Delivery.

0601. The Contractor shall as may be required by the Purchaser either deliver free or FOR. or CIF. at the place/places detailed in the contract, the quantities of the stores detailed therein and the stores shall be delivered or despatched not later than the date specified in the contract. The delivery will not be deemed to be complete until and unless the stores are inspected and accepted by the Inspecting Officer as provided in the contract.

0602. The Purchaser shall not be liable to render assistance to the Contractor in securing or to arrange for or provide transport to the Contractor unless it is so

specifically stated in the contract, notwithstanding that transport of the stores, is controlled by or under the orders of the Government.

0603. Notwithstanding any inspection and approval by the Inspecting Officer on the Contractor's premises, property in the stores shall not pass on to the Purchaser until the stores have been received, inspected and accepted by the consignee.

0604. No stores shall be deliverable to the consignee's depots on Sundays and public holidays without the written permission of the consignee.

0700. Time for and Date of Delivery; the Essence of the Contract-

The time for and the date specified in the contract or as extended for the delivery of the stores shall be deemed to be of the essence of the contract and delivery must be completed not later than the date(s) so specified or extended.

0701. Progressing of Deliveries- The Contractor shall allow reasonable facilities and free access to his works and records to the Inspecting Officer, Progress Officer or such other Officer as may be nominated by the Purchaser for the purpose of ascertaining the progress of the deliveries under the contract.

0702. Failure and Termination:- If the Contractor fails to deliver the stores or any instalment thereof within the period fixed for such delivery in the contract or as extended or at any time repudiates the contract before the expiry of such period the Purchaser may without prejudice to his other rights:-

- (a) recover from the Contractor as agreed liquidated damages and not by way of penalty a sum equivalent to 2 per cent of the price of any stores (including elements of taxes, duties, freight, etc.) which the Contractor has failed to deliver within the period fixed for delivery in the contract or as extended for each month or part of a month during which the delivery of such stores may be in arrears where delivery thereof is accepted after expiry of the aforesaid period, or
- (b)
 - 1. Risk Purchase clause is deleted for all orders for safety items, as levy of 10% Security deposit has been made compulsory in all such order/(except in case of vendors registered with NSIC upto the monetary limit of their registration for the items ordered). In case of failure of contract, Security Deposit shall be forfeited. Such failure shall be recorded & will be considered by Railways on merit in future cases.
 - 2. In respect of orders for materials other than safety items where 10% security deposit has been taken from firms, Risk Purchase clause is deleted and in case of default by such firms, the Security Deposit shall be forfeited.

3. In such cases as covered under (1) and (2) above, the quantities unsupplied shall be procured independently without risk and cost of the original firm/supplier.
 4. Adverse performance of such firms will be recorded and intimated to the approving authority and also to be taken into account in future tender cases on merit.
 5. Such cases which are not covered under Para (1) & (2) above. Risk Purchase provisions shall continue for them as per existing guideline as given below.
- (c) The Purchaser reserves the right to purchase or authorise the purchase of the stores not so delivered or others of a similar description (where stores exactly complying with particulars are not in the opinion of the Purchaser, which shall be final, readily procurable) at the risk and cost of the Contractor.
- It shall, however, be in the discretion of the purchaser to collect or not, Security Deposit from the firm(s) on whom the contract is placed at the risk and expense of the defaulted firm.
- (d) Where action is taken under Sub-clause (c) above, the Contractor shall be liable for any loss which the Purchaser may sustain on that account provided the purchase or if there is an agreement to purchase 1 such agreement is made, in case of failure to deliver the stores within the period fixed for such delivery in the contract or as extended within six months from the date of such failure and in case of repudiation of the contract before the expiry of the aforesaid period of delivery, within six months from the date of cancellation of the contract. The Contractor shall not be entitled to any gain on such purchase and the manner and method of such purchase shall be in the entire discretion of the Purchaser. It shall not be necessary for the Purchaser to serve a notice of such purchase on the Contractor.

Note: In respect of the stores which are not easily available in the market and where procurement difficulties are experienced the period for making risk purchase shall be nine months instead of six months provided above.

0703. Consequence of Rejection- If on the stores being rejected by the Inspecting Officer or Interim Consignee or Consignee at the destination, the Contractor fails to make satisfactory supplies within the stipulated period of delivery, the Purchaser shall be at liberty to: -

- (i) require the Contractor to replace the rejected stores forthwith but in any event not later than a period of 21 days from the date of rejection and the Contractor shall bear all cost of such replacement including freight, if any, on such replacing and replaced stores but without being entitled to any extra payment on that or any other account, or
- (ii) purchase or authorize the purchase of quantity of the stores rejected or others of a similar description (when stores exactly complying with

- particulars are not in the opinion of the Purchaser, which shall be final, readily available) without notice to the Contractor at his risk and cost and without affecting the Contractor's liability as regards the supply of any further installment due under the contract, or
- (iii) cancel the contract and purchase or authorize the purchase of the stores or others of a similar description (when stores exactly complying with particulars are not, in the opinion of the Purchaser, which shall be final, readily available) at the risk and cost of the Contractor. In the event of action being taken under Sub-clause (ii) above or under this Sub-clause, the provision of Clause 0702 above will apply as far as applicable.
 - (iv) where under the contract the price payable is fixed F.O.R despatching station, the Contractor shall, if the stores are rejected at destination by the consignee, be liable, in addition to his other liabilities, including refund of price recoverable in respect of the stores so rejected, to reimburse to the Purchaser the freight and all other expenses incurred by the Purchaser in this regard.

0800. Extension of Time for Delivery-

If such failure as aforesaid shall have arisen from any cause which the Purchaser may admit as reasonable ground for extension of time, the Purchaser shall allow such additional time as he considers to be justified by the circumstance of the case, and shall forgo the whole or such part, as he may consider reasonable, of his claim for such loss or damage as aforesaid. Any failure or delay on the part of sub-contractor, though their employment may have been sanctioned under Condition 1500 hereof, shall not be admitted as a reasonable ground for any extension of time or for exempting the Contractor from liability for any such loss or damage as aforesaid.

0900. Examination of Drawing, Specifications and Patterns-

When tenders are called for in accordance with a drawing, specification or sealed pattern the Contractor's tenders to supply in accordance with such drawing, specifications or sealed pattern shall, be deemed to be an admission on his part that he has fully acquainted himself with the details thereof and, in no circumstances, will any claim on his part which may arise on account of his insufficient examination of the said drawing, specification or scaled pattern, be considered.

1000. Mistakes in Drawing.

The Contractor shall be responsible for and shall pay for any alterations for the works due to any discrepancies, errors or omissions in the drawings or other particulars supplied by him whether such drawings or particulars have been approved by the Purchaser or not provided that such discrepancies, errors or omissions be not due to inaccurate information or particulars furnished to the Contractor on behalf of the Purchaser. If any dimension figure upon a drawing or

plan differ from those obtained by scaling the drawing or plan, the dimensions as figured upon the drawing or plan shall be taken as correct.

1100. Samples.

1101. Advance Sample- Where an advance sample is required to be approved under the terms of the contract, the Contractor shall submit the sample free of cost to the Inspecting Officer within the time specified in the acceptance of tender. If the Contractor is unable to do so, he must apply immediately to the Office issuing the acceptance of tender for extension of time stating the reasons for the delay. If the Purchaser is satisfied that a reasonable ground for an extension of time exists, he may allow such additional time as he considers to be justified (and his decision shall be final) with or without alteration in the delivery period stipulated in the acceptance of tender and on such conditions as he deems fit. In the event of the failure of the Contractor to deliver the advance sample by the date specified in the acceptance of tender or any other date to which the time may be extended as aforesaid by the Purchaser or of the rejection of the sample, the Purchaser shall be entitled to cancel the contract and, if so desired, purchase or authorize the purchase of the stores at the risk and cost of the Contractor, in which case the provisions of **Clause 0700** shall apply as far as applicable.

1102. Unless otherwise provided in the contract, all samples required for test shall be supplied by the Contractor free of cost. Where sample, which is supplied free, is rejected after examination and test, the same or whatever remains of the sample, after examination and test will be returned to the Contractor at his request and cost within three months of the date of such rejection at public tariff rate at Owner's risk.

1103. Marking- Samples submitted shall be clearly labelled with the Contractor's name and address and the acceptance of tender number.

1104. If the Contractor submits a sample whether with, before or after the tender, the same shall not govern the standard of supply except when it has been specifically stated so in the acceptance of tender.

1105. Where under the contract, the Contractor is required to submit an advance sample, any expenses incurred by the Contractor on or in connection with the production of stores in bulk, before the sample has been approved unconditionally, shall be borne by the Contractor and he shall not claim any compensation in the event of such sample being found unacceptable by the Inspecting Officer.

1106. The rejection of the sample by the Inspecting Authority or Inspecting Officer shall be final and binding on the Contractor.

1107. Where the contract does not require any advance sample to be approved, the Contractor may before proceeding with bulk manufacture or delivery of the stores, if he so desires, submit to the Inspecting Officer for inspection a sample of the stores in which case a quantity not less than one per cent of the total quantity to be supplied unless otherwise authorized by the Inspecting Officer shall be submitted. The Contractor shall not, however, be entitled to be shown any consideration or give any extension of time or claim to be exonerated from completing the delivery within the stipulated period only on the ground of delay in the approval of any such sample.

1108. If, under the contract supplies are governed by a sealed pattern the Contractor shall be bound to examine such pattern before preparing a sample or manufacturing the stores in bulk as the case may be.

1109. Loan of Samples- If a certified sample is lent to the Contractor; it will bear a label containing *inter alia* variations known to the Inspecting Officer between the said sample and the stores desired. If the Contractor finds any further variation between the certified sample and the particulars of specifications mentioned in the contract he shall at once refer the matter to the Inspecting Officer and the Contractors shall also give intimation of such discrepancy to the Purchase Officer. The Contractor shall follow the instructions of the Inspecting Officer as to what sample of particulars should guide the production of stores and the decision of the Inspecting Officer in the matter shall be final and binding on the Contractor.

1110. The Contractor shall not detach the said label from the certified sample and if for any reasons the said label gets detached the Contractor shall at once return the certified sample to the Inspecting Officer for attaching a fresh label.

1200. Risk of Loss or Damage to Government or Purchaser's Property.

1201. All the property of the Government or Purchaser loaned whether with or without deposit on terms and conditions to be separately agreed upon in respect of each particular contract to the Contractor in connection with the contract shall remain the property of the Government or the Purchaser, as the case may be. The Contractor shall use such property for the purpose of the execution of the contract and for no other purpose whatsoever.

1202. All such property shall be deemed to be in good condition when received by the Contractor unless he shall have within twenty-four hours of the receipt thereof notified the Purchase Officer to the contract. If the Contractor fails to notify any defect in the condition or quality of such property he shall be deemed to have lost the right to do so at any subsequent stage.

1203. The Contractor shall return all such property and shall be responsible for the full value thereof to be assessed by the Purchaser whose decision shall be final and binding on the Contractor. The Contractor shall be liable for loss or damage to such property from whatever cause happening while such property is in the possession of or under the control of the Contractor, his servants, workmen, or agents.

1204. Where such property is insured by the Contractor against loss or fire at the request of the Government or Purchaser such insurance shall be deemed to be affected by way of additional Precaution and shall not prejudice the liability of the Contractor as aforesaid.

1300. Inspection by Inspecting Officer.

1301. (a) When inspection during manufacture or before delivery or despatch is required, notice in writing shall be sent by the Contractor to the Inspecting Officer when the stores or material to be supplied are ready for inspection and test, and no stores shall be delivered or despatched until the Inspecting Officer has certified in writing that such stores have been inspected and approved by him.

(b) In cases where the Inspecting Authority specified in the contract requires on behalf of the Purchaser that inspection of the raw materials to be used and /or stage inspection during the manufacturing process of the component/stores, etc. is also to be done, notice in writing shall be sent by the Contractor to the Inspecting Officer to visit his premises/works to test the raw materials and/or conduct necessary inspection during the manufacturing process of the component / stores, etc. as deemed essential.

1302. Marking of Stores- The Contractor shall, if so required, at his own expense, mark all the approved stores with a recognized Government or Purchaser's mark. The stores which cannot be so marked shall, if so required by the Inspecting Officer, be packed at his own expense in suitable packages or cases, each of which shall be sealed and marked with such mark.

The Inspecting Officer shall also have power to mark the rejected stores with a rejection mark so that they may be easily identified, if resubmitted for inspection.

1303. Facilities for test and Examination- The Contractor shall, at his own expense afford to the Inspecting Officer all reasonable facilities as may be necessary for satisfying himself, that the stores are being and/or have been manufactured in accordance with the particulars. The Inspecting Officer shall have full and free access at any time during the execution of the contract to the Contractor's work for the purpose aforesaid, and he may require the Contractor to make arrangements for inspection of the stores or any part thereof or any material at his premises or at any other place specified by the Inspecting Officer

and if the Contractor has been permitted to employ the services of a Sub-Contractor, he shall in his contract with the Sub-Contractor, reserve to the Inspecting Officer a similar right.

1304. Cost of Test- The Contractor shall provide, without any extra charge, all materials, tools, labour and assistance of every kind which the Inspecting Officer may demand of him for any test and examination, other than special or independent test, which he shall require to make on the Contractor's Premises and the Contractor shall bear and pay all costs attendant thereon. If the Contractor fails to comply with the conditions aforesaid, the Inspecting Officer shall, in his sole judgement, be entitled to remove for test and examination all or any of the stores manufactured by the Contractor to any premises other than his (Contractor's) and in all such cases the Contractor shall bear the cost of transport and/or carrying out such tests elsewhere. A certificate in writing of the Inspecting Officer that the Contractor has failed to provide the facilities and the means, for test examination shall be final.

1305. Delivery of Stores for Test- The Contractor shall also provide and deliver for test, free of charge, at such place other than his premises as the Inspecting Officer may specify, such material or stores as he may require.

1306. Liability for Costs of Special or Independent Test- In the events of rejection of stores or any part thereof by the Inspecting Officer in the consequence of the sample which is removed to the laboratory or other places of test, being found on test not in conformity with the Contract and in the event of the failure of the Contractor for any reason to deliver the stores passed on test within the stipulated period, the Contractor shall, on demand pay to the Purchaser all costs incurred in the inspection and/or test. Cost of test shall be assessed at the rate charged by the laboratory to private persons for similar work.

1307. Method of Testing- The Inspecting Officer shall have the right to put all the stores or materials forming part of the same or any part thereof to such tests as he may think fit and proper. The Contractor shall not be entitled to object on any ground whatsoever to the method of testing adopted by the Inspecting Officer.

1308. Stores Expended in Test- Unless otherwise provided for in the contract if the test proves satisfactory and the stores or any instalment thereof is accepted, the quantity of the stores or materials expended in the test will be deemed to have been taken delivery of by the Purchaser and be paid for as such.

1309. Powers of Inspecting Officer- The Inspecting Officer shall have the power:-

- (i) before any stores or part thereof are submitted for inspection to certify that they can not be in accordance with the contract owing to the adoption of any unsatisfactory method of manufacture.
- (ii) to reject any stores submitted as not being in accordance with the particulars.
- (iii) to reject the whole of the installment tendered for inspection, if after inspection of such portion thereof as "he may in his discretion think fit, he is satisfied that the same is unsatisfactory.
- (iv) the Inspecting Officer's decision as regards the rejection shall be final and binding on the Contractor.

1400. Charges for Work Necessary for Completion of the Contract-

The Contractor shall pay all charges for handling, stamping, painting, marking, protecting or preserving patent rights, drawings, templates, models and gauges and for all such measures as the Purchaser or the Inspecting Officer may deem necessary for the proper completion of the contract, though special provision therefore may not be made in the specification of drawings.

1500. Responsibility of the Contractor for Executing the Contract.

1501. Risk in the Stores- The Contractor shall perform the contract in all respects in accordance with the terms and conditions thereof. The stores and every constituent part thereof, whether in the possession or control of the Contractor, his agents or servants or a carrier, or in the joint possession of the Contractor, his agents or servants and the Purchaser, his agents or servants, shall remain in every respect at the risk of the Contractor, until their actual delivery to the consignee at the stipulated place or destination or, where so provided in the acceptance of tender, until their delivery to a person specified in the contract as interim consignee for the purpose of despatch to the consignee. The Contractor shall be responsible for all loss, destruction, damage or deterioration of or to the stores from any cause whatsoever while the stores after approval by the Inspecting Officer are awaiting despatch or delivery or are in the course of transit from the Contractor to the consignee or, as the case may be, interim consignee. The Contractor shall alone be entitled and responsible to make claims against a Railway Administration or other carrier in respect of non-delivery, short delivery, mis-delivery, loss, destruction, damage or deterioration of the goods entrusted to such carrier by the Contractor for transmission to the consignee or the interim consignee as the case may be.

1502. Consignee's Right of Rejection – Notwithstanding any approval which the Inspecting Officer may have given in respect of the stores or any materials or other particulars or the work or workmanship involved in the performance of the contract (whether with or without any test carried out by the Contractor or the Inspecting Officer or under the direction of the Inspecting Officer) and not with

standing delivery of the stores where so provided to the interim consignee, it shall be lawful for the consignee, on behalf of the Purchaser, to reject the stores or any part, portion or consignment thereof within a reasonable time after actual delivery thereof to him at the place or destination specified in the contract if such stores or part, portion or consignment thereof is not in all respects in conformity with the terms and conditions of the contract whether on account of any loss, deterioration or damage before despatch or delivery or during transit or otherwise howsoever.

Note- *In respect of materials pre-inspected at the firm's premises the consignee will issue rejection advice within 90 days from the date of receipt.*

1503. Provided that where, under the terms of the contract the stores are required to be delivered to an interim consignee for the purpose of despatch to the consignee, the stores shall be at the Purchaser's risk after their delivery to the interim consignee, but nevertheless it shall be lawful for the consignee on behalf of the Purchaser to reject the stores or any part, portion of consignment thereof upon their actual delivery to him at the destination if they are not in all respects in conformity with the terms and conditions of contract except where they have been damaged or have deteriorated in the course of transit or otherwise after their delivery to the interim consignee.

1504. The provisions contained in Clause 2200 relating to the removal of stores rejected by the Inspecting Officer shall *mutatis mutandis* apply to stores rejected by the consignee as herein provided.

Note- *In respect of stores inspected during manufacture or before delivery or despatch at contractor's premises the consignee will issue communication of rejection within 90 days from the date of actual delivery thereof.*

1505. Subletting and Assignment- The Contractor shall not, save with the previous consent in writing of the Purchaser, sublet, transfer or assign the contract or any part thereof or interest therein or benefit or advantage thereof any manner whatsoever.

In the event of the Contractor's subletting or assigning this contract or any part thereof without such permission, the Purchaser shall be entitled to cancel the contract and to purchase the stores elsewhere on the Contractor's account and risk and the Contractor shall be liable for any loss or damage which the Purchaser may sustain in consequence or arising out of such purpose.

1506. Changes in a Firm:-

(a) Where the Contractor is a partnership firm, a new partner shall not be introduced in the firm except with the previous consent in writing of the

Purchaser, which may be granted only upon execution of a written undertaking by the new partner to perform the contract and accept all liabilities incurred by the firm under the contract prior to the date of such undertaking.

(b) On the death or retirement of any partner of the Contractor firm before complete performance of the contract, the Purchaser may, at his option, cancel the contract and in such case the Contractor shall have no claim whatsoever to compensation against the Purchaser.

(c) If the contract is not determined as provided in Sub-clause (b) above notwithstanding the retirement of a partner from the firm he shall continue to be liable under the contract for acts of the firm until a copy of the public notice given by him under Section 32 of the Partnership Act, has been sent by him to the Purchaser by registered post acknowledgement due.

(d) Consequence of breach - Should a partner in the Contractor firm commit a breach of Sub-clause 1505 above or the Contractor should commit a breach of the conditions 1506(a) of this Sub-clause, it shall be lawful for the Purchaser to cancel the contract and purchase or authorize the purchase of the stores at the risk and cost of the Contractor and in that event the provisions of Clauses 0600 and 0700 as far as applicable shall apply.

(e) The decision of the Purchaser as to any matter or thing concerning or arising out of this sub-clause or on any question whether the Contractor or any partner of the Contractor firm has committed a breach of any of the conditions in this sub-clause contained shall be final and binding on the Contractor.

1507. Assistance to the Contractor:-

(a) The Contractor shall be solely responsible to procure any material or obtain any import or other licence or permit required for the fulfilment of the contract and the grant by the Purchaser or any other authority of a quota certificate or permit required under any law for distribution or acquisition of iron and steel or any other commodity or any other form of assistance in the procurement of the material aforesaid or any attempt to render assistance in the matter aforesaid, or shall not be construed as a representation on the part of the Purchaser that the material covered by such licence or permit or quota certificate is available or constitute any promise, undertaking or assurance on the part of the Purchaser regarding the procurement of the same or effect any variation in the rights and liabilities of the parties under the contract. But, if by reason of any such assistance as aforesaid, the Contractor obtains any materials at less than their market price or the cost of production of the stores is lowered the price of the stores payable under the contract shall be reduced proportionately, and the

extent of such reduction shall be determined by the Purchaser whose decision shall be final and binding on the Contractor.

(b) Every effort made by the Purchaser to supply, or give assistance in the procurement of materials, whether from the Government stock or by purchase under a permit or release order issued by or on behalf of or under authority from Government or by any officer empowered in that behalf by law or under other arrangements made by the Purchaser shall be deemed to be subject to the condition that it will be performed with due regard to the other demands and only if it is found practicable to do so within the stipulated time and the decision of the Purchaser whether it was practicable to supply or give assistance as aforesaid or not shall be final and binding on the Contractor.

1600. Use of Raw Materials secured with Government Assistance.

- 1601.** (a) Where any raw material is procured for the execution of a contract with the assistance of the Government rendered in the form of permit, or licence or quota certificate/essentiality certificate or release order issued by or on behalf of or under the authority of the Government or by an officer empowered in that behalf, or
- (b)** where the raw material is issued to the Contractor from Government stock, or
- (c)** where advance payments are made to the Contractor to enable him to purchase the raw material, or
- (d)** Where raw material is arranged by the Government, the Contractor:-
- (i)** shall hold such material as trustee for the Government,
 - (ii)** Shall use such material economically and solely for the purpose of the contract.
 - (iii)** shall not dispose of the same without the previous permission in writing of the Purchaser, and
 - (iv)** shall render due account of such material and return to the Government at such place as the purchaser may direct all surplus or unserviceable material that may be left after the completion of the contract or its termination for any reason whatsoever.

On returning such material, the Contractor shall be entitled to such price therefore as the Purchaser may fix, having regard to the condition of such material.

1602. Where the contract is terminated due to any default on the part of the Contractor, the Contractor shall pay all transport charges incurred for returning any material up to such destination as may be determined by the Purchaser and

the decision of the Purchaser in that behalf shall be final and binding on the Contractor.

1603. If the Contractor commits breach of any of the conditions in this clause specified, he shall, without prejudice to any other liability, penal or otherwise, be liable to account to the Government for all moneys, advantages or profits accruing from or which, in the usual course, would have accrued to him by reason of such breach.

1604. Where the stores manufactured or fabricated by the Contractor out of the material arranged or procured by or on behalf of the Government are rejected, the Contractor shall, without prejudice to any other right or remedy of the Government, pay to the Government, on demand, the cost price or market value of all such materials whichever is greater.

1700. Indemnity.

1701. The Contractor shall at all times indemnify the Purchaser against all claims which may be made in respect of the stores for infringement of any right protected by patent, registration of designs or trade mark. Provided always that in the event of any claim in respect of alleged breach of letters patent, registered designs or trade mark being made against the Purchaser, the Purchaser shall notify the Contractor of the same and the Contractor shall, at his own expense, either settle any such dispute or conduct any litigation that may arise there from.

1702. The Contractor shall not be liable for payment of any royalty, licence fee or other expenses in respect of or for making use of patents or designs with respect to which he is according to the terms of the contract, to be treated as an agent of the Government for the purpose of making use of patent or trade mark for fulfilment of the contract.

1800. Packing.

1801. The Contractor shall pack at his own cost the stores sufficiently and properly for transit by rail/road, air and/or sea as provided in the contract so as to ensure their being free from loss or damage on arrival at their destination.

1802. Unless otherwise, provided in the contract all containers (including packing cases, boxes, tins, drums and wrappings) in which the stores are supplied by the contractor, shall be considered as non-returnable and their cost as having been included in the contract price.

1803. If the contract provides that the containers shall be returnable, they must be marked " Returnable " and they will be returned to the Contractor as per terms of the contract.

1804. If the contract provides that returnable containers shall be separately charged, they shall be invoiced by the Contractor at the price specified in acceptance of tender. In such cases, the Contractor shall give full credit for the invoiced amount if the containers are returned to the Contractor. Return of containers shall be made within a reasonable time and in the event of any dispute or difference arising as to whether the containers were so returned, the decision of the Purchaser thereon shall be final and binding and the Purchaser may, in his discretion award, such compensations as may in his opinion be proper for any undue delay in returning the containers.

1805. Each bale or package delivered under the contract shall be marked by the Contractor or at his own expense. Such marking shall be distinct (all previous irrelevant marking being carefully obliterated) and shall clearly indicate the description and quantity of the stores, the name and address of the Consignee, the gross weight of the package and the name of the Contractor with a distinctive number or mark sufficient for the purpose of identification. All markings shall be carried out with such material as may be found satisfactory by the Inspecting Officer as regards quickness of drying, fastness and indelibility.

1806. The Inspecting Officer may reject the stores if the stores are not packed/or marked as aforesaid and in case where the packing materials are separately prescribed, if such materials are not in accordance with the terms of the contract. Such rejection of the stores by the Inspecting Officer shall be final and binding on the Contractor.

1807. Each bale or package shall contain a packing note specifying the name and address of the Contractor, the number and date of the acceptance of tender or supply order and the designation of the Purchase Officer issuing the supply order, the description of the stores and the quantity contained in such bale or package.

1900. Notification of Delivery.

Notification of delivery or despatch in regard to each and every instalment shall be made to the consignee and to the indenter immediately on despatch or delivery. The Contractor shall further supply to the consignee, or the interim consignee, as the case may be, a packing account Quoting number of the acceptance of tender and/or supply or repeat and date of despatch of the stores. All packages, containers, bundles and loose materials part of each and every instalment shall be fully described in the packing account and full details of the contents of the packages and quantity of materials shall be given to enable the consignee to check the stores on arrival at destination. The Railway Receipt/Consignment Note or Bill of Lading, if any, shall be forwarded to the consignee by registered post immediately on the despatch of stores. The

Contractor shall bear and reimburse to the Purchaser demurrage charges, if any, paid by reason of delay on the part of the Contractor in forwarding the Railway Receipt, Consignment Note or Bill of Lading.

2000. Progress Reports.

2001. The Contractor shall from time-to-time, render such reports concerning the progress of the contract and/or supply of the stores in such form as may be required by the Purchaser.

2002. The submission, receipt and acceptance of such reports shall not prejudice the rights of the Purchaser under the contract, nor shall operate as an estoppel against Purchaser merely by reason of the fact that he has not taken notice of/or subjected to test any information contained in such report.

2100. Freight.

The stores shall be despatched at public tariff rates. In the case of FOR station of despatch contract, the stores shall be booked by the most economical route or most economical tariff available at the time of despatch as the case may be. Failure to do so will render the Contractor liable for any avoidable expenditure caused to the Purchaser. Where alternative routes exist, the Purchaser shall, if called upon to do so, indicate the most economical route available, or name the authority whose advice in the matter shall be taken and acted upon. If any advice of any such authority is sought, his decision or advice in the matter shall be final and binding on the Contractor,

2200. Removal of Rejected Stores.

2201. On rejection of all stores submitted for inspection at a place other than the premises of the Contractor, such stores shall be removed by the Contractor at his own cost subject as hereinafter stipulated, within 21 days of the date of intimation of such rejection. If the concerned communication is addressed and posted to the Contractor at the address mentioned in the contract, it will be deemed to have been served on him at the time when such communication would be in the course of ordinary post reach the Contractor. Provided that the Inspecting Officer may call upon the Contractor to remove dangerous, infected or perishable stores within 48 hours of the receipt of such communication and the decision of the Inspecting Officer in this behalf shall be final in all respects. Provided further that where the price or part thereof has been paid, the consignee is entitled without prejudice to his other rights to retain the rejected stores till the price paid for such stores is refunded by the Contractor save that such retention shall not in any circumstances be deemed to be acceptance of the stores or waiver of rejection thereon.

2202. All rejected stores shall in any event and circumstances remain and always be at the risk of the Contractor immediately on such rejection. If such stores are not removed by the Contractor within the periods aforementioned, the Inspection Officer may remove the rejected stores and either return the same to the contractor at his risk and cost by such mode of transport as the Purchaser or Inspecting Officer may decide, or dispose of such stores at the Contractor's risk and on his account and retain such portion of the proceeds, if any from such disposal as may necessary to recover any expense incurred in connection with such disposals (or any price refundable as a consequence of such rejection). The Purchaser shall, in addition, be entitled to recover from the Contractor ground rent/demurrage charges on the rejected stores after the expiry of the time limit mentioned above.

2203. The stores that have been despatched by rail and rejected after arrival at destination may be taken back by the Contractor either at the station where they were rejected or at the station from which they were sent, after refunding the price paid for such stores and other charges refundable as a consequence of such rejection. If the contract placed for delivery f o. r. station of despatch, the Contractor shall pay the carriage charges on the rejected consignment at public tariff rates from the station of despatch to the station where they are rejected. If the Contractor elects to take back the goods at the station from which they were despatched, the goods shall in addition, be booked back to him freight to pay at public tariff rates and at owner's risk. The Contractor shall be liable to reimburse packing and incidental costs and charges incurred in such return or rejected stores in addition to other charges refundable as a consequence of rejection. The goods shall remain the property of the Contractor unless and until accepted by the Purchaser, after inspection.

2300. System of Payment.

2301. Unless otherwise agreed upon between the parties, payment for delivery of the stores will be made on submission of bills in the prescribed form which may be obtained from the Purchase Officer in accordance with the instructions given in the Acceptance of Tender, by a cheque or demand draft on a branch of the Reserve Bank of India or State Bank of India transacting government business as may be decided by the Purchaser.

2302. Payment for the stores or for each consignment thereof will be made to the Contractor on submission of bills accompanied by required document in accordance with the following procedure in contracts where such a facility to the Contractor has specifically been agreed to by the Purchaser: -

- (a) 95% payments for the stores or each consignment thereof will be made to the firms against proof of inspection and dispatch. The original railway receipt should be sent to the Accounts Officer responsible for payment

along with 95% bill advising the particulars of dispatch to the consignee. The Accounts Officer after passing the 95 % bill should pass on the original railway receipt to the consignee for taking delivery of the consignment. It should, however, be ensured that there is no delay in the Accounts Office transmitting the original railway receipt to the consignee.

- (b) The balance of 5% shall be paid on receipt of the stores or each consignment thereof in accordance with the terms of the contract in good condition by the consignee, with a certificate to that effect endorsed on the copy of the Inspection Note by the Consignee which shall accompany the bill submitted by the Contractor.
- (c) In the case of F.O.B. & C. & F. contract 95 per cent of the price will be paid on presentation of shipping documents and inspection certificate and the remaining 5 per cent on receipt of the stores in accordance with the terms of the contract in good condition by the Consignee, and on producing the certificate of such receipt endorsed on one copy of the Inspection Note by the Consignee, or alternatively at the Contractor's option, the full value of the stores will be paid after inspection, on receipt of the consignment in accordance with the terms of the contract in good condition by the Consignee and on producing a certificate of such receipt endorsed on one copy of the Inspection Note.

2303. In all other contracts or in contracts where the Inspecting Officer also acts as the interim consignee or where inspection is carried on by the Consignee himself at destination and in all cases of local delivery full payment shall be made on submission of "Final 100 percent bill" supported by the Inspection Certificates and consignee's receipt as aforesaid to the Accounts Officer concerned.

Note-

(1) The system of 95 percent and 5 percent payment is not applicable to claims amounting to Rs.1000/- or below. In such cases only a single bill for value should be submitted.

(2) In the case of Running Contracts, the system of payment will be similar to the above except that payment would be 98 per cent and 2 per cent instead of 95 per cent and 5 per cent specified above.

2400. Withholding and lien in respect of sums claimed.

2401. Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the Contractor, the Purchaser shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the Contractor and for the purpose aforesaid, the Purchaser shall be entitled to withhold the said cash security deposit or the

security, if any, furnished as the case may be and also have a lien over the same pending finalization or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the Contractor, the Purchaser shall be entitled to withhold and have lien to retain to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time-thereafter may become payable to the Contractor under the same contract or any other contract with the Purchaser or the Government pending finalization or adjudication of any such claim.

It is an agreed term of the contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the Purchaser will be kept withheld or retained as such by the Purchaser till the claim arising out of or under the contract is determined by the Arbitrator (if the contract is governed by the arbitration clause) or by the competent court as prescribed under clause 2703 hereinafter provided, as the case may be, and that the Contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as' such to the Contractor.

2402. For the purpose of Clause 2401, where the Contractor is a partnership firm or a limited company, the Purchaser shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/limited company, as the case may be, whether in his individual capacity or otherwise.

2403. Lien in respect of Claims in other Contracts-

a) Any sum of money due and payable to the Contractor (including the security deposit returnable to him) under the contract may withhold or retain by way of lien by the Purchaser or Government against any claim of the Purchaser or Government in respect of payment of a sum of money arising out of or under any other contract made by the Contractor with the Purchaser or Government.

b) It is an agreed term of the contract that the sum of money so withheld or retained under this clause by the Purchaser or Government will be kept withheld or retained as such by the Purchaser or Government till his claim arising out of the same contract or any other contract is either mutually settled or determined by the arbitrator, if the contract is governed by the arbitration clause or by the competent court under Clause 2703 hereinafter provided, as the case may be, and that the Contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the Contractor.

2500. Corrupt Practices.

2501. The Contractor shall not offer or give or agree to give to any person in the employment of the Purchaser or working under the orders of the Purchaser any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the contract or any other contract with the Purchaser or Government or for showing any favour or for bearing to show disfavour to any person in relation to the contract or any other contract with the Purchaser or Government. Any breach of the aforesaid condition by the Contractor, or any one employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) or the commission of any offence by the Contractor or by any one employed by him or acting on his behalf under IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1947 or any other act enacted for the prevention of corruption by public servants shall entitle the Purchaser to cancel the contract and all or any other contracts with the Contractor and to recover from the Contractor the amount of any loss arising from such cancellation in accordance with the provisions of Clauses 0600 and 0700.

2502. Any dispute or difference in respect of either the interpretation effect or application or the above condition or of the amount recoverable there under by the Purchaser from the Contractor, shall be decided by the Purchaser, whose decision there on shall be final and binding on the Contractor.

2600. Insolvency and Breach of Contract.

2601. The Purchaser may at any time, by notice in writing summarily determine the contract without compensation to the Contractor in any of the following events, that is to say

- (a) if the Contractor being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, or
- (b) if the Contractor being a company is wound up voluntarily or by the order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture-holders is appointed or circumstances shall have arisen which entitle the Court or Debenture holders to appoint a Receiver, Liquidator or Manager, or

- (c) if the Contractor commits any breach of the contract not herein specifically provided for.

Provided always that such determination shall not prejudice any right of action or remedy which shall have accrued or shall accrue there after to the Purchaser and provided also the Contractor shall be liable to pay to the Purchaser for any extra expenditure he is thereby put to and Contractor shall, under no circumstances, be entitled to any given on re-purchase.

2700. Laws governing the Contract.

2701. This contract shall be governed by the Laws of India for the time being in force.

2702. Irrespective of the place of delivery, the place of performance or place of payment under the contract, the contract shall be deemed to have been made at the place from which the acceptance of tender has been issued.

2703. Jurisdiction of courts- This Courts of the place from where the acceptance of tender has been issued shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.

2704. Marking of stores- The marking of the stores must comply with the requirements of the laws relating to merchandise marks for the time being in force in India.

2705. Compliance with provisions of Contract Labour (Regulation and Abolition) Act, 1970:-

- (1) The Contractor shall comply with the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contractor Labour (Regulation and Abolition) Central Rules, 1971, as modified from time-to-time, wherever applicable and shall also indemnify the Purchaser from and against any claims under the aforesaid Act and the Rules.
- (2) The Contractor shall obtain a valid license under the aforesaid Act as modified from time-to-time before the commencement of the contract and continue to have a valid license until the completion of the contract. Any failure to fulfill this requirement shall attract the penal provisions of the contract arising out of the resultant non-execution of the contract.
- (3) The Contractor shall pay to labour employed by him directly or through Sub-Contractors the wages as per provisions of the aforesaid Act and the Rules wherever applicable. The Contractor shall, notwithstanding the provisions of the contract to the contrary, cause to be paid the wages to

labour indirectly engaged on the contract including any engaged by his Sub-Contractors in connection with the said contract, as if the labour had been immediately employed by him.

- (4) In respect of all labour directly or indirectly employed in the contract for performance of the Contractor's part of the contract, the Contractor shall comply with or cause to be complied with the provisions of the aforesaid Act and the Rules wherever applicable.
- (5) In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the Purchaser is obliged to pay any amount of wages to a workman employed by the Contractor or his Sub-Contractor in execution of the contract or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Act and the Rules or to incur any expenditure on account of the contingent liability of the Purchaser due to the Contractor's failure to fulfill his statutory obligations under the aforesaid Act or the Rules the Purchaser will recover from the Contractor, the amount of wages so paid or the amount of expenditure so incurred, and without prejudice to the rights of the Purchaser under Section 20, Sub-section (2) and Section 21, Sub-section (4) of the aforesaid Act, the Purchaser shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/or from any sum due by the Purchaser to the Contractor whether under the contract or otherwise. The Purchaser shall not be bound to contest any claim made against it under Sub-section (i) of Section 20 and Sub-section (4) of Section 21 of the aforesaid Act except on the written request of the Contractor and upon his giving to the Purchaser full security for all costs for which the Purchaser might become liable in contesting such claim. The decision of the Purchaser regarding the amount actually recoverable from the Contractor as stated above, shall be final and binding on the Contractor.

2800. Headings.

The headings of conditions here to shall not affect the construction thereof.

2900. Arbitration.

- (a) In the event of any question, dispute or difference arising under these conditions or any special conditions of contract, or in connection with this contract (except as to any matters the decision of which is specially provided for by these or the special conditions) the same shall be referred to the sole arbitration of a Gazetted Railway Officer appointed to be the arbitrator, by the General Manager in the case of contracts entered into by the Zonal Railways and Production Units; by any Member of the Railway Board, in the case of contracts entered into by the Railway Board and by the Head of the Organisation in respect of contracts entered into by the

- other Organisations under the Ministry of Railways. The Gazetted Railway Officer to be appointed as arbitrator however will not be one of those who had an opportunity to deal with the matters to which the contract relates or who in the course of their duties as railway servant have expressed views on all or any of the matters under dispute or difference. The award of the arbitrator shall be final and binding on the parties to this contract.
- (b) In the event of the arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the authority appointing the arbitrator to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.
 - (c) It is further a term of this contract that no person other than the person appointed by the authority as aforesaid should act as arbitrator and that if for any reason that is not possible, the matter is not to be referred to 'arbitration at all.
 - (d) The arbitrator may from time-to-time with the consent of all the parties to the contract enlarge the time for making the award.
 - (e) Upon every and any such reference, the assessment of the cost incidental to the reference and award respectively shall be in the discretion of the arbitrator.
 - (f) Subject as aforesaid, the Arbitration Act, 1940 and the rules there under and any statutory modifications thereof for the time being in force shall be deemed to apply to the arbitration proceedings under this clause.
 - (g) The venue of arbitration shall be the place from which the acceptance note is issued or such other place as the arbitrator at his discretion may determine.
 - (h) In this clause the authority, to appoint the arbitrator includes, if there be no such authority, the officer who is for the time being discharging the functions of that authority, whether in addition to other functions or otherwise.

3000. Fall Clause. Deleted

3100. INSPECTION & REJECTION:-

Where under a contract the price payable is fixed on F.O.R. station of despatch basis, the Contractor shall, if the consignee rejects the stores at destination be liable in addition to his other liabilities, to reimburse to the Purchaser the freight paid by the Purchaser.

3101. Notification of Result of inspection.- Unless otherwise provided in the specification of schedule, the examination of the stores will be made as soon as practicable after the same have been submitted for inspection and the result of the examination will be notified to the Contractor.

3102. Inspection Notes.--On the stores being found acceptable by the inspecting Officer he shall furnish the Contractor with necessary copies of Inspection Notes duly completed, for being attached to the Contractor's bill in support thereof.

3200. Warranty/Guarantee-

3201. The Contractor/Seller hereby covenants that it is a condition of the contract that all goods/stores/articles furnished to the Purchaser under this contract shall be of the highest grade free of all defects and faults and of the best materials, quality, manufacture and workmanship throughout and consistent with the established and generally accepted standards for materials of the type ordered and in full conformity with the contract specification, drawing or sample, if any and shall, if operable, operate properly.

3202. The Contractor also guarantees that the said goods/stores/articles would continue to conform to the description and quality as aforesaid, for a period of 30 months after their delivery or 24 months from the date of placement in service whichever shall be sooner, and this warranty shall survive notwithstanding the fact that the goods/stores/articles may have been inspected, accepted and payment thereof made by the Purchaser.

3203. If during the aforesaid period, the said goods/stores/articles be discovered not to conform to the description and quality aforesaid or have deteriorated, otherwise that by fair wear and tear the decision of the Purchaser in that behalf being final and conclusive that the Purchaser will be entitled to reject the said goods/stores/articles or such portions thereof as may be discovered not to conform to the said description and quality. On such rejection, the goods/stores/articles will be at the Seller's risk. If the Contractor/Seller so desires, the rejected goods may be taken over by him or his agents for disposal such manner as he may deem fit within a period of 3 months from the date of such rejection. At the expiry of the period, no claim whatsoever shall lie against the Purchaser in respect of the said goods/stores/articles, which may be disposed of by the Purchaser in such manner as he thinks fit. Without prejudice to the generality of the foregoing, all the provisions in the Indian Railways Standard Conditions of Contract relating to the 'rejection of stores' and 'failure' and 'termination' add and Clause 3100-02 above shall apply.

3204. The Contractor/Seller shall, if required, replace the goods or such portion there of as have been rejected by the Purchaser, free of cost, at the ultimate destination, or at the option of the Purchaser, the Contractor/Seller shall pay to the Purchaser, the value thereof at the contract price and such other expenditure and damage as may arise by reason of the breach of the conditions herein before specified. Nothing herein contained shall prejudice any other right of the Purchaser in that behalf under this contract or -otherwise.

3300. Book Examination Clause-The Government reserves the right for 'Book Examination' as follows: -

- (i) The Contractor shall whenever called upon and requiring to produce or cause to be produced for examination by any Government Officer duly authorised in that behalf, any cost or other account book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document and also furnish information any way relating to such transaction and procedure before the duly authorised Government Officer returns verified in such manner as may be required relating in any way to the execution of this contract or relevant for verifying or ascertaining the cost of execution of this contract (the decision of such Government Officer on the question of relevancy of any document, information of return being final and binding on the parties).

The obligation imposed by this clause is without prejudice to the obligation of the contractor under any statute, rules or orders shall be binding on the Contractor.

- (ii) The Contractor shall, if the authorised Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the Contractors works for the purpose of examining the processes of manufacture and estimating or ascertaining the cost of production of the articles. If any portion of the work be entrusted or carried out by a sub-contractor or any of its subsidiary or allied firm or company, the authorised Government Officer shall have power to examine all the relevant books of such sub-contractor or any subsidiary or allied firm or company shall be open to his inspection as mentioned in clause (i).
- (iii) If on such examination, it is established that the contracted price is in excess of the actual cost plus reasonable margin of profit, the Purchaser shall have the right to reduce the price and determine the amount to a reasonable level.
- (iv) Where a contract provides for book examination clause, the Contractor or its agency is bound to allow examination of its books within a period of 60 days from the date the notice is received by the Contractor, or its agencies calling for the production of documents as under clause (i) above. In the event of Contractor's or his agency's failure to do so, the contract price would be reduced and determined according to the best judgement of the Purchaser which would be final and binding on the Contractor and his agencies.

3400. Inspection at the Fag End of the Delivery Period-

In cases where only a portion of the stores ordered is tendered for inspection at the Fag end of the delivery period and also in cases where inspection is not completed in respect of the portion of the stores tendered for inspection during the delivery period, the Purchaser reserves the right to cancel the balance quantity not tendered for inspection within the delivery period fixed in the contract the risk and expense of the Contractor without any further reference to him. If the stores tendered for inspection during or at the fag end of the delivery period are not found acceptable after carrying out the inspection, the purchaser is entitled to cancel the contract in respect of the same at the risk and expense of the contractor. If, however, the stores tendered for inspection are found acceptable, the Purchaser may grant an extension of the delivery period subject to the following conditions: -

- (a) The Purchaser has the right to recover from the contractor under the provision of clause 0702 (a) of I.R.S. Conditions of Contract liquidated damages on the stores which the Contractor has failed to deliver within the period fixed for delivery.
- (b) That no increase in price on account of any statutory increase in or fresh imposition of Customs Duty, Excise Duty, Sales Tax on account of Foreign Exchange variation or on account of any other tax or duty leviable in respect of stores specified in the contract which takes place after the date of the delivery period stipulated in the contract shall be admissible on such of the said stores as are delivered after the date of the delivery stipulated in the contract.
- (c) That not with standing any stipulation in the contract for increase in price on any other ground no such increase which takes place after the date of the delivery stipulated in the contract shall be admissible on such of the said stores as are delivered after the expiry of the delivery period stipulated in the contract.
- (d) But nevertheless, the Purchaser shall be entitled to the benefit fit of any decrease in price on account of reduction in or remission of Custom Duty, Sales Tax or on account of Foreign Exchange variation or on account of any other Tax or Duty or on other ground as stipulated in the price variation, clause which takes place after the expiry of the date of delivery period stipulated in the contract.

3401. The Contractor shall not despatch the Stores till such time as an extension in terms of para 3400 (a) to (d) above is granted by the Purchaser and accepted by the Contractor. If the stores are despatched by the Contractor before an extension letter as aforesaid is issued by the Purchaser and the same are

accepted by the Consignee, the acceptance of the stores shall be deemed to be subject to the conditions (a) to (d) mentioned in the paragraph 3400 above.

3402. In case where the entire quantity has not been tendered for inspection with in the delivery period stipulated in the contract and the Purchaser chooses to grant an extension of the delivery period the same would be subject to conditions (a) to (d) mentioned in the paragraph 3400 above.

3500. (ADDITIONAL) SPECIAL CONDITIONS:- (Vide Para 417-S)

These (special) conditions wherever they differ from the Invitation to Tender and Instruction to Tenderers over ride the latter.

In addition to Standard Conditions of Contract, the following special conditions shall apply to (Running) Contract: -

3600. Purpose of Contract and Parties to the Contract.

3601. The parties to the contract, which shall be deemed to be a "Running Contract" and which is intended for the supply of the stores of the descriptions and approximately in the quantities set forth in the contract during the period specified therein, shall be the Contractor of the one part and the authorities named in the contract hereinafter called the Purchaser (which expression shall, where the context so admits or implies, be deemed to include his successors and assigns) of the other part. The quantities shown in the said Contract, are only approximate, and cannot be guaranteed.

3602. The Purchaser may authorise any officer (who shall hereinafter be called Direct Demanding Officer) at any time during the period of the contract, to place orders direct on the Contractor.

3603.

Any variation of this contract shall not be binding on the Purchaser unless or until same is endorsed on the contract or incorporated in a formal instrument in exchange of letters and signed by the parties.

3700. Delivery.

3701. The Contractor shall as may be required by the Purchaser either deliver free or FOR or CIF at the place or places specified in the contract such quantities of the stores detailed in the said contract as may be ordered direct from the Contractor from time-to-time by the Purchaser or by the Direct Demanding Officer. The Contractor shall deliver or despatch the full quantity of the stores so ordered with in the period specified in the said contract.

3800. Increase or Decrease of Quantities: Deleted.

3900. Maintenance and Replacement of Stocks.

3901. To meet casual demands, the Contractor shall maintain at all time in stock (until 75 per cent of the requirements have been drawn), at the place (s) specified in the contract, the quantity /quantities mentioned therein. All demands should be complied with immediately they are received by the Contractor or within the period, if any, stipulated in individual orders. As soon as the Contractor is called upon to effect supplies, he shall take action to replenish the guaranteed stocks until such time as 75 percent of the total approximate requirement has been drawn and such replenishment shall be completed with the period specified in the contract, after the receipt by the Contractor of casual demands. Due notice will be given to the Contractor by the Direct Demanding Officers or by the Purchaser, if any additional quantities over and above 75 per cent of the total approximate requirements are required and Contractor shall then arrange stocks accordingly.

3902. The period for replenishment of stocks will be allowed only if the material is not in stock. If the material is in stock, this Provision will be in operative even though the guaranteed stock quantity may have been supplied against the contract.

4000. Reporting Progress of Contract.

The Contractor shall, three calendar months before the termination of the contract or at such intervals as may be specified in the contract, submit a report to the Purchaser stating the total quantity of stores delivered or despatched under the contract.

4100. Special conditions where they differ from Standard Conditions override the latter.
