



भारत सरकार
रेल मंत्रालय
पूर्व मध्य रेलवे

**Government of India
Ministry of Railways
East Central Railway**

**Office of Principal Chief Materials Manager
Ground Floor, Old GM Building
East Central Railway
Hajipur,
Dist. Vaishali (Bihar), PIN – 841101
INDIA
Fax: +91-6224-274340
<http://www.ecr.indianrailways.gov.in/>**

**INTEGRATED BID DOCUMENTS
FOR STORES e-TENDER**

(v. 2.1 Issued on – 21 August 2020)

**(Superceeds: ECR- INTEGRATED BID DOCUMENTS
FOR STORES e-TENDER issued on 24 Feb 2020)**

Bid documents consists of the following :

Part · I Tender Document

Bid invitation.

Schedule of Requirements / Tender schedule

Special Conditions of Tender.

Part · II Integrated Bid Document

Section · 1 Instructions to Tenderers.

Section -II General Conditions of Contract.

Section III- Indian Railway Standard Conditions of Contract for the Stores Department

Section -III Annexures.

Part III Drawings, Technical Specification

NB:

1. Bidders are advised to go through the user manuals available on IREPS (www.ireps.gov.in) for submission of bids on IREPS and other activities.
2. Railway Board circulars are available at <http://www.indianrailways.gov.in/railwayboard/index.jsp>

PART II: INTEGRATED BID DOCUMENT

Table of Contents

Table of Contents	3
Section - I: KEY INFORMATION AND CONTACTS	6
1. Information about Headquarters	6
2. List of some abbreviations used in this document	7
Section- II: INSTRUCTIONS TO BIDDERS FOR e-TENDERS	9
1. GENERAL INSTRUCTIONS	9
2. DRAWINGS AND SPECIFICATIONS	12
3. COMPLIANCE WITH TECHNICAL SPECIFICATION	12
4. SAMPLE IN TENDER	13
5. INSPECTION	13
6. ELIGIBILITY CRITERIA	14
7. EFFECTS AND VALIDITY OF BIDS	16
8. PROCUREMENT FROM MANUFACTURER'S AUTHORIZED AGENT/DEALER/DISTRIBUTOR	17
9. PURCHASE PREFERENCE TO MSE, STARTUPs AND MAKE IN INDIA	18
10. OPENING OF TENDER	24
11. EARNEST MONEY DEPOSIT	25
12. SECURITY DEPOSIT	26
13. COMPLIANCE WITH TAXATION LAW	28
14. PRICES	30
15. EVALUATION OF BIDS	31
16. LOCAL CONDITIONS	32
17. PAYMENT TERMS	33
18. DEDUCTIONS	33
19. PAYMENT PROCEDURE	33
20. BIDS FOR IMPORTED STORES IN INDIGENOUS TENDERS	34

21.	DISTRIBUTION OF PROCURABLE QUANTITY.....	36
22.	ACCEPTANCE OF BIDS	38
23.	CARTEL FORMATION	38
24.	SPECIAL INSTRUCTIONS FOR PROCUREMENT OF M&P ITEMS	39
25.	SPECIAL CONDITIONS FOR REVERSE AUCTIONS	41
SECTION - III: GENERAL CONDITIONS OF CONTRACT.....		46
SECTION- IV: IRS CONDITIONS OF CONTRACT		55
0100	Definitions and Interpretation :	55
0200	Parties:.....	57
0300	Quotations of rates by Contractors:.....	58
0400	Contract.....	58
0500	Security Deposit.....	58
0600	Delivery:	59
0700	Time for and Date of Delivery; the Essence of the Contract	60
0800	Extension of time for delivery	61
0900	Examination of Drawing, Specifications and Patterns.....	61
1000	Mistakes in Drawing	62
1100	Samples	62
1200	Risk of Loss or Damage to Government or Purchaser's Property.....	63
1300	Inspection by Inspecting Officer.....	63
1400	Charges for Work Necessary for Completion of the Contract	65
1500	Responsibility of the Contractor for Executing the Contract.....	65
1601	Use of Raw Materials secured with Government Assistance	68
1700	Indemnity	69
1800	Packing.....	69
1900	Notification of Delivery:.....	70
2000	Progress Reports:	70
2100	Freight	70
2200	Removal of Rejected Stores	70
2300	System of Payment.....	71
2400	Withholding and lien in respect of sums claimed	72
2403	Lien in respect of Claims in other Contracts.....	73
2500	Corrupt Practices.....	73
2600	Insolvency and Breach of Contract	73

2700	Laws governing the Contract:	74
2900	Settlement of Disputes	75
3000	Fall Clause: Deleted unless Stated	80
3100	Inspection & Rejection.....	81
3101	Notification of Result of inspection:	81
3102	Inspection Notes:.....	81
3200	Warranty/Guarantee:.....	81
3300	Book Examination Clause:.....	82
3400	Inspection at the Fag End of the Delivery Period:	82
3500	(Additional) special conditions:	83
3600	Purpose of Contract and Parties to the Contract	83
3700	Delivery.....	84
3900	Maintenance and Replacement of Stocks.	84
4000	Reporting Progress of Contract.....	84
SECTION· III: ANNEXURES		85
ANNEXURE – A : DECLARATION BY BIDDERS FOR EMD EXEMPTION		85
ANNEXURE – B : NO CLAIMS CERTIFICATE TO BE GIVEN BY CONTRACTOR		86
ANNEXURE - C: FORMAT OF BANK GUARANTEE (BG) FOR SECURITY DEPOSIT (SD)		87
ANNEXURE – D: FORMAT FOR BG FOR WARRANTY (WBG).....		90
ANNEXURE – E: MANDATE FORM FOR NEFT/RTGS.....		93
ANNEXURE – F: FORMAT FOR PERFORMANCE STATEMENT.....		95
ANNEXURE – G: FORMAT FOR MANUFACTURING CAPABILITY OF BIDDERS		96
ANNEXURE – H: CRITERIA AND FORMAT FOR ASPECT OF SISTER CONCERN OF FIRMS VENDORS OF FIRMS/VENDOR/BIDDERS.....		97
ANNEXURE – I: LIST OF ITEMS FOR WHICH SUFFICIENT LOCAL CAPACITY AND LOCAL COMPETITION EXISTS.....		100
1.	S&T Items.....	100
2.	Wagon Items	101

Section - I: KEY INFORMATION AND CONTACTS

1. Information about Headquarters

PAN	AAAGM0289C	Ministry of Railways
GSTIN	10AAAGM0289C1ZY	State (Bihar)
	09AAAGM0289C1ZH	State (UP)
	20AAAGM0289C1ZX	State (Jharkhand)
	23AAAGM0289C1ZR	State (MP)
Address for financial matters : Payment, GST, Bank Guarantee , Demand Draft etc.	Principal Financial Adviser East Central Railway Hajipur-844101 (Bihar)	
Account Details of PFA/ECR for submission of Bank guarantee	Beneficiary name: FA&CAO/E.C.Railway Bank name: STATE BANK OF INDIA Branch Name: Main Branch, Cinema Road, Hajipur IFSC Code: SBIN0000088 Account Number: 11042155126	
Address for tender and contract	Office of the PCMM Ground floor , Old GM Building East Central Railway Hajipur-844101 (Bihar)	
Telephone	06224-277394,274340	
Fax	06224-274340	
website of ECR	www.ecr.indianrailways.gov.in	
website for e-tenders	www.ireps.gov.in	

2. List of some abbreviations used in this document

<i>Abbreviation</i>	<i>Full form</i>
ADRM	Additional Divisional Railway Manager
AMC	Annual Maintenance Contract
CAO	Chief Administrative Officer
CMM	Chief Materials Manager
CWM	Chief Workshop Manager
DA	Document of Authorisation
DC	Denial Clause
DP	Delivery period
DRM	Divisional Railway Manager
DSC	Digital signature certificate
ECR	East Central Railway
EMD	Earnest Money Deposit
FOR	Free on Rail/Road
GM	General Manager
GST	Goods and Services Tax
IREPS	Indian Railway E-procurement system
LC	Letter of Credit
LD	Liquidated damages
M&P	Machinery and Plant
MSE	Micro and Small Enterprises
NPQ	Net procurement quantity
OEM	Original equipment manufacturer
PCMM	Principal Chief Materials Manager (earlier known as Controller of Stores (COS))
PFA	Principal Financial Adviser (earlier known as Financial Adviser and Chief Accounts Officer (FA&CAO))
PO	Purchase Order

PU	Production Units
PVC	Price Variation Clause
RA	Reverse Auction
RDSO	Research Designs and Standards Organisation
RITES	RITES Ltd.
SVC	Statutory Variation Clause
SD	Security Deposit
MOEF	Ministry of Environment and Forests
TDS	Tax deduction at Source

Section- II: INSTRUCTIONS TO BIDDERS FOR e-TENDERS

1. GENERAL INSTRUCTIONS

1.1 On behalf of the President of India, the Principal Chief Materials Manager (PCMM), East Central Railway, Hajipur (hereinafter referred to as the ‘Purchaser’ or ‘ECR’ or ‘Railways’) invites electronic tenders (e-tenders) from potential bidders/suppliers ((hereinafter referred to as the tenderer/vendor/firm) for the supply of items as mentioned in NIT (Notice Inviting Tender) and schedule of tender.

1.2 Before submission of bid, Bidder or Tenderer should study all the terms and conditions mentioned in the tender document alongwith the files/document(s) attached with the tender.

1.3 The process of Bidder Registration on **IREPS (Indian Railway E-procurement System)**, which is mandatory for submission of bids against E-tenders, is given on Homepage of website: www.ireps.gov.in. The detailed User manual for Vendors is also available in ‘learning center’ link of this website. The digital signature of bidder on the e-bid will be considered as a confirmation that they have read and accepted all the conditions given in tender document(s) unless specific deviation is quoted at appropriate place in the Techno-commercial offer form of the e-bid. *The bidders are required to follow the procedure given by IREPS for submission of bids. No clarification can be given by ECR, as the website is maintained by CRIS, New Delhi.*

1.4 The Contract/Purchase Order placed against the tender will be governed by all the conditions mentioned in the schedule of tender and documents attached with the tender. The provisions of various statutory laws (such as The Indian Contract Act-1872, Sale of Goods Act-1930, GST Act-2017, Arbitration and Conciliation Act-1996 etc: with their latest amendments) which are directly or indirectly related to the different aspects of contract : Bidding, Decision/conclusion/Formation, Operation and Execution of the contract : shall also be applicable to the contract. The successful bidder on whom the contract is place will be known as the “Supplier or the “Contractor”.

1.5 Throughout these Bidding Documents, unless context indicates other -wise:

- (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex)
- (b) if the context so requires, “singular” means “plural” and vice versa;
- (c) “Approved firms” or “Approved Vendors” means Vendors approved as Approved Sources by the Vendor Approving Authority such as RDSO, PU etc.
- (d) “day” means calendar day.
- (e) “bidder” or “tenderer” means the person or firm submitting the offers against the tender and includes juridical persons
- (f) “Developmental firms” or “Developmental Vendors” means Vendors approved as Developmental Sources by the Vendor Approving Authority such as RDSO, PU etc.
- (g) “Firms” means bidders having any corporate form including partnerships
- (h) “Railway Administration” means the East Central Railway Administration constituted under the Railway Act, 1989
- (i) “Railway Board” means the Railway Board constituted under the Indian Railway Board Act, 1905

1.5.1 All electronic forms of communication, including the electronic submission of offers or communications through IREPS, shall be governed by the provisions of Information Technology Act, 2001

1.6 **E-tender document consists of :**

(i) **Integrated Bid Document : IBD :**

1. **Instructions to bidders for e-tendering (IBET)**
2. **General Conditions of Contracts of Stores department (GCCS)**
3. **Special Conditions for procurement of M&P Items (SMP)**
4. **Various formats for use in bidding**
5. **IRS Conditions of Contract (IRS)**
6. **Special Conditions for Reverse Auction**

Special Conditions of tender (SCT)

(iii) **Schedule of requirements (SOR) and attached Documents**

1.7 In case of any conflict between IRS conditions of contract, IBD and SCT: Special conditions of tender (SCT) shall prevail. In case of any difference about the period of Guarantee/Warranty mentioned between specification and IRS conditions of contract (clause No.3200), the period mentioned in the specification shall prevail.

1.8 No cost for tender document will be taken for e-tenders and also for manual tenders where the tender documents are downloaded by bidders from website of ECR/IREPS.

1.9 Only those bids, which are received in electronic mode (i.e. duly uploaded and digitally signed by bidders on IREPS website) will be considered. Manual bids (sent by post/Fax/email/person) will not be entertained / considered against e-tenders, even if these are submitted on the letter head of bidder and are received before closing time of tender. All such manual bids will be considered as invalid offers and shall be summarily rejected.

1.10 All the mandatory fields of the Techno-commercial offer form and Financial offer form must be filled-in by the bidder. The various components of price (Basic rate, Taxes & Duties, Packing charges, Forwarding charges, Freight etc.) should be clearly indicated separately in the respective field of the Financial offer form. If there are any other charges, their nature should be specified. Landed rate (i.e. all-inclusive rates on FOR-destination basis) shall be automatically calculated by the system and shown to the bidder before final submission of bid.

1.11 The unit of rate shall be as indicated in the tender schedule and Bidders are required to quote in this unit only (i.e. Number, set etc.). Any deviation in this aspect will make the offer liable to be ignored. The price for indigenous tenders (i.e. other than Global tenders) should be quoted in Indian Rupees only otherwise the bid will be rejected.

1.12 Bidder should mention discount, if any, at the specified place in the *Financial offer form* only, instead of writing anywhere else in the bid or in the attached documents. Discounts mentioned at any other place than Rate page of e-bid (*Financial offer form*) will not be taken for evaluation by system for assigning inter-se ranking to the bids. **Further, conditional discount(s) linked with – *Quantity, Payment, Inspection agency, Delivery place etc.* – will not be considered while assigning inter-se ranking to the bids.** However, Purchaser reserves the right to avail any such conditional discount for placement of contract and/or for counter-offering to the successful bidder(s).

1.13 The rates filled-in by the bidder on *Financial offer form* will be considered as final. The rates and other conditions of bid having financial implication mentioned elsewhere in the bid (such as attached documents or on other pages of e-bids) will not be taken into consideration.

1.14 Bidder can submit a revised bid at any time before the closing date & time of tender and in such a case, the last revised bid, which is deemed to supersede all the previous bids, shall only be tabulated by system for assigning inter-se ranking to the bids and the same shall be considered valid for its evaluation.

1.15 Mode of dispatch preferred by Purchaser is: *by Road on FOR-destination basis*. Bidders should quote accordingly and freight charges, if any, should be clearly indicated in *Financial offer form* otherwise it will be assumed that the freight charges are zero/Nil or the freight charges will be borne by bidder/supplier. If a bidder mentions zero freight charges in the rate page and elsewhere in the bid mentions delivery terms as FOR: station of dispatch, then no freight charges will be payable and therefore, freight charges will have to be borne by the supplier.

1.16 Purchaser will not pay separately for transit insurance and the contractor will be responsible till the entire stores contracted for, arrive in good condition at destination. Separate insurance charge for carriage of material by Rail is not admissible and will not be allowed. Stores should not be insured at the cost of the purchaser but should be packed for safe transit in accordance with the conditions laid down in the Coaching/Goods tariff. The supplier may insure consignment at his own cost, if considered necessary by him.

1.17 Bidder should read the delivery period/schedule given in the tender schedule and quote accordingly. Vague Delivery terms like: within 2/3 months, 8-16 weeks etc. must be avoided and if quoted so, the bid will be treated by Purchaser as commercially unresponsive making it liable for rejection. Earliest guaranteed delivery should be quoted. The bidder should indicate the dates of commencement and completion of supplies with monthly rate of supply. The penalties for defaults and delay in supplies will be applicable as per provisions of IRS Conditions of Contract.

1.18 Bidders who download the tender documents from website will ensure that no alteration is made in their contents.

1.19 **The date and time specified in the contract for the delivery of the stores/equipment shall be the essence of the contract** and the delivery must be completed no later than the date so specified. The attention of the Bidders is invited to clauses under the Conditions of Contract regarding liquidated damages and general damages by which the contract shall be governed.

1.20 **The Vendors in their own interest are advised to visit the www.ireps.gov.in web site regularly and check for corrigendum if any and submit revised offer wherever warranted. East Central Railway will not be responsible for failure of the Purchaser to submit revised bids in such a situation.**

1.21 Bidders/Vendors, who are found to be indulging in tampering with tender documents or trying to hack the IREPS website, will be taken up with legal and administrative action, which could be as severe as: Removal from the approved list, Banning, Suspension of business dealing etc. The bidders must note that they will be considered fully responsible for scanned copies of documents submitted by them under their digital signature and as per IT Act they will not be allowed to disown any submissions under the said digital signature.

2. DRAWINGS AND SPECIFICATIONS

2.1 The drawings and specifications as mentioned in the tender schedule are attached with the tender **document** but general specifications such as IS, DIN, ASTM etc will have to be arranged by the bidder on their own and same shall not be provided by purchaser. In some cases where size of file for drawing/**specification** is too large to be uploaded on IREPS website, these will be made available in digitized form (softcopy : CD) which may be obtained from the office of Purchaser.

2.2 Specifications indicated in the "Schedule of Requirements" forms part of bid document and may be obtained on payment from the following:

i) **Indian Standards Specifications** from the Director General, [Bureau of Indian Standards](#), Manak Bhawan, 9, Bahadur Shah Zafar Marg, New Delhi-110001, INDIA.

ii) **Indian Railway Specifications, drawings and details from:**
The Director General, [Research Designs and Standards Organisation](#), Manak Nagar, Lucknow-226011, INDIA.

iii) **Particular Specifications, drawings and details issued by Production units from the respective Production Units**

3. COMPLIANCE WITH TECHNICAL SPECIFICATION

3.1 The bid should strictly conform to the specified description and drawing/specification in SOR (Schedule of Requirements) of tender and no samples need be submitted unless so mentioned in tender document/schedule. The supplier on whom Purchase order (PO) is placed should refrain from sending advance sample unless required as per conditions of PO and they should make supplies strictly as per contract. When Pilot/Prototype sample is required to be submitted by supplier for approval before bulk supply of material, it should also conform to description, drawing/specification as mentioned in the contract.

3.2 The Bidder shall indicate the compliance, or otherwise against each clause and sub-clause of the technical specifications. If a bid is submitted by bidder, with their own Drawing No. / Part No / Specifications, then they should submit technical details (drawings/specification/catalogue etc.) of their quoted product with the justification about their bid being in conformity with the requirements of tender Drawing/Specification of the tender. A comparison-chart should be prepared by bidder themselves and attached with e-bid for proving the equivalence of quoted product with respect to the drawing/specification of tender. Technical deviation from drawing /specification of the tender, if any, should be clearly mentioned in the *Techno-commercial offer form* at the appropriate place (Technical Deviation Statement) of e-bid.

3.3 **For tenders of M & P items (Machinery & Plant):** Bidder should give clause-wise comments and compliance on the technical specification to indicate whether the offered product (Machine/Equipment) fully meets the tender specifications. The bid should be accompanied with complete details (technical parameters, drawing/specification etc.) of the offered product.

4. SAMPLE IN TENDER

(applicable only when specified in tender document)

4.1 Bidder must submit 4 (four) number of samples of the size/dimensions prescribed in tender document duly signed & sealed in envelope with Tender No. and Tender Opening Date super-scribed on it. The samples should be sent well in advance and must be received physically in the office of the Purchaser, at least one hour before closing time and date of tender. The offers without sample in such cases will be treated as incomplete/unresponsive and will be summarily rejected.

4.2 Sample will be submitted by bidder free of cost. After finalization of tender, one sample of successful bidder will be sent to concerned parties (i.e. Consignee, Supplier and Inspection agency) along with Purchase Order (PO). An intimation letter will be sent by Purchaser to all the unsuccessful bidders giving them a time-period of 30 days for collection of their samples failing which these samples may be destroyed or disposed by Purchaser without any further intimation in this regard.

4.3 Bidders should note that the sample is being asked in this tender for indeterminable characteristics [such as: General appearance, Lustre, Feel and Finish etc.]. The supply of item shall be in conformity with sample in such respects only, whereas for the remaining characteristics the supplies must be in conformity with the tendered specification. Samples submitted by bidder will be considered as supplemental and not in suppression to any specification mentioned and such samples will only be considered in relation to those points which are not defined in the specification. The onus of drawing attention to any particular item in which a bidder wishes his samples to supersede or vary from the tender description/specification lies on the bidder. In the absence of specific acceptance in writing to any variation, the purchaser shall be entitled to reject any claim for acceptance of supply embodying such variation

5. INSPECTION

5.1 Bidders should quote as per inspection clause mentioned in tender document. The place of inspection will be: at the works of OEM before dispatch of material. The bidders/suppliers are expected not to offer/seek any deviation from the Inspection clause mentioned in the tender/contract.

5.2 Bidder shall indicate the place of manufacturing of tendered item (or part thereof) and shall also indicate the place of inspection in the bid itself. The bidder shall also submit documentary evidence regarding the ownership/tie-up of place where tendered item (or part thereof) is to be manufactured or will be offered for inspection. The full postal address of place where the item will be manufactured and it is to be inspected is to be mentioned in the bid. Bid without these details is liable to be rejected.

5.3 The minimum value limit of Purchase Order [PO] for pre-inspection by RDSO/RITES is Rs. 5 Lakhs. Below this value limit, inspection will normally be done by consignee at his end on receipt of material, unless specified otherwise in tender/contract.

5.4 For the tender in which there is clause that – “Purchase of the item will be made for ISI marked products only”, if the order is placed directly on ISI certified manufacturer, then material can be accepted on firm’s WTC (Works Test Certificate). The bidder/supplier should submit valid BIS license at time of bidding/supply for such tendered items.

5.5 For imported items, unless otherwise mentioned in tender document, the inspection will be done by RA/Berlin at the premises of manufacturer prior to dispatch. In exceptional cases, the material can be accepted against MTC (Manufacturer’s test certificate) and GC (Guarantee certificate).

6. ELIGIBILITY CRITERIA

6.1 The Eligibility Criteria shall be as prescribed in the Tender Document. The Eligibility Criteria is governed by instructions issued by Railway Board from time to time. The instruction in force on the date of opening of the tender shall govern the evaluation of bids.

6.2 Procurement for items having vendors approved by centralized agency:

6.2.1 **Ordering on Approved Sources:** Railway procure some of the items from approved sources. The Approving agencies such as RDSO / PUs / CORE etc. publish vendor list, periodically, e.g., by RDSO every six months. Granting of Approval is a continuous ongoing activity; therefore vendor list can undergo changes after opening of tender.

6.2.2 Wherever necessary as per policy of procurement and as indicated in the tender schedule, Regular Purchase Order(s) for bulk quantity will be normally placed only on vendors approved by nominated vendor approving agency (RDSO/CLW/DLW/ICF/RCF/MCF/CORE) for the tendered item. The bidder should attach scanned copy of approval letter along with their bid.

6.2.3 **The approval status of the firm shall be reckoned as on the date of tender opening and not thereafter. But in case of downgrading /removal / suspension / banning etc after opening of the Tender, such changes will be taken into account while deciding tenders.** This however does not apply for placing small quantity contracts on new sources, as their capacity & capability will only be ascertained before placement of developmental order.

6.2.4 Wherever there is a restriction policy to procure the item from approved sources, the same will be followed as under:

6.2.5 It may specifically be noted that approval of a vendor only signifies its technical capability to supply the items for which it has been approved / registered and it is quite likely that such vendors differ in terms of capacity, past performance etc. **The quantity to be ordered on approved sources, therefore, will be decided duly considering factors such as past performance, capacity, delivery requirements, quantity under procurement, nature of items and outstanding order load etc. and the tender conditions in fair transparent and equitable manner.**

6.2.6 Wherever necessary, as per policy of procurement, bulk purchase will be made only from those firms who have been approved by RDSO / Productions Units / CORE etc. Vendors participating in tender shall have such approvals before opening of tender for the items tendered to manufacture and supply the same. The tenderers should attach scanned copies of such approval letters and approved QAP, along with their e-offers.

6.2.7 Minimum 80% of the net procurement quantity (NPQ) shall be ordered on “Approved Vendors”.

6.2.8 It is clarified that approved and registered are one and same for the items approved by the nodal agencies such as RDSO / PUs / CORE etc.

6.2.9 **Ordering on new / developmental sources:**

- (a) If the tenderer is not approved by RDSO/PUs/CORE, then they must submit their credentials details i.e Machinery and Plant, Testing Facilities, QAP, Technical Manpower etc. to evaluate their capacity cum capability. Failure to furnish requisite credentials details will make their offer liable to be ignored.
- (b) **When the vendor approving / registering agency grades vendors only as registered / approved vendors:** The Developmental order can be given upto 20% of the NPQ on unregistered / untried tenderers about whom Railway is prima facie satisfied that they are capable of executing the order. This 20% quantity will be within the NPQ. However, there may be some cases of procurement of materials where Railways may not be willing to undertake the risk of the failure on the part of the supplier on whom the developmental orders have been placed. In such cases, Railway may go in for increased purchase quantity in consultation with Finance and keeping in view budgetary and other aspects so that 100 percent order could be placed on registered / approved suppliers and quantity not more than 20% of NPQ could be placed as a developmental order outside the NPQ
- (c) **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 regular/bulk orders

** A bidder shall be considered as Indian supplier 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 / quoted has been added in India.
- (d) Order on Developmental Vendors (DV) shall be developmental orders and shall not amount to splitting. DV will be eligible for developmental order of maximum 20 % of NPQ in regular tenders. Total quantity on such developmental vendors/sources put together shall be limited to 20 % of NPQ in regular tenders.

6.2.10 Capability-cum-capacity assessment of vendor may be carried out by ECR or Vendor approving agency of tendered item or any other agency nominated by Purchaser: before placement of developmental orders.

6.2.11 Where the tender conditions stipulate for bulk ordering on approved sources only but there is no approved vendor (regular or developmental vendor) for that item in vendor list/directory on the date of tender closing, purchaser reserves the right for placement of order on other (unapproved) bidders without any quantity restrictions,

6.3 Acceptance of Offers from unregistered and untried tenderers through advertised tenders: Where the tendered item is not covered by restrictive procurement policy from approved sources, the following policy shall apply:

6.3.1 Purchaser reserves the right to make bulk procurement from the bidders who qualify the eligibility criteria mentioned in tender document Unless otherwise specifically mentioned in the eligibility criteria in tender:

Regular and Bulk quantity orders will be placed only on the bidders (Original manufacturers or their authorized dealers/agents) and who have proven satisfactory past performance (both qualitative and quantitative) for supply of the same (i.e. tendered item) or similar item (if applicable and as defined in tender document) to ECR or any other unit of Indian Railways in the last three calendar years. The bidder should submit documentary evidence (copies of PO, Inspection certificates, Receipt Mote etc.) towards such past performance along with offer, falling which it shall be presumed that the bidder has no past performance.

6.3.2 Developmental orders may be placed on other bidders whose offers are competitive and who have submitted adequate evidence towards their capacity-cum-capability and prima facie the Railways are satisfied that they are capable of executing the orders but whose capacity to supply bulk quantity has not been established in the past. Such bidders should submit documentary evidence (Performance statement, List of machinery & Plant, ISO certificate, Quality assurance system etc.) alongwith the bid so as to prove their credentials. If considered, the technical capability and financial capacity of the bidder can be assessed by ECR or any other agency nominated by purchaser, before placement of developmental order.

6.4 At least 80 percent of the procurable quantity will be covered invariably on the registered / approved suppliers. The balance quantity up to 20 percent could be covered on the unregistered vendors, whose capacity could not be tried by an educational order earlier but whose offers are competitive and prima facie the Railway is satisfied that they are capable of executing the order.

6.5 There may also be some cases where the Administration may consider after due verification that the new supplier who has quoted competitive rate is having the required capacity- cum- capability and in those cases the Railway Administration may place bulk orders on these suppliers straightaway.

7. EFFECTS AND VALIDITY OF BIDS

7.1 Unless otherwise specified, the bids should be kept open valid for the following time-period:

<i>Type of tender</i>	<i>Period after closing date of tender</i>
Limited & Single	90 days
Open, Global and M& P	120 days

7.2 The bid having validity less than that stipulated in tender (to be reckoned from closing date of tender) shall be considered as commercially unresponsive and is liable to be rejected.

7.3 The bidder must fill in the *Techno-commercial offer form* (consisting of: Eligibility criteria, Terms & Conditions, Performance statement, Deviation statements, Check-list & Special conditions etc.), *Financial offer form* and attach the scanned copies of following documents:

- (i) Tender specific authorization letter from OEM (Original Manufacturer) in case of bidder being an agent/dealer
- (ii) Performance statement for supplies made against Purchase Orders placed by ECR or any other unit of Indian Railways for supply of same/similar item in last 3 calendar years, with relevant supporting documents (Purchase Orders, Inspection certificates, Receipt Notes, User-feedback etc.) : *as per format given in this bid document.*
- (iii) Details of M & P (Machinery and Plant), Testing facilities, QAP (Quality assurance Plan) and technical manpower available.: *as per format given in Format :F-4.5 of this bid document.*
- (iv) Letter of latest approval from concerned approval agency of tendered item, if applicable in tender.
- (v) Commercial documents such as GSTIN registration, UAM (Udyog Aadhaar Memorandum) number & registration certificate
- (vi) Current and Valid Registration certificates of Indian Railways/NSIC indicating trade groups and monetary limit.
- (vii) Certificate of registration as MSE for tendered item from the organizations (mentioned in clause 1.24.2) indicating : Type (Micro or Small) , Category of ownership (SC/ST/Women/others) and Validity of registration.
- (viii) Bidder's own Drawing/Specification, Product catalogue and Technical data- sheet of their quoted item and in case of deviation/alternative design comparison-chart for proving equivalence of quoted product with respect to the drawing/specification of tender.
- (ix) Any other relevant document (s) to establish the credentials of the bidder regarding technical capability and financial capacity to manufacture & supply the tendered item to Purchaser.

7.4 Bidder is advised to ensure that address furnished by him for getting DSC(Digital Signature Certificate) from accredited agencies, is same as that furnished to the Purchaser and available with the centralized source/vendor approving agency such as RDSO/CLW/DLW/ICF/RCF. They are further advised that while registering themselves on IREPS website for participation in E-tenders, the same address is entered to avoid any vitiation of information and its consequent effect on the contract.

8. PROCUREMENT FROM MANUFACTURER'S AUTHORIZED AGENT/DEALER/DISTRIBUTOR

8.1 Only *original manufacturer* (OEM) or his authorized agent/dealer/distributor is permitted to bid in tender. In case bidder is an agent/dealer/distributor of OEM, they should attach tender specific authorization from OEM with its name and address failing which their bid is liable to be ignored. Post-tender authorization certificate (issued after tender closing date) will not be accepted.

8.2 Neither one agent/dealer can represent two (or more) OEMs nor one OEM can authorize more than one agent/dealer. Purchaser reserves the right to reject both bids in such cases. Further there should not be subletting/sub-contracting by authorized dealer/agent to third party and any such bid from other than authorized dealer (initially/originally authorized by OEM) will be summarily rejected.

8.3 Where a manufacturer appoints an agent/dealer/distributor on the basis of a written agreement with him for a specific territory or specific set of items, they shall give an undertaking to the following effect.

- i. Pre-inspection, if applicable, will be done by RITES/RDSO (or any other Inspecting agency mentioned in contract) at the premises of the OEM. Inspecting agency shall categorically confirm in the Inspection Certificate, that inspection of the material has been actually made at the manufacturing premises of the OEM and not in the Warehouse/Godown/Shop of the agent/dealer/distributor.
- ii. Direct dispatch of material from the premises of the manufacturer to the consignee after issue of inspection certificate, without routing it through agent/dealer/distributor to ensure genuineness/quality of the supplied product.
- iii. Submission of OEM's TC/GC (Test and Guarantee Certificate) with each lot of supply.
- iv. Price of the authorized agent/dealer/distributor will not exceed to what the OEM would have quoted.
- v. OEM should confirm that no company/firm/individual other than M/s.(Name of the Bidder) is authorized to represent them against this specific tender and OEM shall take full responsibility for supplies made by bidder including warranty obligation as per contract.

8.4 The bidder should give the particulars (such as Name, Full address, Telephone No. Email etc) of their local/liaison agents, if any, in the e-bid itself.

8.5 The bid without above information (clauses 8.3 to 8.4) is liable to be rejected.

8.7 For items of category: COTS (Commercially off-the shelf: Retail and market-grade low value items), the clause from 8.1 to 8.7 shall not be applicable and the following conditions will be applicable for tenders of such items, in lieu of these clauses:

- (i) The bidder should mention: Name of OEM, Brand of offered product and its MRP (Maximum Retail Price) in the bid alongwith copy of wrapper/packing, if feasible.
- (ii) The supply should be made in original packing with clear indication of Make/Brand, Name of manufacturer, MRP and Expiry date on it.
- (iii) The supplier will submit MTC/GC (Manufacturer's Test Certificate and Guarantee Certificate) alongwith supply of material.
- iv) The supplier shall furnish an undertaking that : "The item supplied by me/us is original and genuine. If the supply is found spurious at any stage during its use, I/we will replace the full unused quantity with new stock."

9. PURCHASE PREFERENCE TO MSE, STARTUPS AND MAKE IN INDIA

9.1 The purchaser deserves 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 bidders, in accordance with the policies of the government declared from time-to time and as applicable on tender closing date. The price preference above However,, cannot be taken for granted and every endeavor need be made by such privileged bidders to bring down cost achieve competitiveness.

9.2 Bidders of MSE category:

9.2.1 MSEs who are interested to avail the benefits: such as - Exemption from payment of EMD and Purchase preference, must submit with their bid should enclose the proof of their company/organization being registered for tendered item/trade group, *on the date of opening of tender*, with any of the following agencies :

- (i) District Industries Centers (DIC)
- (ii) Khadi and Village Industries Commission (KVIC)
- (iii) Khadi and Village Industries Board (KVIB)
- (iv) Coir Board
- (v) National Small Industries Corporation (NSIC)
- (vi) Directorate of Handicraft and Handloom
- (vii) Any other body specified by Ministry of MSME.

9.2.2 All MSEs who are having Udyog Aadhar Memorandum (UAM) will be given all benefits under *Public Procurement Policy for MSEs Order – 2012*.

9.2.3 MSEs, have to declare their UAM number on Central Public Procurement Portal (CPPP), failing which such bidders will not be able to enjoy the benefits as per *Public Procurement Policy for MSEs Order – 2012*, for tenders invited electronically through CPPP.

9.3 While considering orders on vendors of *Start-ups* (whether of MSE category or otherwise), the criterion of prior turnover and prior experience will stand relaxed, subject to their bid meeting the requirements of quality and technical specifications of the tendered item. However, this relaxation will not apply for special circumstances (like procurement of item related to Public safety, Health, Critical security operations & equipments etc.).

9.4 Make in India Policy:

9.4.1 The provisions regarding **Public Procurement (Preference to Make in India) Order-2017** as contained in Railway Board's letter No. 2015/RS (G)/779/5 dated 26.06.2018 revised vide letter No. 2020/RS(G)/779/2 dt. 12.06.2020, and **as revised on the date of tender opening** will be applicable. In case of any conflict between IRS conditions of contract, other conditions/clauses of IBD and the above-mentioned letters, **the provisions of the latest letters of Railway Board as applicable on the date of tender opening**, shall prevail. Unless otherwise mentioned in schedule of tender, the following conditions will be applicable.

9.4.2 The Provisions shall follow Department of Industry and Internal Trade Public Procurement, Government of India, '**Public Procurement (Preference to Make In India) Order 2017 dated 04.06.2020**', (hereinafter referred to as 'Order') as revised from time to time.

9.4.3 Definitions

9.4.3.1 '**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.

9.4.3.2 '**Class-I local supplier**' means a Supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under the Order.

9.4.3.3 ‘**Class-II local Supplier**’ means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under the Order.

9.4.3.4 ‘**Non - Local supplier**’ means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20%, as defined under the Order.

9.4.3.5 ‘**Margin of purchase preference**’ means the maximum extent to which the price quoted by a “Class-I local supplier” may be above the Li for the purpose of purchase preference.

9.4.3.6 ‘**Nodal Ministry**’ means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.

9.4.3.7 ‘**Procuring** entity’ means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

9.4.4 **Eligibility of ‘Class-I local supplier’/ ‘Class-II local supplier’/ ‘Non-local suppliers’ for different types of procurement**

9.4.4.1 In procurement of all goods, services of 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.

9.4.4.2 For Ministry of Railways the list of items is given at Annexure I, which may be updated from time to time and the list(s) as updated on **the date of tender opening shall be applicable**.

9.4.4.3 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.

9.4.5 **Purchase Preference**

9.4.5.1 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 undertaken by procuring entities in the manner specified here under.

9.4.5.2 In procurement of goods or works, which are covered by para 9.4.4.3 above and which are divisible 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 a ‘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 Class-I local supplier's quoted price falling within the margin of purchase preference and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the L-1 price. In case 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.

9.4.5.3 In the procurements of goods or works, which are covered by para 9.4.4.3 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 a 'Class-I local supplier', the contract will be awarded to L1.

ii. If L1 is not a 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be Invited to match the L1 price Subject to Class-I local Supplier's quoted price falling 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 such lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I 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 'Class-I local supplier' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

9.4.5.4 'Class-II local supplier' will not get purchase preference in any procurement, undertaken by procuring entities.

9.4.6 **Exemption of small purchases:** Notwithstanding anything contained in paragraph 9.4.4, procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order.

9.4.7 **Minimum focal content:** The local content requirement to categorize a supplier as a 'Class-I local supplier'/'Class-II local Supplier'/'Non-local supplier' shall be as defined in the Para "2" of the Order. No change is permissible on this account However, if any nodal Ministry/ Department finds that for any particular item, pertaining to their nodal ministry/department, the definition of Local Content, as defined in the Order, is not workable/ has limitations, it may notify alternate suitable mechanism for calculation of local content for that particular item.

9.4.8 **Margin of Purchase Preference (MPP)** shall be 20 %.

9.4.9 **Requirement for specification in advance:** The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular

procurement transaction. *Unless specified by Special Condition or Tender Documents, the provisions in this section shall be followed.*

9.4.10 Verification of local content

- (a) The bidder must indicate the percentage of local content in the appropriate/relevant column of e-bid (*Please enter 0 for fully imported items and 100 for fully indigenous items*) for their quoted product. The ‘Class-I local supplier’/ ‘Class-II local Supplier’ at the time of tender, bidding or solicitation shall be required to 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) at which the local value addition is made.
- (b) In case 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) False declarations will be in breach of the code of integrity under Rule 175(1)(i)(h) of the GFR-2017(General Financial Rules) for which a bidder or its successors can be debarred for a period up to two years as per Rule 151 (iii) of the GFR-2017 alongwith 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 procurement by any other procuring entity for the duration of the debarment. The debarment for such procuring entities shall take effect prospectively from the on which it comes to the notice of other procurement agencies, in a manner prescribed under the Order.

9.4.11 Sub-Para 10d of the Order: If a Nodal Ministry is satisfied that Indian Suppliers of an item are not allowed to participate and/ or compete in procurement by any foreign government, it may, if deems appropriate, restrict or exclude bidders from that country from eligibility for Procurement of that item and/ or other items relating to that Nodal Ministry. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.

9.4.11.1 For the purpose of Sub-paragraph 10d of the Order, Supplier or bidder shall be considered to be from a country if (i) the entity is incorporated in that country, or ii) a majority of its shareholding or effective control of the entity is exercised from that 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 to India.

9.4.11.2 The country from which procurement has been restricted or excluded under Sub-paragraph 10d of the Order shall be indicated, as far as practicable, in the Notice Inviting Tender or other Tender Documents. Nevertheless, the provisions will be applicable for the tender, even if such indication has not been given.

9.4.12 Purchase preference for IT & Electronics products under ‘ Make in India ‘ policy will be governed as per as per Railway Board’s 2011/RS (G)/779/9 dated 06.12.2017, as updated on the date of opening of the tender and that for Medical devices will be governed as per as per Railway Board’s 2015/RS(G)/779/5 dated 13.06.2018 and 01.11.2018, **as updated on the date of opening of the tender.**

9.4.13 If a bidder wants to avail preference under this policy (Make in India), they should submit necessary & relevant documents in support of their claim alongwith its e-bid and no such document will be accepted after opening of tender. The onus for furnishing correct information regarding Local content etc. and proving the same will shall be on the bidder.

9.4.14 Fee for filing a complaint under *Public Procurement Order-2017 (Preference to Make in India)* shall be Rs.10000 per case. The complaint shall be filed in the office of the PCMM/ECR Hajipur. The fee shall be deposited with the office of the PFA/ECR-Hajipur.

9.5 **Restrictions Under Ministry of Finance Order (Public Procurement No. 1) dated 23 July 2020 under Rule 144 xi of General Financial Rules**

9.5.1 Any bidder from a country which shares a land border with India will be eligible to bid in this tender **only if** the bidder is registered with the **Competent Authority** under the order.

9.5.2 **Definitions:**

9.5.2.1 **"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.

9.5.2.2 **"Bidder from a country which shares a land border with India"** for the purpose of this Order means

- a) An entity incorporated, established or registered in such a country; or
- b) A subsidiary of an entity incorporated, established or registered in such a country; or
- c) An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d) An entity whose beneficial owner is situated in such a country; or
- e) An Indian (or other) agent of such an entity; or
- f) A natural person who is a citizen of such a country; or
- g) A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

9.5.2.3 The **beneficial owner** for the purpose of 9.5.2.2 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 per cent, 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.

9.5.2.4 An **Agent** is a person employed to do any act for another, or to represent another in dealings with third person.

9.5.3 All the bidders shall submit the following certificate regarding their compliance with this Order. 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.

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. 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.]"

9.5.4 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.

9.5.4.1 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.

10. OPENING OF TENDER

10.1 Electronic tender boxes will be opened only after closing time of tender. No bidder is required to be present in the office of Purchaser for tender opening of e- tender. They can see their own bid and financial tabulation statement (in case of advertised tenders: Open and Global) from their log-in on the website of IREPS.

10.2 Normally the tenders will be opened on same date after closing time of tender, but sometimes due to unavoidable reasons (such as Holiday, Poor internet connectivity, Breakdown or maintenance of server etc.) the tenders will be opened on the next working date, when the IREPS servers/ connectivity are/is working. There is no scope of any late or delayed bid in e-tender.

11. EARNEST MONEY DEPOSIT

11.1 Earnest Money Deposit (EMD) shall be mentioned in all tenders, irrespective of the nature of the tender as per EMD amount as per clause 11.3 below or as decided by the Purchaser. There shall be no exemption from submission of EMD for any tender or by any tenderer, **subject to provisions under clause 11.4 below**, except for the following:

- (a)
 - (i) EMD shall normally not be called against limited tenders with estimated value upto Rs 25 lakhs (including single tenders, global limited tenders).
 - (ii) If considered necessary, Purchaser may call for EMD even in such limited tender.
- (b) Micro and Small Enterprises (MSEs) registered for the tendered item in terms of Clause 9.2.1.
- (c) Other Railways and Government Departments
- (d) Indian Ordnance Factories
- (e) PSU (Public Sector Undertakings) 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.
- (g) Vendors appearing on the approved vendor lists of RDSO/Pus/CORE, subject to approval status being valid on the date of tender opening.
- (h) Vendors registered with Railways for Supply of medicine, medical equipments and consumables shall be exempted from submission of EMD for these items.
- (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 submitting EMD for items supplied by them.
- (j) Tenders in which Competent Authority has decided prior to issue of tender to exempt from EMD, which will be declared in the Tender Documents.

11.2 **Offers submitted without EMD shall be summarily rejected. Bidders seeking exemption from payment of EMD should submit documentary evidence in support of their claim through the relevant link in IREPS, along with declaration in Annexure A.**

11.3 **EMD Amount: The EMD amount shall be as declared in the Tender Documents.**

11.4 **For Bidders exempted from submitting EMD:**

- (i) **All vendors exempted from submitting EMD, as per clause 11.1 above, irrespective of the type of tender, i.e, single, limited or open, shall be required to sign a bid securing declaration as per [Annexure A](#) to this Bid Document.**
- (ii) There shall be no exemption to such bidders from submitting EMD and SD (security Deposit) for all tenders published during the period of time they are so disqualified, as per declaration signed by them.

- (iii) Authority competent to approve the disqualification shall be the tender accepting authority not below the level of SAG, including SAG Officers in the fieldunits, namely CMM, ADRM, CWM, CAO, CPM, subject to PHOD/CHOD having full powers to approve disqualification.
- (iv) The disqualification procedure and all correspondence thereof shall be online and digital and updation on IREPS shall be done.
- (v) This clause shall not be applicable for Government Departments / Ordnance factories / other Railways / Railway PSUs / KVIC / ACASH.

11.5 EMD shall be refunded when any 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 the validity of the offer.
- (d) After finalization of the tender , the successful bidder submits the required Security Deposit.

No interest will be payable by the Purchaser on the Earnest Money Deposit.

11.6 EMD of bidders or tenderers shall be released immediately after it is due for release as per the above criteria. The release of EMD will be through IREPS, as per Bank Details submitted by the tenderer. **Railway Administration shall not be responsible for delay or non-return of EMD, due to incorrect information entered by the tenderer.**

11.7 The EMD is liable to be forfeited if the Tenderer withdraws, amends, impairs or derogates from the tender in any respect within the period of validity of his offer.

12. SECURITY DEPOSIT

12.1 **Security Deposit (SD)/Performance Security for Stores Contracts except M&P:**

12.1.1 **There shall be no exemption from submission of Security Deposit for any tender or by any tenderer except for the following:**

- (a) The store contract cases of value upto Rs. 25 lakh.
- (b) Other Railways and Government departments.
- (c) Indian Ordnance factories.
- (d) PSUs owned by Ministry of Railways and PSUs for the group of items that are manufactured by them.

- (e) In tenders issued against PAC, OEM in whose favour PAC has been issued shall be exempted from submitting SD. KVIC and ACASH shall be exempted from SD for items supplied by them.
- (f) Vendors registered with Railways for the trade group of the item tendered shall be exempted from SD for orders valued upto their monetary limit of registration.
- (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 from SD for these items.
- (i) Tenders in which Competent Authority has decided prior to issue of tender to exempt from SD, which will be declared in the Tender Documents.
Note: Apart from claiming damages from vendors, in case of failure to comply with the contractual obligations, Railways shall record poor performance of the vendors for taking suitable penal action as per extant instructions.
- (j) Other Railways and Government Departments.

12.1.2 **Amount of SD:** The Security Deposit shall be as per the following:

- (i) For contract value above Rs 25 lakh and upto Rs 50 crore - 5% of contract value rounded off to the nearest higher Rs 10 (ten), subject to maximum of Rs 50 lakh
- (ii) For contract value above Rs 50 crore – Rs 1 crore. A higher SD, subject to a upper ceiling upto 10%, may fixed by Railways, which will be declared in the Tender Documents.

12.1.3 **Time for Deposit of Security Deposit:** SD from successful bidder should be received in Purchase Office, within 21 days from the date of communication of acceptance with respect to the Purchaser.

12.1.4 **Condonation of Delay in submission of SD:** In special circumstances, Competent Authority shall have power to condone the delay in submission of SD. **For this the Tenderer, who delays the submission of SD shall submit an application for condonation of delay. This application should state the reasons for delay in submission of SD. The submission of application does not entitle the tenderer to condonation of delay in submission of SD. The condonation shall be decided by the Competent Authority on case-by-case basis, strictly on the merits of the case.**

12.1.5 **Validity of SD:** Security Deposit should remain valid for a period of 60 days beyond the date of completion of all contractual obligations. It shall be the responsibility of the tenderer/contractor to extend the validity of the instrument of Security Deposit, if the date of Completion is extended. If the tenderer/contractor to do so within reasonable time, the Railway Administration will encash the instrument without any reference to the tenderer/contractor.

12.1.6 **Failure to Submit SD:** In the event of successful tenderer(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 case where available EMD is less than the required SD and the successful tenderer does not deposit balance SD amount within the stipulated time, then EMD shall be forfeited and the case will be dealt as that of withdrawal of offer by the tenderer as per extant instructions.

12.1.7 Failure of Contractor: Wherever Security Deposit has been exempted, for any reason, and the supplier/contractor fails to supply goods as per conditions of Contract, as amended from time to time, the Purchaser shall have the right to levy damages from the supplier for failing to comply with the contractual conditions, not by way of penalty, an amount equal to the SD amount, as would have applicable if the contract was with a non-exempted vendor. These damages shall be treated as recoveries outstanding against the supplier/contractor and dealt with accordingly.

12.1.8 In case of Contractor to fails to meet delivery schedule for any lot in a severable contract, Railway Administration may cancel the contract for defaulted part by forfeiting SD commensurate to that lot.

12.1.9 Forms of Submission of SD: The Security money can be deposited in any of the following forms:

- (i) Online payment through payment gateway on IREPS
- (ii) Demand draft of any nationalized bank
- (iii) FDR/TDR (Fixed/Term Deposit Receipt) or [Bank Guarantee \(BG\) from any of the Nationalized/scheduled Bank in format given in Annexure C](#)
- (v) National Saving Certificate

12.1.10 The Risk Purchase clause in IRS Conditions of Contract shall not be applicable.

12.1.11 The relevant clauses in IRS Conditions of Contract stand modified to the extent mentioned in the above paragraphs.

12.2 Security Deposit (SD)/Performance Security for Stores Contracts for M&P items:

12.2.1 The Security Deposit for Supply of M&P shall be governed by Special Conditions for M&P items

12.3 Return of Security Deposit:

12.3.1 The Security deposit will be refunded to the contractor on due fulfillment and satisfactory completion of the contract within a reasonable time and on submission of a Clearance Certificate, (in the format of [Annexure B](#)) by the Contractor to the effect that the Contractor has received all dues arising out of this contract and that he has no claim whatsoever on the President of India, against the contract.

13. COMPLIANCE WITH TAXATION LAW

13.1 All the bidders should ensure that they are GST compliant and their quoted tax structure/rates are as per GST law. The bidder should give the break-up of quoted rate : Basic , Packing & Forwarding, Freight etc. in their bid alongwith justification for quoted rate of GST and HSN code. The bidder should consider the benefits of ITC: Input Tax Credit: availed or likely to be availed by them, while quoting the rate.

13.2 In case the successful bidder is not liable to be registered under CGST/IGST/UTGST/SGST acts, the Railway (Purchaser) shall deduct the applicable GST from his/their bills under *Reverse Charge Mechanism* (RCM) and deposit the same to the concerned tax authority.

13.3 For the tender in which the special clause: *The tendered item pertains to Rail Locomotive Part/component category (Chapter 86) and it is needed by Purchaser (Indian Railways) for their own end use (i.e. not for outside sale)* : is mentioned, the bidder should quote rate of GST duly taking into consideration this aspect. For tenders of other items, the bidder should indicate GST classification of tendered goods/services, in support of their quoted rate of GST. The onus for any misclassification will lie with the bidder and no correspondence in this regard will be entertained after closing date of tender.

13.4 The bid shall be evaluated based on the GST rate as quoted by each bidder and the same will be used for determining inter-se ranking. While submitting bid, it shall be the responsibility of the bidder to ensure that they quote correct GST rate and HSN/SAC. Purchaser shall not be responsible for any misclassification of HSN/SAC or incorrect GST rate, if quoted by the bidder.

13.5 Wherever the successful bidder invoices the goods/services at GST rate or HSN/SAC which is different from that incorporated in the Purchase order (PO), payment shall be made as per GST rate which is lower of the GST rate incorporated in PO or billed. The supplier will be required to adjust his basic price to the extent required by higher tax billed as per invoice to match the all-inclusive price as mentioned in PO.

13.6 Any amendment to GST rate or HSN/SAC in the contract shall be as per the contractual conditions and statutory amendments in the quoted GST rate and HSN/SAC , under SVC (Statutory Variation Clause).

13.7 If the supplier does not deposit the tax taken/charged from the Purchaser (ECR) on account of GST, to the GST authorities as per time-schedule given in GST act and MOR (Ministry of Railways) is unable to claim input tax credit (ITC) due to this failure on part of supplier then the Purchaser will have a right to recover the equivalent amount of paid tax (alongwith interest) from any pending bills of supplier.

13.8 Bidder should provide the following details in e-bid itself: GSTIN (copy of certificate to be attached), full address of place from where supply would be made, email and mobile number in their bid. Unregistered vendor is also required to provide all the other details (except GSTIN) alongwith its annual turnover of last three financial years.

13.9 All the bills and invoices (for transactions of goods and services) submitted by supplier shall contain the information as required by the relevant law and rules of GST.

13.10 The relevant GST, will be deducted from payment made or credited to the supplier of taxable good or services or both where the contract value is more than the threshold limit prescribed in the GST Act.

13.11 The firm/supplier shall comply with the following for supplies effected against the contract :

- (i) Submit the invoice /bill clearly indicating the appropriate HSN code and applicable GST rate thereon duly supported with documentary evidence.

(ii) Give a declaration that any additional input tax credit benefit, if becomes available to supplier, the same shall be passed on to the purchaser without any undue delay.

13.12 GST will be paid on production of documentary proof. Therefore, the supplier should comply the following while submitting their bill of payment:

(i) The rate of GST at present legally leviable in this case is% as assessed by the concerned authority. Certified that the GST charged on this bill is not more than this rate

(ii) 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.

(iii) It is hereby declared that all input credits has been passed on to Purchaser and Indian Railways while submitting the bills. We further agree to pass on such additional taxes& 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 supply , by way of reduction in price and advise the purchaser accordingly.

13.13 Purchaser will not bear any Octroi charges and if required by supplier they will issue Octroi Exemption Certificate (OEC) only. If OEC is not considered or accepted by the concerned authorities and they insist on the supplier for payment of Octroi charges, then the supplier will have to bear the same.

13.14 No claim for any additional tax/duty, which was applicable, but not stipulated in the bid shall be admitted at any stage of tender/contract on any ground whatsoever.

14. PRICES

14.1 Railways, in general, prefer firm price contracts. In tenders where no PVC is mentioned in the tender schedule, bidders must quote on fixed price basis only. Bids with PVC or ambiguous conditions like “Price Variation Clause applicable” in such tenders will not be acceptable and will be summarily rejected.

14.2 Price Variation Clause (PVC):

14.2.1 .However, there may be cases of procurement of stores, which are raw-material (Steel/ NonFerrous) intensive, wherein the tender schedule itself will indicate Price Variation clause along with the PVC formula, generally based on following Price Variation Clauses:-

- a) IEEMA PVC for the items covered by IEEMA formula.
- b) Railway Board’s/CORE’s PVC for items covered by such formula.
- c) DGS&D’s PVC for the items which are covered by such formula etc.
- d) PVC based on prices of HCL, HZL, SAIL, LME, BME etc.
- e) PVC based on WPI
- f) For those items, which are not covered by any of the aforesaid PVC, other PVC specific for such stores (e.g. Import items subject to variation in CD/FE) may be considered , if found to be in order.

14.2.2 Wherever PVC (with formula, base date and source of base-price/indices) is mentioned in the tender schedule itself, the bid should be submitted with same PVC. **Bids with deviation in PVC**

formula and/or Base date of indices will be summarily rejected. Bids with fixed price in such tenders will also be summarily rejected.

14.2.3 Bidders who quote with price escalation on account of raw material in the tenders should note that such escalation claims will be subject to verification of documents by the Bill passing/paying officer and the relevant records may be asked from them. If the tenderer fails to establish his claim by producing unsatisfactory records before the FA & CAO of this Railway, their claim will be disallowed and/ or proportionately reduced.

14.2.4 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 contract.

14.3 Statutory variation clause (SVC):

14.3.1 If there is any change in structure/rates of statutory taxes & duties, all the bids shall be evaluated as per tax regime as applicable on the date of tender opening.

14.3.2 Statutory variation in taxes and duties will be applicable during _____ the original/re-fixed delivery period of contract subject to denial clause.

15. EVALUATION OF BIDS

15.1 **The tenders** received will be evaluated by the Purchaser to ascertain the best and lowest acceptable tender in the interest of the purchaser, as specified in the specifications and tender documents.

15.2 Evaluation criteria not mentioned herein but mentioned specifically in the tender schedule or technical specification will be taken into consideration in the evaluation of offers.

15.3 Unless otherwise specified, the evaluation of tender will be done item-wise and consignee-wise. All offers will be arranged in the ascending order of the landed price / all-inclusive rate.

15.3.1 In tenders where schedule of requirement consists of multiple items (i.e. more than one item), the inter-se ranking will be decided for each item separately. Therefore, the bidder is required to quote the rate for each item of tender. This is also necessary for judging reasonableness of rates by purchaser and payment of part supplies, if allowed in the contract.

15.3.2 In tenders where several items are grouped in a “Kit/Set” and the tendered quantity is in sets, the firm should quote single rate for the tendered Kit/Set of items. In such cases, the inter-se ranking shall be decided on the rate quoted by the firm for complete Kit/Set.

15.3.3 For multi consignee items, the rate should be quoted by firm on FOR Destination basis for each consignee separately. The inter-se ranking of the offers will be decided for each consignee separately.

15.4 Conditional discounts, such as, discounts for quality, early payment, delivery at other than specified location, etc., will not be considered for the purpose of determining inter-se ranking of the offers. That is, the rates quoted without any conditions attached, such as, discounts not linked to quantity, early payment, etc., will only be considered for the evaluation purpose. Purchaser however,

reserves the right to use any of the discounted rates(s) appropriate for acceptance or to counter offer to the successful tender(s).

15.5 Bids received with PVC shall be updated to a common base date/price for the purpose of their evaluation and inter-se ranking.

15.6 **Revised bids:** Vendors can submit a revised commercial offer (“Financial Rate Page for Supply”) anytime before the stipulated closing date and time of the tender and in such case the last revised offer submitted at a later time and date shall be considered as the offer, superceding all the previously submitted offers for that item/items of the tender.

15.7 **Alternate Bids:** The application (i.e. IREPS website) provides for the possibility of submission of alternate bid. This option is provided for vendor to quote for different make, alternate specification or slab discount, etc.

15.8 To assist the examination, evaluation and comparison of bids, Purchaser may, at its discretion, ask the bidder for clarification of its bid. The request for clarification and the response thereto shall be in writing and no change in price or substance of the bid shall be sought/offered or permitted.

15.9 Purchaser may waive off any minor infirmity or non-conformity or irregularity in a bid provided such waiver does not prejudice or affect the relative ranking of any bidder. Purchaser, however, reserves the right to accept or reject these deviations and its decision thereon shall be final and binding.

15.10 The tenderers should note that tender quantity is only approximate and subject to variation at the time of actual finalisation of the tender. Moreover, as per the terms and conditions of the tender, the purchaser also reserves the right to accept the offer for the full quantity or part thereof tendered.

15.11 The Purchaser will examine the bids to determine whether they are responsive i.e.: -

- (a) These are complete,
- (b) Earnest Money is in the requisite form and validity period is available,
- (c) The validity of the bid is as per the Bid Document,
- (d) “Deviation Statement” or “Nil Deviation Undertaking” has been submitted
- (e) Condition stipulated against in any clause/sub-clause of IRS Conditions of Contract, and its associated annexures,
- (f) Documents required to be submitted by the bidder as per Tender Conditions have been furnished
- (g) The offer conforms to the Specifications and drawings
- (h) Performance Statement as per Annexure-3 and past supply credentials
- (i) Delivery Period confirms to the Tender Document

16. LOCAL CONDITIONS

16.1 It will be imperative on each Tenderer to fully acquaint himself of all the local conditions and factors, which would have any effect on the performance of the contract and cost of the stores.

16.2 The Purchaser shall not entertain any request for clarifications from the Tenderer regarding such local conditions.

17. PAYMENT TERMS

17.1 For Purchase order (PO) having value below Rs. 5 lakhs and in cases having consignee inspection, payment terms will be : 100% payment after receipt and acceptance of material by consignee (i.e. after grant of Receipt Note for Stock Items).

17.2 For PO having value above Rs. 5 lakhs also, normal payment terms will be 100% payment after receipt and acceptance of material by consignee (i.e. after grant of Receipt Note for Stock Items).

17.2.1 However, in PO having clause of pre-inspection (by RITES/RDSO or any other agency), 90% or 95% payment can be made against Inspection Certificate and proof of dispatch. Lorry receipt is not accepted as proof of dispatch and therefore, in cases of dispatch of material by road, Proof of dispatch will be: Receipted Challan of the supplier duly certified by gazetted officer of consignee. However, in cases of dispatch of material by Rail, clear and unqualified RR/PWB will be considered as the proof of dispatch. Balance 10% or 5% payment will be made on receipt and acceptance of material (i.e. after grant of Receipt Note).

17.3 For payments in PO having PVC (Price Variation Clause), the supplier will submit calculation-sheet of PVC amount with all the relevant documents (such as: Proof of rates/indices of PVC components, Dispatch invoice, Receipted challan and Inspection certificate) to the Paying authority.

18. DEDUCTIONS

18.1 Payment as in clause 17 above shall be subject to deduction of any amounts for which the contractor is liable under the contract against this tender or any other contract in respect of which the President of India is the Purchaser.

19. PAYMENT PROCEDURE

19.1 The bidder should agree to standard payment terms mentioned in Section **Payment Terms** of this bid document failing which their offer will be liable for rejection.

19.2 Payment shall be made through NEFT/RTGS only. No payment shall be issued through Cheque/Demand draft/cash.

19.3 The bank account details shall have to be entered by the bidder, while submitting the bids and this will be reflected in the Purchase Order. Railways shall not be responsible for incorrect bank details submitted by the bidder.

19.4 **Change in Bank details:** In cases of need to amend the bank account details of suppliers in the Purchase Orders, the supplier shall make a specific request, along with the **NEFT mandate form**, in original. The provision for change in Bank details shall be governed by instructions issued by Ministry of Railways or Railway Board from time to time.

19.5 **Payment through LC (Letter of Credit) in domestic/indigenous contracts**

19.5.1 In addition to the normal system of payment through NEFT / RTGS [100 % against Receipt Note or partial advance payment (80-90-95 %) against Receipted challan and Inspection certificate], the option of getting payment through LC will be available in contract placed against this tender.

19.5.2 The bidder, at the time of bidding itself, shall exercise an option in writing by making unconditional acceptance of these conditions in favour of taking payment due against the tender, through LC arrangement. **The option so exercised will be an integral part of the bid and such option once exercised, shall be final and no change shall be permitted, thereafter, during the execution of contract.**

19.5.3 The type of LC will be sight LC. SBI shall be the banker of Purchaser (Issuing Bank of LC) for opening of LC and its operation till final execution of the contract.

19.5.4 The incidental cost @0.15% (@ 0.023 % for tenders notified after 01.04.2020) of LC value (or as applicable at time of opening/extension of LC) towards issue of LC and operation thereof, shall be borne by the supplier/contractor and the same shall be recovered from their bills.

19.5.5 The schedule of payment liability arising in the contract shall be established by the Purchaser based on the prescribed delivery schedule/stages of supply.

19.5.6 The acceptable and agreed-upon document for payments to be released under LC, shall be a DA (Document of Authorization).

19.5.7 The supplier/contractor shall submit their bill(s) for the completed supply to the Bill processing authority mentioned in the contract who will issue DA to enable the supplier to claim the authorized amount from their banker (Advising Bank). For getting payment as per terms and conditions of LC, the claim of supplier shall comprise: DA, Bill of exchange and Invoice.

19.5.8 The Supplier/Contractor shall indemnify and save harmless Purchaser/Railways from and against all the losses, claims and demands of every nature and description brought or recovered against the Purchaser/Railways by reason of any act or omission of the Supplier/Contractor, his agent or the employees in relation to the LC. All the sums payable /borne by the Purchaser/Railways on this account shall be considered as reasonable compensation and paid by Supplier/Contractor. The bank shall also recover any amount as may be advised by Purchaser/Railways against the Supplier/Contractor.

19.5.9 The procedure for opening of LC and payment will be as per the details available on IREPS website.

19.6 The Provision of Submission of Bills through IREPS is also available to suppliers.

20. BIDS FOR IMPORTED STORES IN INDIGENOUS TENDERS

20.1 Purchaser will prefer to have bids directly from Foreign principal/original manufacturer (FPM). However, the foreign bidder who quotes directly against the tender but wants to take the services of Indian Agent (IA) during operation of contract, they should indicate in their bid about the name and address of their IA.

20.2 Agency Commission (AC) finally payable to the bidder's Agent in India under the contract will be converted to Indian Rupees at the TT Buying rate of exchange ruling on the date of issue of LOA

(Letter of Acceptance) and in case LOA is not issued, it will be payable at the TT Buying rate of exchange ruling on the date of contract. AC shall not be subject to any further exchange variation.

20.3 In case the material supplied by the foreign principal is found to be defective or substandard, the Indian agent shall be liable to compensate any losses to the purchaser on this account. Any change in the relationship of IA and its FPM shall not be a bar for the purchaser to claim the losses from the Indian agent on above mentioned account. A separate undertaking alongwith an indemnity bond shall be submitted by IA with their bid.

20.3.1 Any authorized dealer/agent quoting on behalf of their Foreign Principal/Manufacturer (FPM) in Indian Rupees shall have to comply with the following:

- (a) To quote with tender specific authorization from FPM
- (b) To submit the original invoice of FPM (indicating break-up of FOB/CIF and agency commission) along with their quotation. Performa invoice (PI) may be accepted in exceptional cases where it is not possible to obtain the original invoices before the contract is placed
- (c) The bidder shall submit self-attested documentary evidence about their identity (such as PAN card, Aadhaar Card, Passport etc.)

20.3.2 Bidder shall have to give the undertaking on the following points:

- (a) consent to furnish copy of customs-passed Bill of Entry for the each consignment, Manufacturer's Test and Guarantee certificate, Copy of Bill of Lading/AWB for the consignment; Copy of commercial invoice of FPM and Certificate of Country of origin.
- (b) Current and tender specific authorization/dealership certificate of FPM
- (c) Compliance of sea/air-worthy packing condition in manufacturer's original packing and as per IRS Conditions of Contract (clause - 1800).

20.3.3 Bidder should attach certified copy of Agency agreement and any other relevant documents in bid regarding the following aspects:

- (a) The precise relationship between the foreign principal/manufacturer (FPM) and its Indian agent (IA)
- (b) The mutual interest, which FPM and IA have in the business of each other
- (c) PAN (Permanent Account Number) of IA
- (d) Any payment which IA receives in India or abroad from the manufacturer/Principal whether as a commission for the contract or as a general retainer fee.
- (e) All services to be rendered by IA whether of general nature or in relation to the particular contract and the facilities/infrastructure available with them for the same.

20.3.4 In a tender, either the IA on behalf the FPM can quote or FPM itself can quote but both of them (IA and FPM) cannot bid simultaneously for the same item/product in the same tender. If they do so, then both the bids will be rejected.

20.3.5 If an agent submits bid on behalf of the FPM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.

20.3.6 The agent is the official representative of FPM and Therefore, FPM shall also be fully responsible for the conduct of their appointed agent.

20.3.7 The amount of *Agency Commission* payable to the IA will not be more than what is specified in the Agency Agreement and it shall be payable in equivalent non-convertible Indian Rupees, after satisfactory execution of contract. IA will be required to submit a certificate, along with their bill of Agency Commission, confirming that the amount claimed as Agency Commission has been spent/will be spent strictly to render services to the foreign principal/manufacturer in terms of Agency Agreement. The Purchaser or their authorized agencies and/or any other authority of Government of India shall have full rights to examine the books/documents of the Indian Agent and in case of any defect or misrepresentation in respect of the afore-indicated confirmation coming to light during such examinations, will make both: the FPM and their Indian Agent: liable to be banned/suspended from having business dealing with Indian Railways.

20.4 Wherever applicable the successful Tenderer will have to apply to the proper Government Authority for grant of 'requisite import Licence (if any), for such items/components as required within 14 (Fourteen) days of the receipt of the advance letter of acceptance/telegraphic/FAX/electronic acceptance. The purchaser will have no responsibility in this regard.

20.5 Foreign exchange needed for import of items/components and import licence, wherever necessary shall be arranged by the successful Tenderer himself.

21. DISTRIBUTION OF PROCURABLE QUANTITY

21.1 Case of no prior decision to split the order -

21.1.1 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 will be taken into consideration. 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

21.1.2 In the absence of any differentiation on the above parameters, the manner of splitting will be based on the stipulation given in para 21.2 below.

21.2 Case of pre-decided split ordering –

21.2.1 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.

21.2.2 Following provisions (21.2.2(A) to 21.2.6) shall be applicable in all such cases of pre-decided split ordering:-

(A) The purchaser reserves the right to distribute the procureable quantity on one or more than one 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, criticality 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 order 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
Up to 3%	60:40
More than 3% and up to 5%	65:35
More than 5%	At least 65% on the L1 tenderer. For the quantity to be ordered on the L-2 tenderer, Purchaser shall decide

In the phrase differential rates quoted by the tenderers, the quoted rate would mean.

- (1) 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.
- (2) When price negotiation has been called for, the reference L1 rate for assessment of ratio will be 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 tenders higher than the L2 tenderer, then the quantity distribution proportion amongst the tenders will be decided by transparent/ logical/ equity based extrapolation of the model as indicated in the above para.

B (II) There could be situation when between the lowest firm considered suitable for bulk qty.(L1 firm “A”) and another firm considered suitable for bulk quantity order, there are firms who are considered suitable only for part quantity. For example, say L1 firm “A” is approved firm, L4 is approved firm (and both considered suitable for bulk quantity order) and splitting is to be done between these two approved firms. But there are two Developmental firms in between who are suitable for part quantity. In such cases, L1 should be given its proportion based on its rate differential with respect to L4, (say by this, L1 gets 65% of NPQ). The balance quantity (say 35% of NPQ) is to be distributed among other firms. The balance quantity is to be distributed as follows:

- (a) Allocated the Developmental L2 and Developmental L3 within the overall ceiling of 15% / 20% / 25% (of 35% of NPQ)
- (b) Allocated the balance quantity to L4 firm.

Since the Developmental firms are being given the order in relation to its lower position w.r.t. L4 (Approved firm), it will not attract the provision of order on Developmental firm should not be at a higher rate than Approved I firm as the reference rate for comparison of L2 Developmental and L3 Developmental rate is the L4 Approved firm's rate.

21.2.3 For cases where the Rlys/PUs had entered into *ToT/JV* agreements, the following clause will be stipulated as tender conditions

As the Rly has entered into *ToT/JV* agreement withno. 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 26.2.2 (B) shall apply with the exception that the aspect of 'per-se reasonability' will not be applicable.

21.2.4 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.

21.2.5 Notwithstanding the above, there can be exceptional situations where Purchaser may come to a conclusion that splitting is neither possible nor feasible and/or not desirable in the administrative interest. In such exceptional situations, Purchaser reserves the right not to split the quantity despite pre-decided splitting clause in the tender condition by recording justification in writing for doing so..

22. ACCEPTANCE OF BIDS

22.1 Purchaser is not bound to accept the lowest or any bid nor to assign any reason for doing so and reserves the right to accept any bid in respect of the whole or any portion of the item specified in the tender and the contractor shall be required to supply at the rate quoted in tender. The rates quoted by the bidder for the full quantity will be taken as valid even for part quantity.

22.2 Purchaser reserves the right to cancel the tender for full or part quantity tendered without assigning any reason.

23. CARTEL FORMATION

23.1 The tenderers are expected to quote rates which are most competitive and reasonable, commensurate with market trend in fair competition.

23.2 Whenever all or most of the approved firms quote equal rates and cartel formation is suspected, Purchaser reserves the right to place order on one or more firms with exclusion of the rest without assigning any reason thereof.

23.3 Bidders 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. However, Purchaser reserves the right to place order on one or more bidders for any quantity of tender.

23.4 The bidders who quote in cartel are warned that their names are likely to be deleted from list of approved sources in addition of referring the matter to CCI (Competition Commission of India).

23.5 Whenever tender is floated with purchase restrictions 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, despite fair efforts as permissible, the purchaser reserves the right to place orders on firms outside the approved vendor list, without any restrictions.

23.6 The present policy of distribution of ordering quantities on approved sources and new sources, based on the status of approval obtaining on the date of tender opening will be followed in normal circumstances. However, in tenders, where cartel formation is suspected, the purchaser will be free to distribute the ordering quantities in any manner deemed fit in the interest of the administration ignoring the status of approval.

23.7 In the event of the offers conforming to any aspect of the definition of cartel mentioned in “The Competition Act 2002 (12 of 2003)”, in addition to the existing remedies, the purchaser also reserves the right to refer the matter to the Competition Commission of India (CCI), which is a statutory body constituted under “The Competition Act 2002 (12 of 2003)”, for providing necessary relief to the Purchaser who represent Central Government organisation serving the public. In addition, the purchaser also draws attention of the tenderers to Chapter VI of the “The Competition Act 2002 (12 of 2003)” which deals with Penalties. This will be in addition to other rights and remedies available to the Railway Administration under the Contract and Law.

24. SPECIAL INSTRUCTIONS FOR PROCUREMENT OF M&P ITEMS

24.1 For the items of M & P nature and other special equipments/assemblies having clauses of AMC/Warranty in the specification, Bidder shall quote their item-wise rate for concomitant accessories/essential spares, which are required to be supplied along with the equipment/machine for commissioning. They shall quote their rates separately for optional/recommended spares of their machine/equipment. Purchaser will have option to purchase or not to purchase such optional/recommended spares from such list depending on his need.

24.1.1 Therefore, the following components of rate quoted by bidder will be added to the rate of basic equipment/machine for computing landed rate for the purpose of inter-se ranking of the bid:

- (i) Cost of AMC (with NPV calculations done as per clause 24.2.4)
- (ii) Cost of concomitant accessories
- (iii) Cost of essential/mandatory spares within scope of supply

24.1.2 Cost of recommended/optional spares will not be added for the purpose of inter-se ranking of the bid Further as mentioned in clause 1.35.6 of this bid document. Cost of essential spares and service charges for items of repair-work of Machine/Equipment beyond the AMC period will not be included in the price of tendered Machine/Equipment for the purpose of comparative evaluation of bids.

24.2 Special instructions for tenders having AMC (Annual Maintenance Contract) component:

24.2.1 AMC is meant for proper upkeep and maintenance of the tendered Machine/Equipment after warranty period. Unless mentioned otherwise in the specification, the scope of AMC will be comprehensive and it will include preventive and breakdown maintenance. AMC charges will include all costs of personnel, spares etc. except the cost of consumables required for day-to-day operation & daily maintenance checks. The terms and conditions of AMC must clearly specify the maximum downtime and maximum response time.

24.2.2 Bidder should confirm that they will render quick after-sale service during the warranty period of the machine and advise details of their office/dealer network in the vicinity of consignee who will render the said service.

24.2.3 Bidders are required to quote charges on an annual basis (for each year separately) for post-warranty AMC for a period of 5 (five) years unless mentioned otherwise in the specification/tender. AMC charges shall be payable in Indian Rupees only. The bids will be loaded with quoted AMC charges for evaluation of bids and in order to equitably compare different AMC charges of different years, the concept of NPV (Net Present Value) will be used at a discounting rate of 10 % (unless mentioned otherwise in tender document) so as to bring all the bids at the same footing in the assessment of landed rate (i.e. FOR-destination price).

24.2.4 NPV is the present value of rate quoted (of AMC charges) for prospective period (year number after the warranty period): i.e. the maintenance charges quoted for future years(s) and Therefore, these charges are to be discounted to arrive at their present value. Hence NPV is calculated backwards as per formula of compound interest: $NPV = AMC / [(1+D/100)^n]$. The example of one such calculation is given as under (^ denotes sign of exponent : e.g. $2^3 = 2 \times 2 \times 2 = 8$)

Period	Code	Example		
Warranty Period (years)	W	5		
AMC Period (years)	AY	3		
Discounting rate (%)	D	10		
Year (after W)	AMC	AMC quoted (Rs.)	Factor for NPV	NPV (Rs.)
1 = W+1 (6th year)	A1	100	$1/(1.1^6) = 0.564$	56.40
2 = W+2 (7th year)	A2	100	$1/(1.1^7) = 0.513$	51.30
3 = W+3 (8th year)	A3	100	$1/(1.1^8) = 0.467$	46.70
Total	A			154.40

24.2.5 Purchaser/Consignee reserves the right for entering into Annual Maintenance Contract (AMC) on the basis of rates quoted by the firm in their tender against AMC charges.

24.2.6 Post-AMC maintenance of Machine/Equipment will be dealt with by the end users. In order to facilitate the same, the bidder is required to quote the current cost of essential spares required for maintenance of Machine/Equipment after AMC period and the current service charges for each item of repair-work of Machine/Equipment beyond the AMC period. These charges will not be included in the price of tendered Machine/Equipment for the purpose of comparative evaluation of bids.

24.3 Bidders who are OEM (original manufacturer), must give undertaking for supply of spare parts for a period of expected life of Machine/Equipment. Other bidders must submit undertaking from OEM for supply of spare parts for a period of expected life of the Machine/Equipment.

24.4 **Payment Terms For Purchase orders of Machinery & Plant (M&P) items (PO having value above Rs. 5 lakhs):** Unless and otherwise mentioned in tender/contract, the normal terms of advance payment will be: “ 80% payment will be made after receipt of the machine in good and acceptable condition at consignee’s end against inspection certificate and Receipted challan certified by the gazetted officer of consignee. Balance 20% payment will be made on successful installation, commissioning/testing , proving test and final acceptance of the Machine/Equipment subject to submission of WBG (Warranty Bank Guarantee) by the contractor (as per Format given in [Annexure D](#) of this bid document) for an amount of 10% of the contract value. WBG should remain valid for a period of 60 days beyond the warranty period. “

25. SPECIAL CONDITIONS FOR REVERSE AUCTIONS

25.1 Reverse Auction is a two bid system.

25.2 Financial Bids in single currency (INR) only shall be allowed.

25.3 Each tender clearly specifies the essential technical and commercial parameters in a transparent manner. No deviation to such essential Technical & Commercial conditions shall be permitted to the vendors in the electronic bid form.

25.4 Procuring authority shall decide the bid evaluation criteria in the tender itself i.e., whether the evaluation shall be item wise, consignee wise or overall tender value wise.

25.5 Bidders shall be simultaneously required to submit Technical & Commercial BID and Initial Price Offer.

25.6 Offers found eligible for bulk order shall be categorised as “**Qualified for Bulk Order**” and offers found eligible for developmental order shall be categorised as “**Qualified for Developmental Order**” for the purpose of RA.

25.7 Offers not complying with essential technical & commercial requirements of the tender shall be declared as “**Ineligible for any order**”.

25.8 Procuring authority shall decide the bid evaluation criteria in the tender itself i.e., whether the evaluation shall be item wise, consignee wise or overall tender value wise.

25.9 Vendors in their own interest are advised to get familiar about the following terminologies / parameters that are defined in the RA tenders before quoting their bids in the IREPS system:-

Sl. No.	Terminology/ Parameter	Definition
1	Bidding Type	Two stage Evaluation
2	Bidding System	Two Packet System
3	Initial Financial Offer	Financial Bid to be submitted by the vendors during 1st stage of bidding.
4	Auto Elimination Rules	Please refer para 25.13 a for details
5	Evaluation Criteria	In case of item wise evaluation criteria every item included in the reverse auction constitutes a separate lot. In case of Group wise evaluation criteria every group of items constitute a separate lot. In case of Total Value wise evaluation criteria the entire tender constitutes a single lot.
6	Initial Cooling Off Period	The minimum time period to be stipulated for closing of the 1st lot (or the only lot in case of only one lot). This is the minimum time for which Reverse Auction shall remain open for bidding even for a single lot scenario.
7	Subsequent Cooling Off Period	<p>The time period immediately prior to the closing date/time for a lot during which -Submission of a fresh bid shall lead to automatic extension of closing date / time for the lot - Non-receipt of a fresh bid against the lot shall lead to closure of auction for that lot.</p> <p>Every time an offer is received during this time interval, the closing time of the lot is extended automatically and is set equal to the time of submission of last bid + subsequent cooling off period.</p>
8	Successive Closing Interval	If there are multiple lots (items or groups as the case may be) in a tender, this parameter defines the time period between closures of two successive lots at the time of scheduling of Reverse Auction. In case of single lot situation this will not be applicable.
9	Allow Next Bid lower than	<p>(i) Current Lowest Bid: If this option is applicable for the Reverse Auction, any bidder will only be allowed to submit a fresh bid equal to or lower than the current lowest bid submitted against the lot by any bidder in the same category (Bulk/Developmental) minus Minimum Decrement stipulated against the tender.</p> <p>(ii) Firm's Lowest Bid: If this option is applicable for Reverse Auction, the bidder will be allowed to submit a fresh bid equal to or lower than his own last bid (Initial Financial Offer or Reverse Auction Bid) minus Minimum Decrement stipulated against the tender.</p>

10	Minimum Decrement	Minimum reduction in rate over the last bid that a bidder has to offer for submission of a fresh bid. It will be defined in Reverse Auction in percentage terms.
----	-------------------	--

25.10 **Essential Parameters:** Essential Parameters includes Essential Technical and Commercial Parameters as conditions. The bidders are expected to agree to these conditions on-line, without which they will not be permitted to submit their offers.

25.11 Initial Price Offer of only those bidders categorised as Qualified for Developmental Order or Qualified for Bulk Order shall be opened and tabulated by the system separately, category wise. Extant Instructions for tabulation shall apply for tabulation of Initial Price Offers.

25.12 **Financial Bid:** Financial bid shall comprise of Final Price Offer obtained through Reverse Auction.

25.13 Following conditions and procedure shall be followed in selecting the bidders for conduct of Reverse Auction:

a. Selection of vendors for Reverse Auction for bulk ordering

Number of Vendors Qualified for Bulk order	No. of Vendors to be selected for Reverse Auction	Remarks
Less than 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 (rounded off to next integer) subject to maximum 8	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:

(i) 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).

(ii) **Selection of vendors for Reverse Auction for developmental ordering:** Offers qualified for Developmental 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.

(iii) **MSE Criteria:** All MSEs (Micro and Small Enterprises) found Qualified for Bulk/Developmental Orders/Award of Contract but could not be selected as per criteria stipulated on para 23.13 (a) and 23.13 (a) Note (ii) above, but are within the range of 15% of the 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 23.13 (a) and 23.13 (a) Note (ii) above. The lowest Price bid shall mean lowest initial price bid of the vendor qualified for bulk order. However, in case of all bidders qualifying for bulk order as well as for Developmental Order (before applying the elimination criteria) are within MSE category, this clause will not apply.

(iv) **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 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 Public Offer. Such bidders shall be over and above the number of vendors selected for Reverse Auction, as per para 23.13 (a) and 23.13 (a) Note (ii) above. However, if all the bids qualified for bulk order as well as for Developmental Order (before applying the elimination criteria) also qualify under “Make in India Order, 2017”, this clause will not apply.

b. During Reverse Auction process, bidders shall not be allowed to bid higher than the lowest Initial Price Offer.

25.14 Reverse Auction among bids categorized as Qualified for Developmental Order and Qualified for Bulk Order shall be conducted concurrently on IREPS. Qualified Bidders shall only 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 shall only be intimated on website about the status of the reverse auction, i.e., when the auction will start/had started, whether auction is live or whether auction has closed.

25.15 Quantity to be covered on developmental orders shall be limited to 20% of the Net Procurable Quantity (NPQ). The quantity covered on developmental orders shall be within or outside Net Procurable Quantity, which may be decided by Tender Committee/Tender Accepting Authority. This aspect has to be decided before conduct of Reverse Auction.

25.16 After obtaining the final price offers through Reverse Auction, the lowest bids of only those bidders who had participated in the Reverse Auction shall be tabulated and considered for ordering. **The offers of the bidders which were eliminated from reverse Auction in terms of para 23.13 shall be tabulated separately and shall not be considered for ordering.** All the relevant policies of Government of India at the relevant time shall be applicable.

25.17 **Procedure for conduct and reporting of Electronic Reverse Auction (e-RA):**

25.17.1 Purchaser shall fix the following, depending upon the nature of tendered item and complexity of case on hand:

- (i) Initial e-RA period: This shall be the initial time interval for e-RA. e-RA shall be open for this duration.
- (ii) 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.

(iii) Minimum decrement in percentage of value of the last successful bid.

25.17.2 Date and time of start of e-RA shall be communicated to the qualified tenderers selected, through e-mail to their registered e-mail id/ SMS to the registered mobile number. Bidders should note that this is system generated and they should make arrangements for regularly checking of the notifications.

25.17.3 During Reverse Auction (e-RA) period, identities of the participating tenderers will be kept hidden.

25.17.4 Bidders will not be allowed to revise the taxes and other levies, after submission of initial price bid.

25.17.5 Starting point for Reverse Auction(e-RA) shall be the lowest initial price bid of the tenderer eligible for award of contract. During Reverse Auction(e-RA) process, bidders shall not be allowed to bid a rate higher than the lowest Initial Price offer. Minimum admissible bid value will be last bid value minus minimum decrement as specified by the tendering authority before starting of Reverse Auction (e-RA).

25.17.6 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 as Financial bid.

25.17.7 Purchaser can also view the bidding history in chronological order.

25.17.8 Bidders shall not be allowed to withdraw their last offer.

25.17.9 L-1 will be defined as the lowest bid obtained after the closure of e-RA.

**PRINCIPAL CHIEF MATERIALS MANAGER
EAST CENTRAL RAILWAY, HAJIPUR
DIST. VAISHALI (BIHAR), PIN – 844101**

PART II

EAST CENTRAL RAILWAY

SECTION - III: GENERAL CONDITIONS OF CONTRACT

1. Acceptance of this tender (including LOA : Letter of advance acceptance : issued before formal Purchase order) shall constitute a binding contract between the successful bidder and the President of Union of India acting through PCMM/ECR-Hajipur.
2. The Contract/Purchase Order placed will be governed by all the conditions mentioned in schedule of tender and documents attached with the tender.
3. The bidder, on whom the PO (Purchase Order) will be placed against this tender case, will have to execute the previous PO(s) of the Purchaser (ECR), if any, for the tendered item before commencing the supply against the new PO.
4. **Time Preference clause** (applicable only when specified in tender/contract)

If a contract is placed on higher bidder as a result of invitation of tender, in preference to the lowest acceptable bid in consideration of bid of early delivery , the contractor will be liable to pay to the Purchaser the difference between the contract rate and that of the lowest acceptable bid on the basis of landed rate (including all element of freight, Taxes & duties, and other charges), in the case of contractor's failure to complete the supplies in terms of such contract within the date of delivery specified in the tender and incorporated in the contract. This is in addition to other legal rights available to the Purchaser under the terms & conditions of the contract.

5. **Payment Terms:**

- 5.1. *For Purchase order (PO) having value below Rs. 5 lakhs and in cases having consignee inspection, payment terms will be : 100% payment after receipt and acceptance of material by consignee (i.e. after grant of Receipt Note).*
- 5.2. *For PO having value above Rs. 5 lakhs also, normal payment terms will be 100% payment after receipt and acceptance of material by consignee (i.e. after grant of Receipt Note). However, in PO having clause of pre-inspection (by RITES/RDSO), 95% payment can be made against Inspection Certificate and proof of dispatch. Lorry receipt is not accepted as proof of dispatch and Therefore, in cases of dispatch of material by road, Proof of dispatch will be: Received Challan of the supplier duly certified by gazetted officer of consignee. However, in cases of dispatch of material by Rail, clear and unqualified RR/PWB will be considered as the proof of dispatch. Balance 5% payment will be made on receipt and acceptance of material (i.e. after grant of Receipt Note).*
- 5.3. *For Purchase orders of Machinery & Plant (M&P) items (PO having value above Rs. 5 lakhs): unless and otherwise mentioned in tender/contract, the normal terms of advance payment will*

be : “80% payment will be made after receipt of the machine in good and acceptable condition at consignee’s end against inspection certificate and Receipted challan certified by the gazetted officer of consignee. Balance 20% payment will be made on successful installation, commissioning/testing , proving test and final acceptance of the Machine/Equipment subject to submission of WBG (Warranty Bank Guarantee) by the contractor (as per Format given in Annexure of this bid document) for an amount of 10% of the contract value. WBG should remain valid for a period of 60 days beyond the warranty period.”

- 5.4. For payments in PO having PVC (Price Variation Clause), the supplier will submit calculation-sheet of PVC amount with all the relevant documents (such as : Proof of rates/indices of PVC components, Dispatch invoice, Receipted challan and Inspection certificate) to the Paying authority.

6. **Statutory Variation Clause** (Only applicable if specifically mentioned in the letter of acceptance): Statutory Variation in taxes and duties, or fresh imposition of taxes and duties by State/ Central Governments in respect of the items stipulated in the contract (and not the raw materials thereof), within the original delivery period stipulated in the contract, or last unconditionally extended delivery period shall be to Railways' account. Only such variation shall be admissible which takes place after the submission of bid. No claim on account of statutory variation in respect of existing tax/duty will be accepted unless the tenderer has clearly indicated in his offer the rate of tax/duty considered in his quoted rate. No claim on account of statutory variation shall be admissible on account of misclassification by the supplier/ contractor.

7. **Option Clause** (Only applicable if specifically mentioned in the letter of acceptance): Purchaser reserves the right to increase or decrease the ordered quantity by 30 percent of the ordered quantity at any time during the currency of the contract. The increase in quantity can be done even at the time of ordering. The purchaser shall be entitled to exercise this option clause in one or more instalment as long as the total variation in quantity does not exceed the limit of 30 percent of total ordered quantity. Plus option clause can be exercised at any time till final delivery date of contract even if the supply of original ordered quantity is completed before the last date of delivery period.

8. **Inspection Clause:**

- 8.1. All inspection certificates should be accompanied by the relevant test reports.
- 8.2. The goods/material peculiar to the use/requirement of Indian Railways (such as parts and fittings of rolling stock etc) which have been found rejected during inspection and which could not be rectified, should be defaced by the inspecting authority to avoid recycling of such rejected material and thereby to avoid ultimate failures of assets. All such rejected materials (which are designed for exclusive use of Indian Railways) will be defaced / damaged by the consignee/user/inspection agency so as to ensure that the rejected lot are not recycled to ECR or any other unit of Indian Railways.
- 8.3. No consignment or part of consignment which has once been rejected may again be submitted except in case where the inspecting officer considers the defect to be rectifiable. The Purchaser or the inspecting officer shall have free access to the works/factory of the manufacturer at any

time and they will be at liberty to inspect the material used in the manufacture of tendered item at any stage and may take such actions as may be considered necessary (even to terminate the contract). if it is found that the proper quality/process is not being followed by the contractor in manufacture of the item as per requirement of contract and its specification.

- 8.4. Consignee will be the ultimate authority for acceptance/rejection of the material received by him. Notwithstanding a quotation for delivery in the particular state, the responsibility of contractor/supplier will not cease until delivery has been taken at destination by the purchaser or by such officer as nominated by him. In case of dispute as regards quality or supplies delivered, the decision of the Purchaser shall be final.
- 8.5. In case of items such as bearings/tooling items and commercially available branded items, where the inspection (as per contract) has to be carried out at the premises of Authorized Agent/Dealer, the manufacturer (OEM) should also associate, if practically possible, so as to ensure the genuineness of material.
- 8.6. In case the supplier fails to offer the material for inspection against inspection call issued to the inspecting agency or if the material have to be re-inspected due to rejection of the material at supplier's end by the inspecting agency or due to non-dispatch of material within validity of Inspection Certificate, then the inspection charges applicable for the offered quantity and actual cost of the test charges incurred will be paid by the supplier to the inspecting agency.

9. Terms of Delivery:

- 9.1. The supplier shall be responsible for covering the risk of loss, destruction, damage or deterioration of goods during transit/transportation till their delivery to consignee as per clause 1501 of IRS Conditions of Contract).
- 9.2. The supplier, who in terms of contract dispatch the material on freight pre-paid basis, should submit their claim for reimbursement of freight charges with necessary documents. Reimbursement of freight charges shall be made at actuals subject to maximum of freight charges mentioned in contract
- 9.3. Unless otherwise mentioned in the tender/contract, the FOR condition shall be "FOR: Destination [i. e. consignee(s) of ECR mentioned in tender schedule].

10. Delivery Schedule:

- 10.1. Time and the date of delivery as specified in the Purchase Order (PO) is the essence of the Contract. The delivery period shall be reckoned from the date of issue of LOA (Letter of advance acceptance) or date of PO, whichever is earlier.
- 10.2. Extension of Delivery date may be considered in deserving cases on request of supplier/contractor, where a genuine reason exists. Such extensions of delivery date will

normally be granted with levy of Liquidated damages (LD) and Denial Clause (DC) which are applicable as per clause No. 0702 and 3400 of IRS conditions of contract.

10.3. Liquidated Damages (LD) is levied on the supplier to liquidate the damages due to delay in supply. The purpose & effect of DC is that the supplier will not be entitled to any benefit of upward variation in rate on any account (Taxes & Duties, PVC, Currency Exchange rate, etc.) after expiry of the original delivery Period of contract but in case of any reduction in such element of rates, the benefit will be passed on to Purchaser.

10.4. Purchaser reserves the right to recover from the contractor as agreed LD and not by way of penalty, a sum equivalent to 0.5 % (half percent) of the price of contracted goods (including elements of taxes, duties, freight etc.) per week or part of the week during which delivery is accepted for the delayed quantity (i.e supplied after expiry of original/re-fixed delivery period). Upper limit for recovery of LD in supply contracts will be 10% (Ten Percent) of value of contract irrespective of delays, unless otherwise provided specifically in the contract.

10.5. LD will not be waived unless reasons of delays in supplies are beyond the control of supplier.

11. Failure of supplier in execution of contract

11.1. In the event of any failure to supply the material, within the Delivery Period Specified in the Purchase Order, as per the Delivery Schedule, the Purchaser **may cancel the contract for defaulted part by forfeiting Security Deposit commensurate to that lot of Supplies.**

11.2. **Wherever Security Deposit has been exempted, for any reason, and the supplier/contractor fails to supply goods as per conditions of Contract, as amended from time to time, the Purchaser shall have the right to levy damages from the supplier for failing to comply with the contractual conditions, not by way of penalty, an amount equal to the SD amount, as would have applicable if the contract was with a non-exempted vendor. These damages shall be treated as recoveries outstanding against the supplier/contractor and dealt with accordingly.**

12. Marking of Material Supplied:

12.1. The supplier shall indicate: Name of manufacturer, Month & Year of manufacturing and Expiry Date (for shelf-life items): 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.

13. Handling of rejections of pre-inspected item and warranty rejections

(as per Railway Board's letter No. 2000/RS(G)/379/2 dated 07.08.2015 and clarification dated 18.01.2018)

13.1. Two kinds of rejection occur in case of pre-inspected supplies made by vendors.
i. Pre-inspected material rejected by consignee at the time of receipt

ii. Material rejected in warranty

13.2. The methodology of handling these rejections will be as under:

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

- 13.3.1. 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/Supplier, Purchaser, Pre-inspecting agency, Paying authority as per the contract etc. without fail.
- 13.3.2. 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.
- 13.3.3. Joint inspection of rejected material will be held with pre-inspecting agency and the firm. The ultimate authority for decision to conduct joint inspection will be consignee. However, if the firm does not desire to have/to attend joint inspection or in case of failure of either of the two parties (inspecting agency and the firm/supplier) 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) attends joint inspection or not, the modality of joint inspection etc will have to be completed with 21 days of communication of rejection advice to the supplier (in line with IRS conditions of contract: clause 0703). For imported material, the time limit will be 45 days.
- 13.3.4. Firm may be permitted to collect the rejected goods only after the firm has deposited the payments already made by Railway/Purchaser (if any) to the firm or equivalent amount has been recovered for this purpose.

13.4. **Cat B Material rejected in warranty :**

13.4.1. 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 (Production Unit of Indian Railways) or from a stores depot which is not the associate stores depot of the user.

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

- 13.4.2.1. All warranty claims will be lodged by the associate depot officer after getting the warranty rejected material from user under Advice note of returned 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 reasons(s) of warranty rejection are available with the Advice note of returned stores. The warranty claim will be processed following procedure indicated in sub-clauses 13.3.1 to 13.3.4 above except for the following changes: The 'rejection advice' mentioned in sub-clause 13.3.1 will be replaced by the 'warranty rejection advice'. The time which can be taken for the completion of modality of joint inspection as per sub-clause 13.3.3 will be 45 days (instead of 21days) 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 Railway. Thus, either the pre-inspection agency or the firm or the Railway may like to have a more detailed understanding of the failure

13.4.2.2. 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.

13.4.2.3. However,, in case of component level rejection in a pre-inspected item (which is an assembly), the replacement supply of that component can be accepted based on firm's internal inspection certificate/guarantee certificate and final inspection by consignee

13.4.3. **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/issue note) which is not the associate stores depot of the end user:

13.4.3.1. 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 Railways). 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.

13.4.3.2. 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 (Purchase Order) 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-clauses 13.3.1 to 13.3.4 above except for the following changes: the 'rejection advice' mentioned in sub-clause 13.3.1 will be replaced by the 'warranty rejection advice'. The time which can be taken for the completion of modality of joint inspection as per sub-clause 13.3.3 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. B.I (a) and Cat. B.I(b) will be 90 days.

13.4.4. **Cat B.II Warranty quantity replacement:** The warranty quantity replacement will be accounted under warranty Receipt Note by the depot officer (which raised the warranty claim as in sub-clause B.I (a). Financial recovery (if any made) against the warranty failure will be refunded to the firm on warranty quantity replacement.

13.4.5. *Inspection of the replacement supply against warranty rejection:*

13.4.5.1. For cases of replacement supply against warranty failure falling in the category B.I (a) above, the replacement supply should normally be inspected by the same inspection agency which inspected and passed original supply. Thus for Category B.I (a), any change in inspecting authority for the warranty replacement will necessitate a formal amendment in contract.

13.4.5.2. 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.

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

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

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.

13.4.7. 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.I (a) and Cat. B. I (b)} of warranty failure.

13.4.8. *Place of warranty replacement*- For warranty replacement of category B.I (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 or 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.

13.4.9. 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.

13.5. At the option of the depot officer/end-user, rectification of the material rejected [under category (A) and (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 13.3 (A) and 45/90 days for indigenous/imported material respectively for the rejection of the category 13.4 (B). If more time is taken beyond this, applicable ground rent will be levied on the firm.

14. Special conditions for procurement of M&P (Machinery & Plant) items

14.1. Commissioning and Proving out of M&P :

14.1.1. The contractor shall arrange commissioning of the Machine/Equipment at the premises of consignee and shall carry out necessary proving test to demonstrate the performance of equipment to the entire satisfaction of the consignee.

14.1.2. The time allowed for commissioning of Machine/Equipment shall be the essence of the contract. The Contractor (or his authorized agent) shall commission the Machine/Equipment within stipulated time as mentioned in the contract. This time-frame will be applicable from the date of intimation from the consignee in respect of readiness of the machine/equipment for commissioning in cases where the Machine/Equipment is to be installed by the consignee. The time schedule includes the time for installation in cases where work of installation is also to be undertaken by the contractor.

14.1.3. In the event of contractors' failure to have M&P commissioned as per time-period specified in the contract, Purchaser may withhold, deduct or recover from the contractor as penalty, a sum @2% (two percent) of the price of M&P which the contractor has failed to commission as aforesaid for each and every month (part of a month being treated as a full month) during which the M&P may not have been commissioned, subject to an upper limit of 10% (ten percent) of the contract value.

14.1.4. Failure to install and commission the Machine/Equipment within stipulated time after intimation from the consignee will be taken as breach of contract and Purchaser will be at liberty to forfeit the SD (Security Deposit) furnished by the supplier without any prejudice to other rights available to Purchaser under the contract. The continuance of commissioning work after expiry of stipulated time will also constitute default for the purpose of the above. The decision of the Purchaser, whether the delay in commissioning is attributable to the contractor, shall be final.

14.2. Warranty:

14.2.1. Unless otherwise mentioned in specification, the warranty period for M & P items will be 24 months from date of commissioning and proving out of Machine/equipment.

14.2.2. Maximum down time during the warranty period will be 2% for online M&P and 10% for offline M&P calculated on quarterly basis. A maximum period of 2 (two) weeks be allowed for attending and rectification of faults during the warranty period.

14.2.3. A penalty of 0.5% per week (or part thereof) of the contract value will be levied for delay in response time for attending and rectification of faults beyond specified time during the warranty period.

- 14.2.4. Maximum penalty to be levied on account of warranty failure will be 5% of the contract value calculated during whole of warranty period and after that if there is any delay on the part of supplier, the Purchaser shall be entitled for encashment of WBG (Warranty Bank Guarantee). In such cases the bad performance of the supplier/vendor during the warranty period will be recorded and circulated to all units of Indian Railways and it would be considered as a negative factor by Purchaser/tendering agency in evaluation of the vendor's bids in future tenders.
- 14.2.5. All replacement and repairs that the purchaser shall call upon the contractor to deliver or perform under this warranty shall be delivered and performed by the contractor within 1 (one) week, promptly and satisfactorily. The warranty period will be extended by the number of days the machine remains under breakdown during the warranty period and the warranty Bank Guarantee would be returned only at the end of such extended warranty period of the full machine.
- 14.2.6. The Contractor shall replace or repair the equipment or such portion thereof as is found defective by the Purchaser, free of cost at the ultimate destination or at the option of the purchaser, the Contractor shall pay to the Purchaser value thereof at the contract price and such other expenditure and damages as may arise by reason of the breach of the condition herein specified.
- 14.2.7. The decision of the Purchaser in regard to Contractor's liability and the amount, if any, payable under this warranty shall be final and conclusive.
- 14.3. Payment terms and Conditions of AMC (wherever applicable) will be as per terms and conditions of this contract.
- 14.4. The contractor during commissioning of the equipment will also impart training to the employees of consignee for operation and maintenance of machine/equipment supplied.
- 14.5. Unless mentioned otherwise in the specification of tendered item, the contractor is required to provide 2 (two) copies of operation & maintenance manual and the list of mandatory & recommended spares of the Machine/Equipment.

ISSUED BY:

**PRINCIPAL CHIEF MATERIALS MANAGER
EAST CENTRAL RAILWAY, HAJIPUR
DIST. VAISHALI (BIHAR), PIN – 844101**

SECTION- IV: IRS CONDITIONS OF CONTRACT

Note: The IRS Conditions of Contract are issued by Ministry of Railways (Railway Board) and any amendments as applicable on the date of opening of tender shall be applicable to the contract against this tender.

GOVERNMENT OF INDIA (BHARAT SARKAR)

MINISTRY OF RAILWAYS (RAIL MANTRALAYA)

(RAILWAY BOARD)

INDIAN RAILWAY STANDARD CONDITIONS OF CONTRACT

0100 Definitions and Interpretation :

“E-Tender” means Tender document duly uploaded on Railway’s authorized website: www.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 dispatched 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 dispatch 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 works under the contract and includes his authorized 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 standardizing 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 Information Technology 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 5 per cent of the total value of the stores detailed in the contract for which, the tender has been accepted. 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,
- 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 dispatched 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 installment 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 0.5 per cent of the price of the 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 week or part of a week during which the delivery of such stores may be in arrears where delivery thereof is accepted after expiry of the aforesaid period, or
- (b) Risk Purchase clause is deleted for all orders where Security deposit has been obtained. 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. In such cases, the quantities unsupplied shall be procured independently without risk and cost of the original firm/supplier. 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. Such cases which are not covered under) 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 Samples submitted shall be clearly labeled 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 they 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.

1301(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 installment 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 cannot 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 notwithstanding 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 dispatch 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 dispatch 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) 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 license or permit required for the fulfillment 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 license 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.

1601 Use of Raw Materials secured with Government Assistance

- (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 license 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, license 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 fulfillment 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 installment 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 installment 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 dispatch 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 dispatched at public tariff rates. In the case of FOR station of dispatch contract, the stores shall be booked by the most economical route or most economical tariff available at the time of dispatch 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:

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

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

2900 Settlement of Disputes

2901 Conciliation of disputes: All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the currency of the contract or after its completion and whether before or after the determination of the contract, shall be referred by any of the parties to the concerned "Chief Materials Manager (CMM) " or "Divisional Railway Manager" or "Executive Director" through "Notice of Dispute". CMM or Divisional Railway Manager or Executive Director shall, within 30 days after receipt of "Notice of Dispute", notify the name of sole conciliator to the parties.

The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner within the terms of contract.

If the parties reach agreement on settlement of the dispute, they shall draw up a written settlement agreement duly signed by parties and conciliator. When the parties sign the settlement agreement, it shall be final and binding on the parties.

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of dispute that is the subject matter of the conciliation proceedings.

The conciliation proceedings shall be terminated:

1. By the signing of the settlement agreement, on the date of agreement; or
2. By written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of declaration; or
3. By a written declaration of any party to the conciliator to the effect that the conciliation proceedings are terminated, on the date of declaration;

2902 Matters Finally Determined by the Railway: All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the currency of the contract or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the General Manager (for the purpose of para 2900 the term General Manager shall

imply Additional General Managers of Zonal Railways , General Managers for Production Units, Director General (Railway Stores), Member of the Railway Board, Head of the Organization in case of contracts entered into by other organizations under the Ministry of Railways) and the General manager shall, within 120 days after receipt of the representation, make and notify decisions on all matters referred to by the Contractor in writing. Provided that matters for which provision has been made in any Clause of the Special or General Conditions of the Contract shall be deemed as 'excepted matters' (matters not arbitrable) and decisions of the Railway authority, thereon shall be final and binding on the Contractor; provided further that 'excepted matters' shall stand specifically excluded from the purview of the Arbitration Clause. Provided further that where Railways has raised the dispute, para 2902 shall not apply.

2903 Demand for Arbitration:

2903(i): In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account, or if the Railway fails to make a decision within 120 days (as referred in 2902), then and in any such case, but except in any of the "excepted matters" referred to in Clause 2902 of these Conditions, parties to the contract, after 120 days but within 180 days of their presenting their final claim on disputed matters shall demand in writing that the dispute or difference be referred to arbitration. **Provided that where the claim is raised by Railways para 2903(i) shall not apply.**

2903(ii)(a): The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item-wise. Only such dispute or difference, in respect of which the demand has been made, together with counter claims or set off, shall be referred to arbitration and other matters shall not be included in the reference.

2903(ii)(b): The parties may waive off the applicability of Sub-Section 12(5) of Arbitration and Conciliation Act 1996 (as amended), if they agree for such waiver in writing, after dispute having arisen between them.

2903(iii)(a): The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the Railway.

2903(iii)(b): The claimant shall submit his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.

2903(iii)(c): Respondent shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal, unless otherwise extension has been granted by Arbitral Tribunal.

2903(iii)(d): Place of Arbitration: The place of arbitration would be within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway or any other place with the written consent of both the parties.

2903(iv): No new claim shall be added during proceedings by either party. However, a party may amend or supplement the original claim or defence thereof during the course of arbitration proceedings subject to acceptance by Tribunal having due regard to the delay in making it.

2904 Obligation During Pendency of Arbitration: Supplies under the contract shall, unless otherwise directed by the Purchase Officer, continue during the arbitration proceedings, and no payment due or payable by the Railway shall be withheld on account of such proceedings, provided, however, it shall be open for Arbitral Tribunal to consider and decide whether or not supplies should continue during arbitration proceedings.

2905 Appointment of Arbitrator:

2905(a) Appointment of Arbitrator where applicability of section 12(5) of Arbitration and Conciliation Act has been waived off:

(i): In cases where the total value of all claims in question added together does not exceed Rupees 1,00,00,000/- (Rupees One Crore only), the Arbitral Tribunal shall consist of a Sole Arbitrator who shall be a Gazetted Officer of Railway not below Junior Administrative Grade, nominated by the General Manager. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by General Manager.

(ii): In cases where the total value of all claims in question added together exceeds Rupees 1,00,00,000/- (Rupees One Crore only), the Arbitral Tribunal shall consist of a panel of three Gazetted Railway Officers not below Junior Administrative Grade or 2 Railway Gazetted Officers not below Junior Administrative Grade and a retired Railway Officer, retired not below the rank of Senior Administrative Grade Officer, as the arbitrators. For this purpose, the Railway will send a panel of at least four (4) names of Gazetted Railway Officers of one or more departments of the Railway which may also include the name(s) of retired Railway Officer(s) empanelled to work as Railway Arbitrator to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by the General Manager.

Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as Contractor's nominee within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the Contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'presiding arbitrator' from amongst the 3 arbitrators so appointed. General Manager shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them is from the Accounts Department. An officer of Selection Grade of the Accounts Department may be considered of equal status to the officers in Senior Administrative Grade of other departments of the Railway for the purpose of appointment of arbitrator.

iii: The serving railway officer working in arbitral tribunal in the ongoing arbitration cases as per clause 2905(a)(i) and clause 2905(a)(ii) above, can continue as arbitrator in the tribunal even after his retirement.

2905(b): Appointment of Arbitrator where applicability of Section 12 (5) of Arbitration and Conciliation Act has not been waived off:

(i) In cases where the total value of all claims in question added together does not exceed Rupees 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of a Retired Railway Officer, retired not below the rank of Senior Administrative Grade Officer, as the arbitrator. For this purpose, the Railway will send a panel of at least four (4) names of retired Railway Officer(s) empanelled to work as Railway Arbitrator duly indicating their retirement dates to the Contractor within

60 days from the day when a written and valid demand for arbitration is received by the General Manager.

Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as arbitrator within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the arbitrator.

(ii) In cases where the total value of all claims in question added together exceeds Rupees 50,00,000/- (Rupees Fifty Lakh only), the Arbitral Tribunal shall consist of three (3) retired Railway Officers, retired not below the rank of Senior Administrative Grade Officer,. For this purpose, the Railway will send a panel of at least four (4) names of retired Railway Officer(s) empanelled to work as Railway Arbitrators duly indicating their retirement date to the Contractor within 60 days from the day when a written and valid demand for arbitration is received by the General Manager.

Contractor will be asked to suggest to General Manager at least 2 names out of the panel for appointment as Contractor's nominee within 30 days from the date of dispatch of the request by Railway. The General Manager shall appoint at least one out of them as the Contractor's nominee and will, also simultaneously appoint the balance number of arbitrators either from the panel or from outside the panel, duly indicating the 'Presiding Arbitrator' from amongst the 3 arbitrators so appointed. General Manager shall complete this exercise of appointing the Arbitral Tribunal within 30 days from the receipt of the names of Contractor's nominees. While nominating the arbitrators, it will be necessary to ensure that one of them has served in the Accounts Department.

2905(c)(i): If the contractor does not suggest his nominees for the arbitral tribunal within the prescribed timeframe, the General manager shall proceed for appointment of arbitral tribunal within 30 days of the expiry of such time provided to contractor.

2905(c)(ii) If one or more of the arbitrators appointed as above refuses to act as arbitrator, withdraws from his office as arbitrator, or vacates his/their office/offices or is/are unable or unwilling to perform his functions as arbitrator for any reason whatsoever or dies or in the opinion of the General Manager fails to act without undue delay, the General Manager shall appoint new arbitrator/arbitrators to act in his/their place in the same manner in which the earlier arbitrator/arbitrators had been appointed. Such re-constituted Tribunal may, at its discretion, proceed with the reference from the stage at which it was left by the previous arbitrator (s).

2905(c)(ii)(a) Fast Track procedure: Parties to the arbitration agreement, may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their dispute resolved by fast track procedure specified in Section 29B of the Arbitration & Conciliation Act, 1996, as amended.

2905(c)(ii) (b) Before proceeding into the merits of any dispute, the Arbitral Tribunal shall first decide and pass its orders over any plea submitted/objections raised by any party, if any, regarding appointment of Arbitral Tribunal, validity of arbitration agreement, jurisdiction and scope of the Tribunal to deal with the dispute (s) submitted to arbitration, applicability of time 'limitation' to any dispute, any violation of agreed procedure regarding conduct of the arbitral proceedings or plea for interim measures of protection and record its orders in day to day proceedings. A copy of the proceedings duly signed by all the members of tribunal should be provided to both the parties.

2905(c)(iii): (i) Qualification of Arbitrator (s):

- (a) Serving Gazetted Railway Officers of not below JA Grade level.
 - (b) Retired Railway Officers not below SA Grade level, one year after his date of retirement.
 - (c) Age of arbitrator at the time of appointment shall be below 70 years.
- (ii) An arbitrator may be appointed notwithstanding the total number of arbitration cases in which he has been appointed in the past.
- (iii) While appointing arbitrator(s) under Sub-Clause 2905(a)(i), 2905(a)(ii), 2905(b)(i) & 2905(b)(ii) above, due care shall be taken that he/they is/are not the one/those who had an opportunity to deal with the matters to which the contract relates or who in the course of his/their duties as Railway servant(s) expressed views on all or any of the matters under dispute or differences. A certification to this effect as per annexure shall be taken from Arbitrators. The proceedings of the Arbitral tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

2905(d)(i): The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred there from.

2905(d)(ii): A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award.

2905(d)(iii): A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

2906: In case of the Tribunal, comprising of three members, any ruling on award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.

2907: Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

2908(a): The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s), as per the rates fixed by Railway Board from time to time and the fee shall be borne equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble Court otherwise on the matter.

2908(b): Sole arbitrator shall be entitled for 25% extra fee over the fee prescribed by Railway Board from time to time.

2909 The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to make a reference to Micro and Small Enterprises Facilitation Council, if the dispute is in regard to any amount due under Section 17 of the MSMED Act, 2006. In case a Micro or Small Enterprise, being a party to dispute, makes a reference under the provisions in MSMED Act 2006, the provisions of the MSMED Act 2006, shall prevail over conciliation and arbitration agreement as contained in the contract.

2910 Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 and the rules there under and relevant para of IRS Conditions of Contract and any statutory modifications thereof shall apply to the appointment of arbitrators and arbitration proceedings under this Clause.

3000 Fall Clause: Deleted unless Stated

The contract if and when placed will be subject to following fall clause: —

3001. The price charged for the stores supplied under the Contract by the contractor shall in no event exceed the lowest price at which the contractor sells the stores or offer to sell stores of identical description. To any persons/organisations including the purchaser or any Department of the Central Government or any Railway Office or any Railway Undertaking, as the case may be during the period till performance of all Supply Orders placed during the currency of the contract is completed. The lower price will be applicable to supplies made after the date of coming into force of such reduction or sale or offer to sell at a reduced rate.

3002. If at any time, during the said period the contractor reduces the sale price, sells or offer to sell such stores to any persons organisation including the purchaser or any Department of Central Government or any Railway Office or any Railway Undertaking as the case may be at a price lower than the price chargeable under the contract, he shall forthwith notify such reduction or sale or offer of sale to the Purchaser and the price payable under the contract for the stores supplied after the date of coming into force or such reduction or sale or offer of sale shall stand correspondingly reduced.

The above stipulation will, however, not apply to :

- (a) Exports by the Contractor
- (b) Sale of goods as original equipment at prices lower than the prices charged for normal replacement.
- (c) Sale of goods such as drugs which have expiry dates.

3003. The Contractor shall furnish the following certificate to the concerned Accounts Officer along with each bill for payment of supplies made against the Rate Contract.

* I/We certify that there has been no reduction in sale price of the stores of description identical to the stores supplied to the Government under the contract herein and such stores have not been offered/ sold by me/us to any person/organisation including the purchaser or any Department of Central Government or any Railway Office or any Railway Undertaking as the case may be upto the date of bill/ the date of completion of supplies against all supply orders placed during the currency of the contract at a price lower than the price charged to the Government under the contract except for quantity of stores categories under sub-clauses (a), (b) and (c) of sub-para (ii) above, details of which are as follows:—

Note.—The contractor will also inform the FA & CAO concerned and the COS as soon as supplies against all supply order placed against the contract are completed.

3100 Inspection & Rejection

Where under a contract the price payable is fixed on F.O.R. station of dispatch 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 thereof 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).
- (ii) 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.
- (iii) 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 Contractor's 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).
- (iv) 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
- (v) 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 judgment 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 at 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:

- (i) 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.
- (ii) That no increase in price on account of any statutory increase in or fresh imposition of GST, Customs Duty, Excise Duty, Sales Tax on account of Foreign Exchange variation or on account of any other tax/ 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.
- (iii) That notwithstanding 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.
- (iv) But nevertheless, the Purchaser shall be entitled to the benefit of any decrease in price on account of reduction in or remission of GST, Custom Duty, Excise Duty , Sales Tax or on account of Foreign Exchange variation or on account of any other tax/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 dispatch 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 dispatched 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 within 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:

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 authorize 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 Purchase 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 dispatch the full quantity of the stores so ordered within 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 within 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 dispatched under the contract.

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

PART · II

SECTION· III: ANNEXURES

ANNEXURE – A : DECLARATION BY BIDDERS FOR EMD EXEMPTION

(Reference: [Clause 11.4 of Instructions to Tenderers](#))

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 the 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 documents/Notice Inviting Tender, I/We shall be debarred from exemption of submitting Bid security/Earnest Money Deposit and performance security/ security deposit for as 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.

ANNEXURE – B : NO CLAIMS CERTIFICATE TO BE GIVEN BY CONTRACTOR

(Reference: [Clause 12.3.1 of Instructions to Tenderers](#))

Contract No. _____ dt. _____ for
supply of _____ (Brief description of material) Quantity.- _____

The above contract has been completed and I / We have no claim on the Railway in respect of the said contract. The Security amount of Rs. _____
(Rupees _____) vide details
_____ dt. _____ may therefore please be refunded to me / us.

Place: _____

Date: _____

Signature and full address of the contractor

ANNEXURE - C: FORMAT OF BANK GUARANTEE (BG) FOR SECURITY DEPOSIT (SD)

(Reference: [Clause 12.1.9 of Instructions to Tenderers](#))

Format or BG (Bank Guarantee) for SD (Security Deposit)

Bank Guarantee (BG) No.

Date

Amount of BG

Validity of BG

Contract/Tender No.

To,

The President of India

acting through :

Principal Financial Adviser

East Central Railway,

Hajipur – 844101 (Bihar)

- 1.0** Against contract concluded vide advance acceptance datedissued (----- (hereinafter called " *the said Agreement* ") by PCMM/ECR-Hajipur on behalf of the President of India (hereinafter called " *the Government* ") in tender No..... opened onfor supply of(Description of goods and services) with M/s(hereinafter called " *the said Contractor* ") and as per terms and conditions of tender/advance acceptance , security deposit (SD) is required to be submitted by the said Contractor as security towards the performance of contract and the said Contractor has approached us for same , we(Name of Bank) issue this Bank Guaranteedated..... for Rs ----- (Rupees ---- only),
- 2.0** We (Bank) do hereby irrevocably undertake and guarantee to pay to the Government 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 of any of the terms or conditions contained in the said Agreement or by reason of the said 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 -----.

- 3.0** We (Bank) undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the said Contractor 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 Guarantee shall be a valid discharge of our liability for payment thereunder and the said Contractor shall have no claim against us for making such payment.

- 4.0** We (Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the satisfactory 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 the official authorized by the Government (Purchaser : PCMM/ECR-Hajipur) certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor and accordingly discharges this Guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the ----- (date) , we shall be discharged from all liability under this Guarantee thereafter.

- 5.0** We (Bank) further agree 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 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 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 under this Bank Guarantee by reason of any such variation or extension being granted to the said Contractor or for any forbearance , act or omission on the part of the Government or any indulgence by the Government to the said Contractor or by any other matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us from our liability under this Bank Guarantee.

- 6.0** This Guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor

- 7.0** We (Bank) undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing

- 8.0** This Bank Guarantee shall be irrevocable and shall remain valid upto 04.00 P.M. on.....(date). If further extension to this guarantee is required, the same shall be extended for such required period on receiving instructions from the said Contractor on whose behalf this Bank Guarantee is issued.

Date		Signature of Bank's official	
Place		Name	

Signature of witness Name, Address and Phone No.		Bank's common seal	
		Address of Bank	
		Phone No.	
		Email	

Note: Bank guarantees (BG) is acceptable from all nationalized/scheduled banks and it should be executed on non-judicial stamp paper of appropriate value duly attested by Notary Public or Executive Magistrate. BG should be sent by the issuing Bank directly to the concerned authorities of Purchaser, under registered post AD (acknowledgement)..

ANNEXURE – D: FORMAT FOR BG FOR WARRANTY (WBG)

(Reference: [Clause 24.4 of Instructions to Tenderers](#))

Bank Guarantee (BG) No. |

Date

Amount of BG

Validity of BG

Contract No.

To,

The President of India

acting through :

Principal Financial Adviser

East Central Railway,

Hajipur – 844101 (Bihar)

- 1.0** Whereas M/s. _____, hereinafter called the “Sellers” have agreed to sell to you (hereinafter referred to as the “Government”) _____ Nos. of _____ (Description of goods and services) as per Contract No. _____ dated _____ (hereinafter called “the said contract”).
- 2.0** And whereas according to the terms of said contract, it has been stipulated that payment of 10 % 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 Warranty obligations and Warranty Period as per the terms and conditions of the contract.
- 3.0** And whereas the Sellers have approached us to give the said Bank Guarantee on their behalf in your favour for an amount representing 10 per cent of the values of contract which you have agreed to accept.
- 4.0** 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 up to a maximum amount of Rs. _____ (in figures and words) 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.

- 5.0** 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.
- 6.0** The 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 said contract with the said Sellers without affecting or impairing this guarantee or our liability hereunder
- 7.0** 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 thereto 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.
- 8.0** Bank guarantee comes into force when the balance ten percent of the value of the stores shipped per Vessel _____ vide Bill of Lading No. _____ dated _____ or Railway Receipt 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. up to _____ (date), hereinafter called the said date.
- 9.0** This guarantee will not be discharged due to the change in the constitution of the Bank or the Sellers.
- 10.0** We (Bank) undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing
- 11.0** This Bank Guarantee shall be irrevocable and shall remain valid upto 04.00 P.M. on.....(date). If further extension to this guarantee is required, the same shall be extended for such required period on receiving instructions from the said contractor on whose behalf this bank guarantee is issued.

Date		Signature of Bank's official
Place		Name
Signature of witness		Bank's common seal
Name, Address and Phone No:		Address of Bank
		Phone No.
		Email

Note: Bank guarantees (BG) is acceptable from all nationalized/scheduled banks and it should be executed on non-judicial stamp paper of appropriate value duly attested by Notary Public or Executive Magistrate. BG should be sent by the issuing Bank directly to the concerned authorities of Purchaser, under registered post AD (acknowledgement).

ANNEXURE – E: MANDATE FORM FOR NEFT/RTGS

From: (Vendor/Bidder)

To: (Purchaser)

M/s.

PCMM

East Central Railway,

Hajipur – 844101 (Bihar)

Sub **Details for payment through NEFT/RTGS**

:

Our payments may be made through the NEFT/RTGS scheme of RBI/Railways account as per following details

1. Name of supplier as per Bank Account
2. Address of supplier
3. Email of supplier
4. Mobile No. of supplier
5. Name of Bank
6. Name and address of Bank's Branch
7. Telephone / Email / Fax of Branch
8. Code No. of Bank
9. Code No. of Bank's Branch.
10. Account No.
11. Type of Account
(Saving/Current/Cash Credit)
12. IFSC code for NEFT
13. MICR No.

Note :

1. Please **attach** a blank **cancelled cheque** of your above bank account or front page of your **passbook** issued by Bank for verification of the particulars.
2. Please submit **hard copy** (original) of this mandate to the Purchaser within 10 days of tender closing alongwith above cancelled cheque/Front Page of Passbook

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

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

(Signature of Bank's authorized official with stamp)

Signature of the supplier with stamp

Address	
Mobile No.	

ANNEXURE – F: FORMAT FOR PERFORMANCE STATEMENT

Tender No. of ECR	
Tender closing date	
Description , Drawing & specification of tendered item	
<i>The information should be relevant to supply of tendered item (and/or similar item) only</i>	

Contract No. and date	Name of Purchaser/ organization	Description of item	Quantity ordered	Quantity supplied Within original DP	Landed Rate	Inspection certificate No	Receipt Note & its date

(Name & Signature of the bidder with stamp)			
Date		Address	
Place		Email	
Mobile No.		Fax No.	

ANNEXURE – G: FORMAT FOR MANUFACTURING CAPABILITY OF BIDDERS

<i>The information should be relevant to the manufacture and supply of tendered item only.</i>			
1.	Name & full address of the bidder/vendor		
2.	Telephone (Landline, Mobile/fax) of Office/Factory/Works)		
3.	E -mail address.		
4.	Address of the manufacturing factory/works		
5	Details of factory /industry license		
6.	Details of plant & machinery.		
	<i>SN</i>	<i>Name of machine</i>	<i>Make/Cpacity Installed on</i>
			<i>Purpose</i>
			<i>Working status</i>
7.	Details of Testing instruments & quality contolr facilities		
	<i>SN</i>	<i>Name of instrument/facility</i>	<i>Make/Range</i>
			<i>Purpose</i>
			<i>Working status</i>
8.	Details of manpower		
	<i>Qualification</i>	<i>Enginee r</i>	<i>Diploma</i>
			<i>ITI</i>
			<i>Others</i>
	<i>No.</i>		
9.	Monthly production capacity for tendered item		
10.	Registration and approval documents (Railways, MSE/NSIC, ISO, etc.) : attach copy of current and valid certificates		
(Name & Signature of the bidder with stamp)			
Date		Address	
Place		Email	
Mobile No.		Fax No.	

ANNEXURE – H: CRITERIA AND FORMAT FOR ASPECT OF SISTER CONCERN OF FIRMS VENDORS OF FIRMS/VENDOR/BIDDERS

A, The firms qualifying the following criteria shall be categorized as Allied/Sister-concerns:

- i) **Proprietary Firms** All the firms owned by the same person shall be considered as Allied / Sister-concerns.
- ii) **Partnership Firm**
 - a) All the firms having the same set of partners.
 - b) Firms having one or more common partner(s), having profit sharing ratio of 20% or more in the firms.
- iii) **Companies**
 - a) Firms having one or more common Director(s) or any of his/her close relative has one-third or more shareholding in the firms.
 - b) Firms having common share holder having one-third shares or more in the firms.
- iv) **Other Conditions** In addition to this, the firms/companies operating from same office or having same manufacturing works shall be treated as allied/sister concern.

B. Information and declaration regarding Sister-concern (to be filled-in by bidder)

- 1. **Type of firm** Proprietary/ Partnership/Company:
- 2. **Name & address of owner**
- 3. **For Partnership firms :**

Name & Address of Partner, with their profit-sharing ratio.

(attach self-certified copy of latest supporting documents : deed of partnership and Certificate from Registrar of firms)

SN	Name of Partner	of	Father's name	Age	Address	Profit sharing Ratio / Percentage Share
----	-----------------	----	---------------	-----	---------	---

4. For Companies :

Name & Address of Director and their relation to the person holding shares

(attach self-certified copy of latest supporting documents : Certificate of company Registration, *Memorandum and Articles of association*)

SN	Name of Director	Father's name	Age	Address	Profit sharing Ratio / Percentage Share
----	------------------	---------------	-----	---------	---

5. Name & Address of Shareholder having shares more than one-third of total shares.

SN	Name of Shareholder	Father's name	Age	Address	Percentage Share
----	---------------------	---------------	-----	---------	------------------

6. Address of office and manufacturing works from where Firm/Company is operated.**7. Details about sister-concerns (Firms either approved for the tendered item or quoted in present tender directly (or through their dealers)**

SN.	Name of Firm	Type of Firm (Proprietary/ Partnership/ Limited Company)	Work Place	Address	Ownership details (Name and Percentage Share)	Business details
-----	--------------	--	------------	---------	--	------------------

8. Declaration

I hereby certify the information furnished by me/us is correct and true, I have read tender conditions and fully understand that If it is found at any stage of tender/contract that there been wrong information or concealing of facts on part of bidder/supplier, it shall render the bid/contract liable for rejection/cancellation, in addition to other penal action which may be taken by Purchaser under provisions of laws governing the tender/contract.

(Name & Signature of the bidder with stamp)

Address

Phone No./Mobile

Fax No.

Email

ANNEXURE – I: LIST OF ITEMS FOR WHICH SUFFICIENT LOCAL CAPACITY AND LOCAL COMPETITION EXISTS.

(Reference: 9.4.4.1)

1. S&T Items

In respect of following items (List A and List B), for which sufficient local capacity and local competition exists, only Class I local suppliers shall be eligible to bid for supply of these items irrespective of the purchase value:

List A

SN	Item	Reference
1	Point Machine	D.5
2	Signal Unit	C.1
3	Shunt Signal – Position Light type	C.2
4	Electric Point & Lock Detector	D.2
5	Electric Key Transmitter	D.3
6	Double Line Block Instrument	A.4
7	Single Line Token Block Instrument (Handle Type)	A.5
8	Single Line Neale's Ball Token Block Instrument	A.6
9	Nylon Insulated Joints	H.8
10	Electric Lifting Barrier	J.1
	Above References/S.Nos. are from DOC No.QS-M-8.2.1-1 Version 1.0 issued by RDSO i.e. VENDOR DIRECTORY (SIGNAL & TELECOM) (Validity 01-01-2019 to 30-06-2019).	

List B

SN	Item	Reference
1	Cable (All Types)	B
2	LED Signal-Lighting Units for Railway Signalling	C-7
3	LED Signal Lamps for Main Color Light Signal for Railway Signalling	C-8
4	Electric Point Machine (Non-Trailable Type)	D-5

5	Motors for Electric Signal Machine	D-6
6	ARA Terminal Blocks and Fuse Blocks- Made PBT/Polycarbonate	E-2
7	Battery Charger for Railway S&T Installations	F-1
8	Track Feed Battery Charger	F-2
9	'SITEL' Primary Cells (Dry, Lachlanche Type) for Railway S&T Installations	F-7
10	Low Maintenance Lead Acid Stationary Secondary Cells for S&T installations	F-8
11	Solar Photo – Voltaic Module	F-10
12	RELAYS – Universal Plug-in type AC Lamp Proving Relay (M to C Contact) for LED Signal Lamp	G-1
13	Relays – 'Q' Series Neutral Line (ACI & Non-ACI)	G-3
14	RELAYS – Plug-in type, Track Relay 9 & 4 Ohm (ACI and Non-ACI)	G-4
15	Relays – Special Type (Metal to Carbon)	G-5
16	Choke Coil for Single Rail Track Circuits on 25 KV 50Hz AC electrified sections	H-6
17	Thermoplastic Poly Urethane Insulators for Railway Signalling	H-8
18	Fail Safe Electronic Time Delay Device for Railway Signalling	I-3
Above References/S.Nos. are from DOC No.QS-M-8.2.1-2 issued by RDSO i.e. VENDOR DIRECTORY (SIGNAL & TELECOM) (Validity 01.01.2020 to 31.06.2020)		

Requirement of a vendor to be a Class I local supplier (self-certification by bidder as per PPP-MII order 2017 as amended), for the above listed items, shall be a mandatory condition in addition to other qualifying criteria, including status of RDSO approval, which may be applicable for purchase of the item.

2. Wagon Items

In view of sufficient local capacity and local competition, all types of wagons and all spares and components required for manufacture and maintenance of wagons, including hardware and consumables, shall be procured, irrespective of the purchase value, from Class I Local Suppliers only, except for the following items, in procurement of which this restriction shall not apply.

S N	Item
1	Automatic Twist Lock to RDSO Document No. CONTR-01-MSG-ATL-2011 and envelope drg no. CONTR -9405/S/ 21
2	Grease for CTRB Class E & Class K to RDSO specification No. WD-24-MISC-2003
3	Steel: For procurement of Steel the notification of Ministry of Steel on Policy for providing preference to domestically manufactured Iron & Steel Products in Government procurement (Ministry of Steel Gazette notification dated 29/05/2019, latest amended) shall apply.

END OF INTEGRATED BID DOCUMENT