

## ANNEXURE-I

### **SPECIAL CONDITIONS OF CONTRACT**

#### **1. General**

This contract will be governed by IRS Conditions of Contract as amended up to date as well as the Special Conditions of Contract mentioned herein. In case of conflict between the two, i.e. between IRS Conditions of Contract and Special Conditions of Contract, the provisions of Special Conditions of Contract shall prevail.

#### **2. Rates**

The supply of sleepers in accordance with the terms and conditions of this contract shall be at the accepted unit rate, subject to price variation in terms of Clause 13 of these conditions. In addition to the accepted rate the contractor will also retain CENVAT/GST, as applicable, credits available on input materials on the date of opening of the tender. CENVAT/GST shall be covered under Clause 13.3 of these conditions."

2.1. The quoted rate shall be inclusive of the cost of all labour and all inclusive cost of input materials (including cost of input freight if any) like HTS Wire, Inserts, Cement and coarse and fine aggregates, Fuel and Power etc. including all handling charge and duties thereon.

2.2. The quoted rate would also include the cost of transportation of finished sleepers to loading point and loading into the wagons/road vehicles in accordance with the approved drawing including the cost of handling involved in the process. The Cost of wooden packing as per drawings will be borne by the contractor.

2.2.1 Firm to quote Single equated Freight Charge separately up to consignee (Anywhere in Divisions of North East Frontier Railway) destination covering for transportation of finished sleepers from their

loading point to consignee destination. However freight reimbursement to firm will be made at actual or quoted whichever is less.

2.3. The contract will remain current and valid for a stipulated delivery period including extensions if any, with effect from the date of acceptance of tender/ counter offer, as the case may be. The Purchaser also has the right to defer deliveries (i.e. slow down supplies). The purchaser shall also have the right to enhance delivery period upto 6 months on the same rates, terms and conditions at its sole discretion. Further extension, beyond 6 months may be done with mutual consent of Supplier and purchaser.

2.4. For purpose of determining inter-se position, Item wise-consignee wise FOR/ Free at destination will be evaluation criteria i.e all inclusive destination delivery rate consignee wise shall be considered.

### **3. Taxes**

3.1. Statutory variation in GST will be applicable. The purchaser will, however, not be responsible for the reimbursement of any Taxes/Levies paid by the contractor under misapprehension of law.

3.2. In the event of `GST' input credit being extended by the Government of India to more items than those already covered on date of tender opening, the firm should advise the purchaser about the additional benefits accrued or any variation thereof, through a letter containing the following certificate.

" We hereby declare that additional set-offs/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."

#### **4. Raw Material, Machinery and plant:**

4.1. The responsibility for procurement of all raw materials. Machinery and plants required for the manufacture of goods shall rest entirely with the supplier.

4.2. 53-S grade Ordinary Portland Cement confirming to BIS Specifications IS:269:2015 as amended up to date of tender opening shall be procured by the contractor as his own from the Cement manufacturers having valid Bureau of Indian Standards license for manufacturing of 53-S grade Ordinary Portland Cement.

4.3. HTS Wires shall be procured from the firms who are approved for manufacture HTS Wire by Bureau of Indian Standards and possess a current valid BIS License for manufacture of the particular type of wire i.e. 3x3 mm strand, 7/7.5 mm plain wire or 9.5 mm dia strand as the case may be.

4.4. SGCI Inserts shall be procured from the firms, who are approved by RDSO for the manufacture of SGCI inserts and whose approval is current and valid. SGCI Inserts can also be procured from ISO certified firms as per guidelines issued vide RDSO's letter No. QA/CT/INSP/CI/Policy dated 25.08.2008.

4.5. Aggregates shall be procured by the contractor from the RDSO approved sources. If crushed sand is being used as fine aggregate in design mix concrete, then it should not be by-product of any other manufacturing process and should be in conformity to the provisions provided for crushed sand in IRS-T-39.

4.6. The cement content in the concrete mix shall not be more than 450 Kg/cum. This may necessitate use of plasticizer, which shall be procured by contractor as per requirements laid in IRS-T-39. Quoted rate shall be inclusive of cost of plasticizer/admixture.

## **5. Octroi and Entry Tax:**

(i) Octroi/ Entry Tax, if statutorily leviable, on finished sleepers shall be paid by the purchaser.

## **6. Inspection:-**

6.1 Inspection of finished sleepers will be carried out by the Railway nominee of the concerned Zonal Railways at contractor's premises as per procedure and frequency decided by Railways.

6.2 Necessary coordination with the nominated inspecting staff at the factory will have to be done by Contractor to facilitate prescribed inspection.

6.3 The contractor shall be required to install and operate all necessary testing equipment required for testing the sleepers, test cubes, bricks etc. as stipulated in the IRS Specification for prestressed concrete sleepers (Pretension type). The testing equipment for the same must be available at factory site. In addition, the contractor shall arrange at his own cost for any further tests on materials, as may be indicated by the Engineer/ Inspecting Officer, to be carried out at recognized Material Testing Centers/Institutes during the progress of manufacture of sleepers; even though, Test Certificates for such materials are available.

6.4 The passed sleepers, for which inspection certificates have duly been obtained, only shall be allowed to be taken for loading in railway wagons/road vehicles. Any damage to the sleepers in the process of loading in wagons/vehicles or carrying to the loading sites from the contractor's premises shall be to contractor's account.

6.5 PSC mono-block concrete sleepers which are treated for surface defects as provided in the 'Standard Specification of PSC Line Sleepers' as amended up to date and provided at Annexure-II of this tender document shall be accepted and payment made @ 92.5% of the standard sleepers.

6.6 The testing of PSC line sleepers and their subsequent acceptance should be in accordance with the Standard Specifications of PSC line sleepers (IRS T-39) as amended up to date.

6.7 The supplier shall ensure that the necessary checks on supply of raw material eg Cement, aggregate, HTS wire, SGCI insert, as well as plants, machinery, equipments, instruments such as moulds, weigh-batching plant, stressing system, mixing & vibration system, steam curing system, de-moulding and de-tensioning, water curing, product inspection and lab testing, sleeper testing and dispatch etc, are being done as per the checklists issued by Railways/Board/RDSO from time to time and record of same shall be maintained.

6.7.1. Compliance to provisions of STR (Schedule of Technical Requirement):

The production of PSC sleepers against this tender shall be permitted only when the Concrete Sleeper Plant has complied all the provisions of STR.

6.7.2. Temporary suspension of production:

During course of execution, the production of the concrete sleepers may be temporarily suspended by Railway on the advice of its inspecting officials or RDSO in serious cases of non-adherence to Specifications/Schedule of Technical Requirement or large scale rejection of sleeper (> 2%) or premature failure of sleepers in track. Railway may order for temporary suspension of the production in above cases and direct the manufacturer to identify the defects in the manufacturing process and rectify the same within a reasonable period. Production will be resumed once the manufacturer identifies and removes the defects and same is verified by the Zonal Railway and/or RDSO as the case may be. While allowing resumption of production, Railway may

also order for higher scale of testing, till quality of production is stabilized in terms of provisions of IRS-T-39.

6.7.3. The plants, which have not done any production for past more than one year (reckoning from issue of LOA), will be permitted to resume production only after re-validation/certification of plant by RDSO.

6.7.4. In cases, where contract of a CSP under previous contract, had to be cancelled/terminated on account of large scale rejection(>2%)/quality issues, the production will be allowed to be resumed only after re-validation/certification of plant by RDSO and initial 10.000 sleepers will be tested and passed by RDSO.

6.8 Sleepers used for test, including abrasion test, and found as per specifications and drawings shall be paid for by the Purchaser at accepted rates. Such sleepers paid for shall remain the property of the Purchaser and will be disposed of in the manner prescribed by the Purchaser from time to time.

6.9 The rejected sleepers shall be permanently damaged by the contractor so as to make them unusable in addition to the provisions provided in "Indian Railway specification for pre-Tensioned prestressed concrete sleepers (serial no. T-39)". A certification that all rejected sleepers of previous batchers have been permanently damaged and marked as per drawing, will be given by manufacturer before offering the next batch of fresh sleepers for inspection.

6.10 Regular inspection of SGCI inserts will be done by M/s RITES LTD or any other nominated agency by Railways at manufacturer's premises. Inspection charges & GST as applicable towards the inspection charges by RITES/Nominated Inspection agency will be borne by Supplier CSPs. Besides regular inspection by RITES/Nominated inspection agency Railway officials will also conduct the inspections prescribed in Railway Board's letter no. 98/TK-II/22/11/17/Pt. policy, dtd. 11.08.2003.

6.11 Regular inspection of HTS wire will be done by Inspecting authorities nominated by Railways at manufacturer's premises in accordance with IS:6006. In addition to this, periodical test checks by nominated Railway officer to be stipulated by the Railway and shall also be carried out.

6.12 CSPs will ensure procurement of 53-D grade Cement to requisite specification from BIS Licensee manufacturers along with their own Manufacturers Test Certificate with each consignment. In addition to this, periodical test checks by nominated Railway officer to be stipulated by the Railway and shall also be carried out.

#### **7. Modification to Design:**

In case purchaser, at any stage, during the currency of the contract decide to make minor modifications to the design of PSC Sleeper, the supplier shall modify the moulds, manufacturing process, etc. to suit such minor modifications. The cost of such modifications will be negotiated and mutually settled and will be paid by the purchaser.

#### **8. Security Deposit (SD):**

8.1 The Security Deposit (SD) shall be taken from all successful tenderers as per Board's letter No. 2004/RS(G)/779/11/Pt. dated 23.12.2019 or 5% of PO value as per letter No. 2020/RS(G)/ 779/16dated 27.02.2024, whichever is lower.

8.2 The successful tenderers will be required to deposit Security Deposit with the purchaser within 21 days from the communication of acceptance with respect of the purchaser. The Security Deposit may be made in any of the following manners

- (a) Government Securities to be valued at 5% below the market value.
- (b) Deposit receipt of any Nationalized Bank.

- (c) Bank Guarantee issued by any Nationalized/ Scheduled Bank.
- (d) Demand Draft of any Nationalized Bank.
- (e) A deposit in Post Office Savings Bank.
- (f) National Savings Certificate.
- (g) Defence Deposits.
- (h) National Defence Bond.

8.3 Deposits in the Post Office Saving Bank should be hypothecated by the depositor to the Paying Authority.

8.4 Wherever SD is submitted through a Bank Guarantee, the issuing Bank should be intimated to send the Bank Guarantee directly to the Paying Authority by the issuing Bank under registered post A.D SD should be in the prescribed format.

8.5 When deposits are made in Government Securities, it should be seen that all accrued interest to the debit on the G.P. Notes in duly collected by depositors prior to the G.P. Notes being endorsed to the Paying Authority, there should be at least two blank pages on the G.P. Notes after the last endorsement by the depositor. These are necessary to enable further endorsement by the Railway to the Reserve Bank of India.

8.6 The payment of Security Deposit in the form of Deposit Receipt/ Pay Order/ Demand Draft should be made in favour of Paying Authority.

8.7 Security deposit should remain valid for a minimum period of 60 days beyond the date of completion of all contractual obligations of supplier. After completion of all contractual obligations, SD will be returned to the successful supplier.

In case of endorsement signed "PER BEARER" "FOR" power of attorney in necessary duly registered and such endorsement need be



certified by the Public Department Office of the Reserve Bank of India with their rubber stamp before G.P. Notes are delivered to the Railways.

8.8 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 fulfilment or performance in the respect 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 said security deposit at its original limit by making further deposits, 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.

## **9. Dispatch**

9.1. The Consignee instructions and booking orders will be given by the PCMM/ PCE, NF Railway or his nominee.

9.2. On placement of railway wagons or road vehicles as arranged by the purchaser at the works siding, the contractor will load the passed sleepers at his cost within the specified loading time. Hard wood battens of 50 x 50 mm section shall have to be provided free of cost by the contractor at both rail seats of each sleeper on every successive layers loaded in wagons or road vehicles, but contractor shall be at liberty to collect the wooden packing at destination at his own cost; and no claim of shortage or damage would be entertained by the purchaser.

9.3. The contractor shall arrange loading promptly and any payment of demurrage charges on account of delay in loading shall be to the

contractor's account. A dispatch certificate indicating the number of sleepers taken over, their category and batch number, etc. of sleepers loaded into wagons/vehicles may be obtained from the consignor authorized by the Railway or his nominee. Such certificate shall be admitted for the purpose of payments.

9.4. The responsibility for damages or losses en route will be to the account of the purchaser only for consignment booked against clear RRs or against certificates as per clause 9.3 above.

#### **10. Delivery Schedule and extension to Delivery Period (DP)**

10.1. The Production shall commence immediately from the date of issue of the contract. Thereafter, the ordered quantity shall be supplied during the delivery period (D.P) of two years maintaining a uniform schedule to be monitored over 6 month periods w.e.f. the date of commencement of supplies as per contract. The Purchaser however has the right to slow down the supplies (deferred delivery), and accordingly have the right to enhance delivery period unilaterally upto 6 months on the same rates, terms and conditions at its sole discretion.

Extension to delivery period, beyond 6 months may however be done only with mutual consent of Supplier and Purchaser. Notwithstanding the uniform schedule of delivery, actual, actual supplies will be regulated by the purchaser as per its actual requirement. The six monthly supply schedule can however be altered by slowing down the rate of production by the purchaser by giving 3 months notice to supplier. In case the supplies are slowed down, the delivery period will be extended accordingly. Enhancement of the supplies in the agreed six monthly supply schedule will however be done with the mutual consent. Failure to make supplies as per the six monthly schedule fixed in advance will attract Damages as per clause 11 below.

#### 10.2. Liquidated damages:

If the contractor fails to deliver the store within the delivery period as per contract or as extended or at any time repudiates the contract before the expiry of such period due to any circumstances whatsoever, save as provided in Clause 10.3, and force majeure conditions defined in Clause 17, the purchaser reserves the right to cancel the contract for the balance quantity in whole or in part and recover from him the liquidated damages as per Clause 12. If, however, the stores are accepted after the expiry of the period fixed for delivery, the purchaser may grant an extension of the delivery period at its sole discretion, subject to the following conditions:

- (a) That the purchaser has the right to recover from the contractor the liquidated damages in terms of clause 0702 of IRS Conditions of Contract 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, Freight Charges or on any account of any other tax or duty leviable in respect of the stores specified in the contract, which takes place after the date of delivery period stipulated in the said Acceptance of Tender shall be admissible on such of the said stores as are delivered after said date;
- (c) That notwithstanding any stipulation in the contract for increase in price on any other grounds no such increase which takes place after the delivery date stipulated in the contract shall be admissible on such of the said as are delivered after the said date;
- (d) But nevertheless the purchaser shall be entitled to the benefit of any decrease in price on account of reduction in or remission of Customs Duty, Excise Duty, Sales Tax or on account of any other ground which takes place after the expiry of the above mentioned date namely the delivery date stipulated in the contract. The contractor shall allow the

said benefit in his bills or in the absence thereof shall certify that no decrease in price on account of any of these factors has taken place.

10.3. Delay in dispatch of sleepers for want of supply of BFR/Wagons by Railway beyond 15 days of passing by the Inspecting Authority shall be considered a valid ground for the purpose of extension of delivery period without LD by the Railway.

#### 10.4. Supply Tolerance Clause

If unsupplied quantities at the expiry of DP/extended DP are within 5% of the contracted quantity, then the same will be treated as cancelled without financial repercussion on either side"

### **11. Damages for slower supplies during "Monitoring Period":**

The progress of supply will be evaluated after every six months (monitoring period). In case of failure on the part of the supplier as per the schedule fixed in advance, save force majeure conditions and/or cases of delays attributable to the railways, the purchaser reserves the right to cancel the quantity in deficit at the end of monitoring periods i.e. every six months and recover from the defaulting contractor a sum equivalent to five percent of the cost of sleepers which have remained unsupplied. The recovery of five percent as detailed above will be effected only when Railway cancels the quantities in deficit at the end of monitoring period through a written order to this effect. In case, Railway does not cancel the quantities in deficit at the end of monitoring period, the supplier will be entitled to recoup the shortfall in subsequent monitoring period(s) and in such cases LD shall be leviable.

### **12. Liquidated Damages (LD) for Failure to Complete Supplies within Delivery Period and Damages on Termination of Contract**

The Liquidated damages in pursuance of clause 0702 of IRS Conditions of Contract will be limited to a maximum of 10% of the cost of stores which the contractor fails to deliver within the period fixed for

delivery in the contract or as extended, where delivery of the store is accepted after expiry of the aforesaid period. In case, the delivery of the store is not accepted by the purchaser after expiry of the period fixed for delivery in the contract or as extended or the contract is terminated before expiry of the contract due to failure of the contractor to execute the contract as per the agreed terms and conditions of the contract during its currency, the damages equivalent to 5% of the cost of sleepers undelivered /cancelled would be recovered from the contractor.

### **13. Price Variation Clause:**

13.1. The accepted rate will vary in accordance with the price variation formula as detailed below in clause 13.2 to take into consideration variation in prices during execution of contract. Price variation will be worked out by taking into consideration the Indices /basic rates for the month or production.

### **13.2. Price Variation Formula**

$$P_1 = (P_0/100) (10 + 23 I_1/I_0 + 11 L_1/L_0 + 21 S_1/S_0 + 26 C_1/C_0 + 9 W_1/W_0)$$

$P_1$	:	Updated Basic Rate of sleeper
$P_0$		Accepted Basic Rate of sleeper
$I_1$		WPI for Pig Iron during production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
$I_0$		WPI of Pig Iron for one month before tender opening month as per Economic Advisor, Ministry of industry Web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
$L_1$		All India Consumer Price Index of Industrial Labour during production month, as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nin.in">http://labourbureau.nin.in</a>
$L_0$		All India Consumer Price Index of Industrial Labour during production

		month, as per Labour Bureau, Ministry of Labour web site <a href="http://labourbureau.nin.in">http://labourbureau.nin.in</a>
$S_1$		WPI for alloy steel wire rods during Production Month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
$S_o$		WPI for alloy steel wire rods for one month before tender opening month as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nin.in">http://eaindustry.nin.in</a>
$C_1$		WPI for "Ordinary Portland Cement" during production month as per Economic Adviser, Ministry of Industry website <a href="http://eaindustry.nic.in/">http://eaindustry.nic.in/</a>
$C_o$		WPI for "Ordinary Portland Cement" one month before tender opening month as per Economic Adviser, Ministry of Industry website <a href="http://eaindustry.nic.in/">http://eaindustry.nic.in/</a>
$W_1$		WPI for all commodities during production Month as per Economic Advisor, Ministry of Industry web <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a>
$W_o$		WPI for all commodities for one month before tender opening month, as per Economic Advisor, Ministry of Industry web site <a href="http://eaindustry.nic.in">http://eaindustry.nic.in</a> .

13.3. In order to avoid blockage of funds till final escalation is worked out and paid on the basis of indices for the month of production, the accepted price will be updated every six months as per the above formula for escalation. First updating shall be done on the basis of indices for the month of acceptance of tender as soon as confirmed indices for the month of acceptance are available. Payment for the supplies made shall be done at the latest updated price.

#### **14. Purchase preference for Make in India:**

14.1. The purchaser shall take due consideration of Public Procurement (Preference to Make in India) Order, dated 15.06.2017. In this regard, Railway Board letter No. 2015/RS(G)/779/5 dated 03.08.2017 which is revised vide Railway Board letter No. 2020/RS(G)/779/5 dated 12.06.2020, which is further revised vide public Procurement (Preference to Make in India) Order, dated 16.09.2020 circulated vide Railway Board letter No. 2015/RS(G)/779/5 (Vol. III) dated 25.09.2020 may be downloaded from Railway Board's website under the link of circulars of Stores Dte.

14.2. Local content: For the purpose of above policy, the minimum local content for Class I supplier shall be 50% and 'margin of purchase preference' Shall be 20%.

14.3. As para 9(b) of Make in Indian Policy letter dt. 16.09.2020, as procurement value is in excess of Rs. 10 Crore. The Class-I local Supplier/Class-II local supplier are 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 accounts (in respect of suppliers other than companies) giving the percentage of local content.

14.4. Procurement under this tender shall comply with the Clause 10(d) (ii) of Public Procurement (Preference to Make in India) Order, dated 16.09.2020 which states "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 in Government procurement in India for all item related to that nodal Ministry, except for the list of the item published by the permitting their participation.

14.5. In pursuance of the public procurement policy on MSE(Micro & Small Enterprises) vide notification of Government of India dated

23.03.2012 (as notified in the Gazetted of India dated 23.03.2012 (as notified in the Gazetted of India Notification No. 503 dated 26.03.2012 (clarified vide Office of Development (Commissioner), MSME's OM dated 15.02.2016 as amended on 04.10.2019 by Ministry of MSME), the following conditions are applicable for eligible MSEs:

(a) 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 L 1 price in a situation where L1 price is from someone other than a MSEs can can be together ordered up to 25% of the total tendered value.

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

(c) MSEs who are interested in availing themselves of the above benefits will enclose with their offer the proof of their being registered with MSE for tendered item or similar items with any of the following agencies:

(i) UDYAM (UDYAM Registration Certificate)

(ii) Udyog Aadhar Memorandum (valid up to 30.06.2022 or as extended by Ministry of MSME from time to time)

(d) All MSE's shall be eligible for benefits of public procurement policy irrespective of product category under with MSE's are registered.

(e) Failing (a) to (c) above, such offers will not be eligible for consideration of benefits detailed in MSE notification of Government of India dated 23.03.2022 (as amended by the Ministry of MSME on 04.10.2019).



## **15. Payments:**

15.1. The time to time interim payment towards supply of finished goods shall be made at the updated rate. The final payment would be made as per Escalated/De-escalated rate worked out on the basis of Price Variation Clause(Clause 13). All payments will be made by the FA&CAO of the Zonal Railway on submission of bills in accordance with the procedure as detailed below:

15.2. 90% of the price of each consignment will be paid after the PSC sleepers are inspected and passed by the Purchaser on execution of Indemnity Bond (as per enclosed proforma) (AnnexureIV) for an equivalent amount by the contractor. In such cases of 90% advance payments, a copy of the Inspection Certificate shall be enclosed with the bills. The contractor may submit the Indemnity Bond for 90% of the contract value in one go in lieu of submitting several Indemnity Bonds for 90% of value of each inspected consignment.

15.3. Balance 10% of the price of each consignment will be paid on proof of dispatch and on submission of Indemnity Bond (as per enclosed proforma) (Annexure V) for 25% of the value of stores supplied covering the warranty period as per warranty clause. The contractor may submit the Indemnity Bond for 25% value of the entire value of the contract in one go in lieu of submitting several Indemnity Bonds for 25% of each consignment. Consignor's Certificate shall be enclosed with 10% bills. In case, 90% payment as laid down in clause 15.2 above is not sought, 100% of the price of each consignment will be paid on proof of dispatch of stores and on submission of Indemnity Bond.

15.4. PSC mono-black concrete sleepers which are treated for surface defects as provided in the "Standard IRS Specification of PSC Line Sleeper's as amended up to date and provided at Annexure-II of this tender document shall be accepted and payment made@92.5% of the standard sleepers.

15.5. All payments shall be subject to the deduction of any amount for which the Contractor is liable under this contract or any other contract in respect of India is the Purchaser and any other deductions as are legally leviable as per Indian laws.

15.6. If the contractor opts for "Letter of Credit" option during bidding at IREPS, then payment will be released through a letter of credit (LC) arrangement as per guidelines issued vide RBA No. 10/2018 and RBA No. 48/2018.

#### **16. Progress Report**

The Contractor shall submit monthly progress report on production, supply, inspection, rejection and on stocks of principal raw materials to the Paying Railway as per proforma prescribed by Railway by 1st of the following month and also furnish stock position of principal raw materials and any other particulars relating to the contract when called for.

#### **17. Force Majeure**

In the event of any unforeseen event directly interfering with the supply of stores arising during the currency of the contract, such as war, insurrection, restraint imposed by the Government, act of legislature or other authority, explosion, accident, riots, strike, lockout, acts of public enemy, acts of God, the contractor shall within a week from the commencement thereof notify the same in writing to the purchaser with reasonable evidence thereof.

If the force majeure condition(s) mentioned above be in force for a period of 90 days or more at any time, the purchaser shall have the option to terminate the contract on expiry of 90 days of commencement of such force majeure by giving 14 days notice to the contractor in writing. In case of such termination, no damages shall be claimed by either party against the other save and except those which had accrued under any other clause of this agreement prior to such termination.

## **18. Option for the variation of quantity of order**

18.1 Without prejudice to purchaser's right as laid down in clause 10.3 and 11 above, the purchaser, at its sole discretion, reserves the right to vary the contract quantity by +30% without assigning any reason at price, terms and conditions of the initial orders during the currency of the contract.

### **18.2 Quantity variation beyond (+) 30%**

Any increase in quantity beyond (+) 30% shall only be with the mutual consent of the supplier and purchaser. In supplies by defaulting CSP% Railway, at its sole discretion may cancel the quantity of defaulting CSP/s and may approve commensurate increase in the contract quantity of performing CSPs (i.e, those performing satisfactorily in contract) at price, terms and conditions of the initial orders during the currency of the contract. This clause shall be operated with the concurrence of associate finance. This increase would be limited to further 30% of the ordered quantity.

## **19. Guarantee**

19.1. The Contractor Guarantees that the PSC Sleepers which he supplies shall be manufactured fully in accordance with specifications. In all cases, the contractor guarantees that its design shall strictly follow the "as made" detailed drawing with such modifications as are notified in respect of each type.

19.2. The contractor further guarantees that PSC sleepers shall be free from defects in material and workmanship. The contractor shall be liable to arrange the necessary replacements of the defective sleepers free of any charge only to the extent that such replacements are attributable to or arise from faulty workmanship or material or design in the manufacture of the contractor so desires, the replaced sleepers can be taken over by him for disposal as he deems fit, within a period of three months from the

date of receipt of the replacement of sleepers by the purchaser. At the expiry of this period, no claim in this respect shall lie on the purchaser.

19.3. The guarantee herein contained shall not apply to any material which shall have been repaired or altered by the Purchaser, or on his behalf in any way so as to effect its strength, performance or reliability, or to any defect to any part due to misuse, negligence or accident.

19.4. The guarantee herein contained shall expire in respect of each sleeper on the expiry of five years from the date of the manufacturing/ three years from date of placement in service, whichever is earlier,

except in respect of defects notified to the contractor prior to the expiry of such date. Provisions of IRS T-39 in this regard shall also be applied.

19.5. All replacements that the purchaser shall call upon the contractor to deliver under this guarantee shall be delivered by the contractor within 60 days from the date of intimation of such rejection of defective sleepers. If the contractor fails to replace the defective sleepers within the said period, the cost of the said sleepers at the rate stipulated in the contract shall be recovered from the payments due to the contractor.

19.6. Any approval of acceptance by the purchaser of the sleepers or of the materials, incorporated therein shall not in any way limit the contractor's liability hereunder.

19.7. The decision of the purchaser in regard to contractor's liability under this guarantee shall be final and conclusive.

## **20. Book Examination**

The book examination as per IRs condition shall apply in toto. The purchaser reserves the right to carry out the book examination at its discretion at any stage during the currency of the contract. In case book examination clause is invoked, required facilities to the team conducting book examination will be provided by the contractor in his premises.

## **21. Licensing of Railway Land**

21.1 Licensing of Railway land required either for setting up a factory or stacking of sleepers near to the siding to the extent available and surplus to Railway's requirement will be dealt with under normal Railway rules prevalent from time to time.

21.2 The land so licensed out to the contractor shall remain in his possession during the currency/extended currency of the contract. The contractor will not have the right to subject, assign or mortgage the land licensed to him.

## **22. Loading**

Loading of concrete sleeper in railway wagon shall be permitted in goods sheds or other available sidings at works station. Wherever siding facilities are available, the same should be utilized for the purpose of loading of the sleepers by the contractor. If The siding facilities are not existing. The same would be provided by the Railways unless ordered otherwise to facilitate loading of sleepers to the extent considered necessary by the Railways. No placement for siding charges shall be levied for such siding facilities in both the cases. Necessary permission for erecting gentries adjacent to the sidings (other than good sheds) shall also be accorded by the Railways. Loading shall be arranged by the contractors at his own cost. Till siding is provided, contractor, at his own cost, shall arrange to load sleepers in road vehicles arranged by the purchaser as detailed in clause 9.2

### **23. Cartel Formation**

- (a) The tenderers are expected to quote most competitive prices freely.
- (b) Wherever all or most of approved firms quote equal rates and cartel formation is suspected, the purchaser reserves the right to place order on one or more firms with exclusion of the rest, without assigning any reasons thereof. The selection of one or more firms may be on the basis of past performance records, capability, capacity, quality performance, after sales service response etc. subject to rates being considered reasonable.
- (c) The firms who quote in cartel are warned that their names may 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 adjudged unreasonably high, to place despite fair efforts as permissible, the purchaser reserves the right to place order on firms outside vendors list, without any restrictions.

### **24. Laws Governing The Contract**

24.1. This Contract shall be governed by the Laws of India being in force.

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

### **25. Jurisdiction of Courts**

The Courts of the place from where the contract has been issued shall have the jurisdiction to decide any disputes arising out of or in respect of the order.

**26. Indian Railways Standard Conditions of Contract** as amended up-to-date, Indemnity Bond Proforma, Special Indemnity Bond proforma, Indian Railways Specifications T-39 for Prestressed Concrete Sleepers pre-tensioned type (Broad Gauge) as amended from time to time, Schedule of Technical Requirement as applicable

from time to time, Drawings for wagon loading arrangements, IRS Specification, IS:12269/ 1987 as amended from time to time for Special Cement and IS-1785 Pt. I IS 6006/1983 for HRS Wire plain and strand and T-46/ 1996 for SGCI Inserts as amended up-to-date respectively will form part of the tender document to the extent they are not superseded by the above provisions.

**27. Determination of Contract Owing to Default of supplier: if the Supplier:**

- (i) Fails to start production even after lapse of 12 months from the date of issue of LOA, or
- (ii) Repeatedly fails to maintain the stipulated quality standards adequately, thereby resulting in large scale rejection of sleepers (>2%)/large scale pre-mature failure of sleepers in service, or
- (iii) Contravene any provision of the contract and fail to rectify/ make good the same despite notice, Then, the contract signing authority on behalf of the Railway may serve the supplier with a notice in writing highlighting the incidences of breach of contract/default(s), and if the Contractor does not within 15 days after the delivery to him of such notice proceed to make good his default in so far as the same is capable of being made good and fails to carry on the work or comply with such directions as aforesaid to the entire satisfaction of the Railway.

Then, the Railway shall be entitled to rescind/cancel the contract as a whole or in part (as may be specified) after expiry of notice period. A final termination/cancellation notice will be issued to this effect detailing there in the Damages levied.