



**SOUTH EAST CENTRAL RAILWAY**



### **PLEASE NOTE**

1. ALL COLUMNS SHOULD BE FILLED AND BLANK COLUMNS IF ANY SHOULD BE MARKED AS – NIL .
2. PLEASE READ THE INSTRUCTION TO TENDERERS, THE GENERAL AND SPECIAL TENDER CONDITIONS, IRS CONDITIONS OF CONTRACT AND ADDITIONAL SPECIAL CONDITIONS OF CONTRACT BEFORE FILLING UP THE TENDER FORM. PLEASE SIGN ON EACH PAGE.
3. YOUR SIGNATURE ON THE TENDER FORM WILL BE INDICATIVE THAT YOU HAVE READ AND ACCEPTED THE CONDITIONS AS ENCLOSED AND REFERRED.
4. THE TENDERERS MAY DOWNLOAD TENDER FORM FROM THE WEB SITE [secr.gov.in](http://secr.gov.in) AND SHOULD ENCLOSE COST OF THE TENDER FORM IN THE FORM OF CASH RECEIPTS/ DD IN FAVOUR OF FA& CAO, SOUTH EAST CENTRAL RAILWAY, BILASPUR.

The Tender document consists of the following:

1. Tender Schedule and offer form along with Appendix I,II &III.
2. Instructions to the tenderers
3. General Tender Conditions
4. Special Tender Conditions (wherever applicable)
5. IRS Conditions of contract and Additional Special Conditions of Contract.
6. Standard Proforma for the following:
  - (a) Earnest Money Bank Guarantee
  - (b) SD Bank Guarantee
  - (c) Warranty Bank Guarantee.
7. EFT Mandate form.

### **INSTRUCTIONS TO THE TENDERERS**

The Stores tenders published by the Controller Of Stores, South East Central Railway are published under Stores Tenders of South East Central Railway's Internet site [secr.gov.in](http://secr.gov.in). This site also permits downloading of the tender documents. The intending tenderers may visit this site and download the tender document. While submitting the Tender documents, they should attach a Demand Draft drawn in a nationalized bank in favor of " FA&CAO/ South East Central Railway", payable at Bilaspur/ Cash Receipt , towards the cost of the tender document. If the tenderer is eligible for free Tender Schedule, eligibility proof such as NSIC certificate should be enclosed along with the Tender.

Payment through EFT: South East Central Railway have started making payments through EFT system for quick money transfer to the tenderers account.

- i) Tenderer to give consent in a mandate form for receipt of payment through EFT (As per the form given at the end of this document);

- ii) Tenderer to provide the details of Bank Account in line with RBI guidelines for the same. These details will include Bank Name, Branch Name & Address, Account type, Bank Account No; and Bank & Branch code as appearing on MICR cheque issued by bank;
- iii) Tenderer to attach certificate from to their bank certifying the correctness of all above mentioned information (as mentioned in para (ii) above);
- iv) In case of non-payment through EFT or where EFT facility is not available payment will be released through cheque.

**1. Submission of Offers and Filling of Tender:**

- 1a. This tender should be duly filled in (in the enclosed Offer Form and Tender Schedule), duly signed at relevant places and submitted in a sealed cover addressed to The Controller of Stores, South East Central Railway, GM Annexe Building, Bilaspur-495004 superscribed with the following words:-

"Tender No.....due date of opening ..... opening time ....." .

- 1b. Tender form is not transferable and the tender should be submitted by the party in whose favour the same has been issued or sold.
- 1c. Tenderers, other than those submitting their offers in downloaded tender documents, should quote in the prescribed form, duly filled in and signed, accompanied with the signed Tender documents. Tenderers, falling in this category, may also quote in their own letter-head, accompanied with signed tender documents. For such offers without signed tender documents, the Railways reserve their right to ignore the same. However, these may be considered on merits in deserving cases. In the event of placement of orders on such Tenderers, they shall have to sign the Tender documents (sent by the Railways or subsequently on payment) as token of acceptance of General and Special Conditions of Tender and IRS Conditions of Contract, before placement of orders on them.
- 1d. Offer form, tender schedule and firm's letter head (if used) must be duly signed by the tenderer in each page.
- 1e. Even if not able to quote, Tenderers are requested to return this tender without fail, by the due date duly signed with the words "NO QUOTATIONS" written across the face of it.
- 1f. The Tenderers should avoid over writings and corrections. However if such corrections and over writings become inescapable, these are to be properly and legibly corrected. Offers with correction/ over writing should be properly attested by the Tenderer at every correction.
- 1g. The rates quoted should be written both in words and figures. The unit of rates should be in metric system and as per tendered specification/schedule. In case of difference between words and figures, the rate in words will prevail. However this does not preclude the Railways for availing themselves of the lower rates of the two.
- 1h. Tenderers are requested to go through the IRS Conditions of Contract, Special Conditions of Contract, Instructions to tenderers, General and Special Tender conditions carefully and note that, by submitting the tender documents, duly signed, they have accepted these conditions and undertake to abide by these conditions.

## **2. EARNEST MONEY DEPOSIT & SECURITY DEPOSIT:**

### **2.1 EARNEST MONEY DEPOSIT: FOR OPEN TENDERS:**

2.1.1 Earnest Money may not be taken from other Railways, Govt. Departments, SSI units registered by NSIC, manufacturers and their authorized agents and firms borne on the list of the approved sources of Railway/RDSO/DLW/CLW/ICF/RCF/CORE,etc. The Earnest Money may not be taken also from tenderers who are registered with S.E.C. Railway.

2.1.2 In this connection, it may be noted that such waiver of Earnest Money in favour of SSI Units registered with NSIC and firms registered with the Railways may be considered in respect of items/Trade Groups for which, the tenderer is registered with the Railways/NSIC and upto a value equal to monetary limit of such registration.

**2.1.3 The amount of EMD to be taken in Advertised tenders wherever applicable, will be 2% of the estimated tender value subject to an upper limit of**

- a) Rs.5 Lakh for tenders valuing upto Rs. 10 Crores and*
- b) Rs.10 Lakhs for tenders valuing above Rs.10 Crores.*

**2.1.4 EMD should remain valid for a period of 45 days beyond the final bid validity period.**

2.1.5 Tenderers seeking waiver of/exemption from payment of Earnest Money shall have to submit requisite documentary evidence in support of their claim. **For the other tenderers, Earnest Money as stipulated in the Notice for Invitation of Tenders (NIT) will have to be paid.**

2.1.6 Tenderers other than those who are exempt from paying Earnest Money or in whose favour Earnest Money Payment may be waived as detailed in the preceding paragraphs shall be required to give Earnest Money failing which, their offers shall be liable to be ignored.

2.1.7 Forfeiture of Earnest Money:

When the tenderers undertake to keep the offers valid for a particular period but if the offer is withdrawn or revised within the validity period, the Administration gets the right to forfeit the Earnest Money Deposit.

**2.2 SECURITY DEPOSIT:** Please note the following conditions of **IRS Conditions of Contract:**

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

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

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

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

- a) Vendors registered with NSIC upto the monetary limit of their registration for the items ordered.
- b) Vendors registered with Railways upto the monetary limit of their registration for the items ordered/trade groups for items ordered or vendors on approved list of RDSO/PUs/CORE/Railways etc. for those specific items for which they are on approved list or other Railways, Govt. Departments on their specific request and on merits of the case as considered by tender committee.
- c) Tenderers seeking waiver of Security Deposit on this ground shall have to submit requisite documentary evidence.

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

**2.2.5 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.**

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

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

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

**2.2.8 Para 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 deposit at its original limit by making further deposits, provided further that the Purchaser shall be entitled to recover any such claim from any sum then due or which at any time thereafter may become due to the Contractor under this or any other contracts with the Purchaser.

**2.2.9** The Earnest Money and Security Deposit is to be paid in any of the manner prescribed below.

1. Government securities at 5 percent below the market value.
2. Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds of the State Bank of India or any of the Nationalised Bank.
3. Deposit Receipts, Pay Orders, Demand Drafts and Guarantee Bonds issued by any Scheduled Commercial Bank.
4. Deposit Receipts, of the Post Office Saving Bank.
5. The Bond of Indian Railway Finance Corporation (in case of bonds issued under non-cumulative interest scheme, post dated interest warrants should be submitted along with the bonds and the interest warrants could be given back as and when the interest becomes due) and KRCL Bonds of Rs.1000 each.

**2.2.10** Bank Guarantees (BGs) to be submitted by suppliers/ contractors should be as per the standard proforma enclosed and sent directly to the concerned authorities by the issuing Bank under registered Post A.D.

Payment of Security Deposit and Earnest Money in the form of Pay Order/Demand Draft should be made in favor of **FA&CAO** only.

**3. FAX Quotations and late Tenders:**

- i. Offer received through FAX may be considered in case of procurement of items through proprietary article certificate & single tender only subject to the firm submitting post confirmation copy on their letter head duly signed by the authorized person as per the tender conditions within ten working days from the date of opening.
- ii. However for other type of the tenders i.e. for Bulletin Limited and Advertised open tenders etc. offers received through FAX and found in the tender box at the time of the opening of tenders and complete in all respects and duly signed by the authorized signatory should be treated as in time offer subject to the firm/firms submitting post confirmation copy duly signed by the authorized person as per the tender conditions within ten working days from the date of opening.
- iii. The time limit for receiving confirmation copy of the FAX offers, received from foreign firms against Global Tenders is 21 (twenty one) days.
- iv. All other offers received by FAX not covered in para (i), (ii) & (iii) above shall be treated as invalid. The offers received by FAX as covered in para

- (ii & iii) above shall be deemed as unresponsive in case the conformation copy is not received within the time stipulated in para(ii & iii) above.
- v. No purchase order shall be issuing against the FAX offers without receipt of the conformation copy of the same.
  - vi. It shall be the sole responsibility of the tenders to ensure that the offers submitted by FAX are dropped in appropriate tender box in sealed cover/covers and within the prescribed time and date. The Railways shall not be responsible in any way for any in dropping the FAX offers in the appropriate tender box.
  - vii. Late and delayed tenders will not be accepted.

#### **4. Drawings and Specifications:**

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

- i) Specification/STR/Drawing of RDSO/ICF/DLW/ CLW/ CORE etc may be obtained from the concerned authority who have issued these, on payment.
- ii) Drawings and Specifications framed by the concerned authority of S.E.C.Railway may be obtained from office of the Controller of Stores, South East Central Railway, GM Annexe Building, Bilaspur-495004.  
However, in these cases, the tenderers shall have to:-
  - (a) Produce the documentary evidence for having paid the cost of tender documents by them unless they are provided with these documents free of cost because of their entitlement / eligibility. In the later case, the tenderer will have to produce documentary evidence that they have been provided with free tender documents.
  - (b) For such tenderers who download the tender documents, they have to produce the proof of such download while asking for such drawings and specifications.

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

#### **5. Attendance of Representatives for Tender Opening:**

For Open Tenders and Special Limited Tenders, representatives of tenderers desirous to attend the tender opening can do so, on production of a proper letter of authority from the respective firm, failing which they may not be allowed to attend the tender opening. Authorised

representatives of those firms who have submitted the tender documents alone shall be allowed to attend the tender opening.

## **6. Particulars to be enclosed along with tender:**

Following details should be enclosed along with the tender:-

- i) Performance statement against Railways Orders for supply of same or similar items. Correct status/supply position of pending orders if any should be invariably indicated. Supporting documents are to be enclosed.
- ii) Details of Machinery and Plant, other equipments, testing facilities, quality management/control systems and details of technical manpower available.
- iii) Tenderers should submit documentary evidence in respect of their RDSO approval indicating current validity and approval of their QAP by RDSO wherever necessary.
- iv) Photo Copies of the supply/purchase orders along with the Inspection Certificates by RITES/RDSO and Receipt Notes should be enclosed for ready reference, along with tender to substantiate their past performance.
- v) The Tenderers should also indicate their registration number with South East Central Railway with monetary limit, trade groups for which registered and, validity date of registration.
- vi) NSIC Certificate if Registered with NSIC.
- vii) Proof for having paid EMD or grounds in favour of exemption/waiver.
- viii) Complete Tender documents duly signed on each page in token of acceptance.

## **7. Rate , Taxes and Duties:-**

- 7.1 Tenderers should clearly indicate separately ex-works basic price, packing charges, forwarding charges, Excise Duty, Educational Cess Sales Tax/VAT and Freight charges upto destination, applicable for each unit tendered. Duties and Taxes are not payable on freight charges and forwarding charges. Therefore, if the tenderer happens to quoted a composite price, due break-up is to be given showing freight and forwarding charges separately.
- 7.2 Tenderers are requested to quote in the following terms :FOR Destination basis, duly indicating separately breakup of Ex works Price, Duties, Taxes, Packing, Forwarding and Freight charges.
- 7.3 The tenderers are required to quote in the same rate units (Nos./Kgs./ Sets/ mtrs/ kmtrs etc.) as given in the tender schedule. Any deviation in this aspect will make the offer liable to be ignored.

## **8. Price Variation Clause:-**

**8.1 Railways, in general, prefer firm price contracts.**

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

8.3. Following Price Variation Clauses are generally recognized by the Railways.

- a) IEEMA PVC for the items covered by IEEMA formulae.
- b) Railway Board's PVC for items covered by such formulae.
- c) DGS&D's PVC for the items which are covered by such formulae.

Note:- Tenderers whose offers are with IEEMA PVC, Railway Board's PVC/ DGS&D's PVC are to quote with the prices of input raw materials ruling on the base date as stipulated in the relevant PVC (IEEMA/ Railway Board/ DGS&D). For example in case of IEEMA PVC, if the Tender opening date falls in May of a year, the applicable prices of input raw materials should be those prevailing on the 1<sup>st</sup> April of that year. If any Tenderer quotes with any other base date (for prices of input raw materials), then all such offers shall be updated to the common base date as stipulated in the PVC of IEEMA/Rly Board/ DGS&D as the case may be. For example, in the case of IEEMA PVC for a tender opened in May of a year, if any tenderer quote with prices of input raw materials ruling on a base date other than 1<sup>st</sup> April of that particular year, quoted rates shall be updated to the base date of 1<sup>st</sup> April of that particular year (for input raw materials) for the purpose of evaluation of offers and determination of inter –se ranking of the offers.

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

If any tenderer quote with any other base month, for input materials, then all the offers shall be updated to the base month (for input materials) of one month prior to that of tender opening. Evaluation of offers and determination of inter-se ranking of the offers shall be done on this basis.

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

#### **8.5 Special terms and conditions for all the Lead Acid Batteries :**

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

#### **9. Excise Duty:**

- (a) Tenderers are requested to refrain from quoting vague terms like “Excise Duty applicable” and mention clear the rate of ED leviable for the tendered stores. If the quoted rate is inclusive of ED, the tenderer must indicate the ED considered clearly. If it is not done so, then, the offer will be taken as inclusive of ED at the highest rate obtained in the tender batch. General phrases as “Excise duty Extra as applicable” shall not be accepted. Please mention clearly if excise duty is applicable on the tendered item or not.

If Excise Duty (ED) is being charged extra, then the tenderers should clearly indicate the exact rate of ED applicable in their offers.

If concessional ED is applicable at the time of quoting of offers and the tenderers wish that actual ED at the time of supply should be paid, then they should clearly indicate that ED will vary based on the turn over value and must also indicate the maximum rate of ED payable. Tenders will be evaluated on the basis of maximum rate of ED which may become applicable. However, ED will be reimbursed at actuals and within the upper ceiling of the maximum ED rate considered for evaluation purpose.

If ED is not claimed in the offer and no mention is made about Excise duty, then no ED will be payable. If ED is claimed in the offers with exact rate and statutory variation is also claimed by the firm in the offer, the same will be considered duly evaluating the offers with exact rate of ED.

In no case the variation in ED due to increase in turnover during the currency of contract will be admissible unless specifically mentioned in the offer.

If tenderers misclassifies the goods under relevant excise tariff rules, the Railway will not pay increased Excise Duty due to such misclassification.

ED will be paid subject to documentary evidence and government

notifications only.

**(b) Payment of ED and Excise Duty-Modvat Rules.**

1. The purchaser will not be responsible for payment of taxes and duties paid by the supplier under misapprehensions of law or misclassification and in such cases even if the suppliers bill contain an element of tax or duty which is not payable by the purchaser, such payment would be disallowed.
2. The claim for ED on each bill should be supported by the following certificates.
  - 2.1 The rate of ED is advalorem. The ED at present legally leviable in this case is Rs...i.e on Rs.... being the unit value of the Stores assessed by the concerned authority of the Excise department.
  - 2.2 Certified that the ED charged on this bill is not more than that legally leviable and payable under the provision of the relevant act or rules made thereunder.
  - 2.3 Certified that the amount of Rs..... claimed as ED in this bill is in accordance with the provision of the rules in all respects and the same has been actually paid to the excise authorities in respect of the stores covered by the bills.
  - 2.4 Quarterly certificate to the effect that no refund of ED already reimbursed against this contract has been obtained during the quarter ending. In the event of any such refund being obtained by the seller, the same should be passed on to the purchaser.
  - 2.5 **MODVAT Certificate**:-The tenderers will have to give the following certificates in their offer:-

We hereby declare that in quoting the above price, we have taken into effect, the full effect of the duty set-off on 'Central excise and counter veiling duties' available under the existing MODVAT scheme. We further agree to pass on such additional duties and set off as may become available in future in respect of all the inputs used for the manufacture of the final product, on the date of the supply under MODVAT scheme, by way of reduction in price and advise the purchaser accordingly.”

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

## **10. Sales Tax/Value Added Tax :**

Sales tax / Value Added Taxes should be quoted extra if applicable.

Issue of Form 'D' towards CST on inter-state purchase by Railways is withdrawn. Consequent upon the withdrawal of 'D' Form, the rate of CST on inter-state sale to Railways shall be the rate of VAT/State Sales Tax applicable in the state of the selling dealer.

Wherever Value Added Tax is applicable, the following may be noted :

- (1) (i) The tenderer should quote the exact percentage of VAT that they will be charging extra.

(ii) While quoting the rates, tenderer should pass on (by way of reduction in prices) the set off/input tax credit that would become available to them by switching over to the system of VAT from the existing system of sales tax, duly stating the quantum of such credit per unit of the item quoted for.

(iii) The tenderer while quoting for tenders should give the following declaration:

"We agree to pass on such additional set off/input tax credit as may become available in future in respect of all the inputs used in the manufacture of the final product on the date of supply under the VAT scheme by way of reduction in price and advise the purchaser accordingly."

- (2) The supplier while claiming the payment shall furnish the following certificate to the paying authorities: "We hereby declare that additional set offs/input tax credit to the tune of Rs. \_\_\_\_\_ has accrued and accordingly the same is being passed on to the purchaser and to that effect the payable amount may be adjusted .

If any surcharge on tax is applicable the same should be indicated clearly. If Excise duty and Sales tax are not quoted in the offer, it shall be considered that no excise duty/sales tax is applicable.

## **11. Octroi Exemption Certificate:**

The purchaser will not bear any octroi charges, and if required will issue octroi exemption certificate only. In the event of octroi exemption certificate not being honoured by the concerned municipal authority, and octroi charges become payable, the supplier will have to bear the Octroi charges.

- 12. I.T.C.C.:** This will be governed by extant rules of the Government of India. Tenderers are to indicate the Income-Tax PAN details and enclose a Photocopy of the same.

**13. Validity:**

Tenderers are to keep validity of their offer open for a minimum period of 90 days. Offers with validity period of short duration may be taken as unresponsive to Railway's requirements.

**14. Evaluation Criteria:**

- i) Rates quoted by the Tenderers with discounts if any linked to quantity will be considered for determining inter-se position of the offers. Discounts with conditions attached to early payment, early Receipt notes etc., will be ignored for calculating inter-se position. However, Railway may avail the discounts linked to early payment, early receipt notes etc. if otherwise, firm's offer is found to be acceptable.
- ii) Inter-se ranking of the offers will be determined on Total Unit Rate basis which will include basic rate, ED, Educational Cess, ST, Packing charges, Forwarding charges, freight, insurance and any other charge or cost quoted by the tenderer. In case of offers with P.V. Clause, the quoted rates shall be updated to a common base date for such assessments.
- iii) ***The criteria for evaluation of inter-se-position of bidders shall be item wise and destination wise unless otherwise some other evaluation criteria is specifically mentioned in the tender.***

**GENERAL TENDER CONDITIONS**

**1. Acceptance of the Offers:-**

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

**2. Quantity to be ordered:**

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

2.2 Wherever necessary by the purchaser, the quantity to be ordered can be split by the purchaser amongst two or more sources for ensuring better availability of material keeping in view the vital/critical nature of item, quantity to be procured, delivery requirements, capacity of the firms and past performance of the firms.

**2.2.1 CRITERIA FOR SPLITTING OF TENDER QUANTITY:**

In all cases of split ordering, the following Criteria will be applicable:

2.2.1.1 The Purchaser reserves the right to distribute the procurable quantity on one or more of the eligible tenderers. Zone of consideration of such eligible tenderers will be the right of the Purchaser.

2.2.1.2 Whenever such distribution/splitting of the tendered/procurable quantity is made, the quantity distribution will depend (in inverse manner) upon the differential of rates quoted by the tenderers (other aspects i.e. adequate capacity-cum-capability, satisfactory past performance of the tenderers, outstanding orders load for the Railway making the procurement, quoted delivery schedule vis-à-vis the delivery schedule incorporated in the tender enquiry etc., being same/similar) in the manner detailed below:

Price differential between L1 and L2	Quantity distribution ratio between L1 and L2
Upto 3%	60:40
More than 3% and upto 5%	65:35
More than 5%	At least 65% on the L1 tenderer. For the quantity to be ordered on the L2 tenderer , Railway would decide keeping in view conditions laid down in paras 2 .2.1.5 & 2.2.1.6 below.

2.2.1.3 If splitting of quantity is required to be done by ordering on tenderers higher than the L2 tenderer, then the quantity distribution proportion amongst the tenderers will be decided by transparent/ logical/equity based extrapolation of the model as indicated in above Para.

2.2.1.4 The purchaser reserves the right to counter offer the lowest acceptable rate for bulk ordering to the higher tenderer(s).In the event of rejection of such counter offer(s), the purchaser will reserve the right to decide on the quantity distribution ratio/proportion.

2.2.1.5 The rate of the highest eligible tenderer within the zone of consideration has to be per-se, reasonable to the Purchaser.

2.2.1.6 In the cases of inadequate capacity 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 as would ensure timely supply of materials 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 fair and transparent manner with due conformity to the Principle of natural Justice and Equity.

**2.3 In cases where the Rlys/PUs had entered into ToT/JV agreements:**

As the Rly. has entered into ToT/JV agreement with .....nos. of firms, they reserve the right to place orders on all ToT/JV agreement partners. However, for ratio/proportion of quantity distribution among such ToT/JV agreement partners, conditions as detailed in Para

2.2.1.2, 2.2.1.3 and 2.2.1.4 above with the exception of conforming to the condition “the rate of the highest eligible tenderer within the zone of consideration has to be, per-se, reasonable to the purchaser.”

- 2.4** In the tenders for fixed quantity contracts for procurement of materials of which the requirements are of continuing nature and the tender value is more than Rs. 75 lakh, the Purchaser reserves the right to increase and /or decrease the order quantity by a quantity not exceeding 30% of the ordered quantity on the same price and terms and conditions during the currency of the contract, with suitable delivery schedule for the enhanced quantity.

The Purchaser also reserves the right to vary the ordered quantity by (+)30% at any time, till final delivery date of the contract, by giving reasonable notice, even though the quantity ordered initially has been supplied in full before the last date of Delivery Period.

### **3. Procurement from Approved Sources :**

#### **3.1. Approved by RDSO:**

- 3.1.1. Wherever necessary, as per policy of procurement, bulk purchases will be made only from those firms who have been approved by RDSO for such ordering i.e. Part-I vendors before opening of tender to manufacture and supply the item. The tenderers are to enclose copies of RDSO approval letters along with their quotation. The status of the firm will be reckoned as on the date of tender opening and not thereafter. But, in case of downgrading/removal/suspension/ banning etc. after opening of tender, such changes shall be taken into account while considering the offers.

- 3.1.2. Orders on firms approved by RDSO as Part-II vendors shall be Developmental Orders, normally.

3.1.2.1 -Orders on firms approved by RDSO as Part-II vendors shall be limited upto 15% quantity normally.

3.1.2.2 -The ordering on a Part II approved source with competitive price ranking can be considered beyond 15% in case that source has successfully executed a larger quantity order in the same Railway unit or other Railway units/P.Us in the preceding 3 years. Successful executions will be signified by both quantitative and qualitative performance. Upper limit of quantity to be ordered on such a source will not exceed 25% of the net procurable quantity in a given procurement case with another 5% on new source in deserving cases and with strict compliance of extant procedure on such educational ordering. That is to say, the ordering quantity on a Part -II source can be up to 15% or the highest quantity of a past order, successfully executed in the preceding 3 years in the same Railway unit or other Railway units/P.Us, whichever is higher subject to maximum of 25% of the net procurable quantity in the given procurement case.

- 3.1.2.3 Aggregate quantity to be ordered on all Part – II approved vendors taken together, however, will not exceed the 25% of the net procurable quantity, in a given procurement case.
- 3.1.2.4 All the Part -II approved vendors must submit attested photo copies of P.Os, inspection certificates and R.notes/certificates related to the maximum quantity of the material under procurement, successfully supplied by them in any single order placed on them over preceding 3 years by any zonal Railway/P.U. Such tenderers are to note that non-submission of such documents shall be taken as their not having any such past performance and their offers shall be considered further as per extant rules and no back reference in this regard will be made to them.
- 3.1.2.5. If the tendering firm(s) is not approved by RDSO as mentioned above either for placement of bulk order or for developmental orders, then they must submit their credentials details i.e. Machinery and Plant, Testing Facilities, QAP, Technical Manpower, etc. In deserving cases, their offers may be considered for developmental orders after assessment of capacities/capabilities by RDSO. Failure to furnish requisite credentials as mentioned above will make their offer liable to be ignored.

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

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

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

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

**4. Purchase / Price Preference Clause:-**

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

## **5. Quotations for Imported items:-**

### **5.1. Quotations in Foreign Currency:-**

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

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

### **5.2. Imported Stores offered by Indian Agents in Indian Currency:**

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

1. To quote with tender specific authorization from the foreign manufacturer.
2. (i) While quoting on behalf of foreign principals tenderers are required to furnish the principal's invoice/ proforma invoice along with their quotation.  
  
(ii) Proforma invoices however, may be accepted in exceptional cases where, it is not possible to obtain the invoices before the contract is placed.
3. The tenderer shall have to undertake in the tender to comply with the following – a) Consent to furnish copy of customs out passed bill of entry for the goods, relevant to each consignment Manufacturer's Test and Guarantee certificate issued by the manufacturer, Copy of Bill of Lading/AWB relevant to the consignment; Copy of commercial invoice of the foreign manufacturer/principals relevant to each consignment. b) Current and valid authorization/dealership certificate of foreign manufacturer/principal. c) Compliance of sea/air worthy packing condition in manufacturer's original packing with manufacturer's tamper proof seal and compliance of the Packing condition as laid down in IRS Conditions of Contract Para-1800.

Failure to comply with any of the aforesaid conditions as referred above will make the offer liable to be rejected.

4. Tenderer has to indicate the following while submitting the offer:
  - (a) The precise relationship between the foreign manufacturer/principal and their agents/associates.
  - (b) The mutual interest which the manufacturer/principal and the Indian agent/associates have in business of each other is to be indicated.
  - (c) Indian agent's Permanent Account Number is to be indicated.

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

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

**6. Payment Terms:**

6.1 Payment for the stores or each consignment thereof will be made to the contractor on submission of bill accompanied by the prescribed documents mentioned in the contract.

6.2 95% payment for the stores or each consignment thereof will be made against Inspection Certificate and proof of dispatch. For dispatch of material by road, it is the challan of the supplier duly certified by the consignee Gazetted Officer towards receipt of material at consignee's end will constitute the proof of dispatch for the purpose of payment. For rail dispatch, clear and unqualified RR/PWB may be considered as the proof of dispatch.

6.3 For balance 5%, payment will be made on receipt and acceptance of stores by the consignee, signified by granting of Receipt Note. In other words, balance 5% payment shall be made against Receipt Note.

6.4 However, in this connection it is to be made clear that for orders valuing upto Rs.5 lakhs, no advance payment will be made and only 100% payment will be made against receipt and acceptance of the material by the consignee i.e., against Receipt Note.

6.5 In deserving cases, 98% / 2% payment can also be considered within the framework of extant rules and procedures.

6.6 For Machinery & Plant items: 80% payment will be allowed after receipt of the machine in good and acceptable condition at consignee's end against inspection certificate and the supplier's challan certified by the consignee Gazetted Officer. Balance 20% payment will be made on successful installation, commissioning and testing of the machine and also furnishing of a Bank Guarantee towards warranty obligations of the contractor for 10% of the value of the machinery or plant.

6.7 Discounts / rebates linked with early payment and / or early granting of Receipt Note etc within specified days will not be considered for determination of inter-se ranking of the offers. However, the Railways reserves the rights to avail themselves of such rebates / discounts.

## **7. Inspection Clause:**

- (a) Material peculiar to Railways such as parts and fittings of rolling stock except raw material, which have been found rectified during inspection and which could not be rectified, are required to be defaced by the inspecting authority to avoid recycling of such rejected material and to avoid ultimate failures to assets. All such rejected materials peculiar to Railways should be mechanically defaced to prevent sale to Railways again.
- (b)(i) Material to be pre-inspected by RDSO or RITES at Railway's option, or as stated in this Tender Enquiry. Tenderers are requested to quote accordingly. At a later date any request for change in inspection clause will not be considered.
- (ii) In case the firm fails to offer the material for inspection against inspection call issued to the inspecting agency or if the material have to be re-inspected due to rejection of the material at firms premises by the inspecting agency or due to non despatch of material within validity of Inspection Certificate, then 50% of the inspection charges applicable for the offered quantity subject to maximum of Rs 5,000.-and actual cost of the test charges incurred will be paid by the supplier to the inspecting agency.
- (iii) Traders/ authorized agents are required to offer material for inspection at manufacturer's premises only.
- (c) Final inspection and acceptance of the supplied material will be done by the Consignee after receipt of the material.
- (d) The rejected material for exclusive use of Railways will be defaced to ensure that the rejected item are not recycled and supplied to other Railways or purchasers.

## **8. Terms of Delivery:**

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

**9. Delivery Schedule:**

- (a) The tenderers are to note the Railway's required delivery schedule given in the Tender schedule/ Offer Form and quote accordingly. Vague Delivery terms like 2/ 32 weeks etc must be avoided and if quoted will be taken as commercially unresponsive to railway's requirement.
- (b) Time for and the Date of delivery as specified in the Purchase Order is the essence of the Contract. However extension of Delivery date may be considered in deserving cases where genuine reasons exist. Such extensions of delivery dated may be considered with Liquidated damages and Denial Clause as per IRS conditions of Contract.
- (c) Upper limit for recovery of Liquidated Damages in Supply Contracts will be 10% (Ten percent) of value of delayed supplies irrespective of delays, unless otherwise provided, specifically in the contract.
- (d) Railway should recover from the Contractor as agreed Liquidated Damages and not by way of penalty, a sum equivalent to 2% (Two percent ) of the price of any stores (including elements of taxes, duties, freight, etc.) which the contractor has failed to deliver within the period fixed for delivery in the contract or as extended for each month or part of a month during which the delivery of such stores may be in arrears where delivery thereof is accepted after expiry of the aforesaid period, subject to a maximum of ten percent of value of the delayed supplies.

**10. Cartel Formation:-**

- a) Whenever all or most of the approved firms quote equal rates and cartel formation is suspected, Railways reserves the right to place order on one or more firms with exclusion of the rest without assigning any reason thereof.**
- b) Firms are expected to quote for a quantity not less than 50% of the tendered quantity. Offers for quantity less than 50% of tendered quantity will be considered unresponsive and liable to be rejected in case Cartel Formation is suspected. Railways however reserve the right to order on one or more firms any quantity.**
- c) The firms who quote in cartel may be warned that their names are likely to be deleted from list of approved sources.**
- d) Wherever there is suspected cartel formation from approved sources, the Railways reserve the right to place orders on Part-II sources and new sources beyond limits of 15% and 5% respectively.**

**11. Time for making Risk Purchase:**

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

**12. Warranty Bank Guarantee:**

For items like machinery and Plant, Costly equipment, capital Spares , the tenderer will have to furnish a warranty Bank Guarantee of 10% of Material value to cover their warranty obligation. The Format of the Warranty bank guarantee is enclosed herewith.

**13. Marking of Material Supplied:**

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

**14. Procurement from Manufacturers authorized agents/ Distributors:**

Only Manufacturers or their authorized dealers/ distributors need to quote with tender specific authorization from the manufacturers failing which offers are liable to be ignored.

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

1. Inspection by RITES/RDSO at the manufacturing premises of the relevant manufacturer. RITES/RDSO shall categorically confirm in the Inspection Certificate, that inspection of the material has been actually made in the manufacturing premises of the manufacturers and not in the ware house/ godown. Shop of the dealer..
2. Direct dispatch from the premises of the manufacturer to the Railways consignee after inspection and acceptance by RITES/RDSO.
3. Submission of manufacturer's Test and Guarantee Certificate with each lot of supplies.
4. The authorized agents/distributors price will not exceed that which the manufacturer would have quoted.
5. "One Agent cannot represent two Suppliers or quote on their behalf in a Particular tender."

**15. Fall Clause**

Fall clause as mentioned below shall be applicable to all rate contracts; and to Fixed Quantity/ Running Contracts wherever specifically provided in the special conditions of tender and/or tender schedule: -

- 15.1 "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/ organizations including the purchaser or any Department of

Central Government or any Railway Office or any Railway undertaking, as the case may be, during currency of the contract. 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”.

15.2 “If at any time during the said period the contractor reduces the sale price, sells or offers to sell such stores to any persons, organizations 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, they 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 of such reduction or sale or offer of sale, shall stand correspondingly reduced”.

15.3 The Contractor shall furnish the following certificate to the concerned Accounts Officer along with each bill for payment of supplies made against the 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/organization including the purchaser or any Department of Central Government or any Railway Office or Railway Undertaking as the case may be, up to the date of bill, at a price lower than the price charged to the Government under the contract.”

### **IMPORTANT**

Electronic Fund Transfer (NEFT) is mandatory from 01-03-2003. **All payments after 1.3.2003 are made only through EFT.** Firms to keep the Mandate Form along with their offers, if not already executed. Purchase order will not be issued without mandate forms.

**GOVERNMENT OF INDIA (BHARAT SARKAR)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)  
INDIAN RAILWAY STANDARD CONDITIONS OF CONTRACT**

(Vide Para 417 of the Indian Railway Code for the Stores Department)

**0100. Definitions and Interpretation.**

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

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

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

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

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

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

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

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

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

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

**0111.** "Particulars" include-

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

(g) Any other details governing the construction, manufacture or supply of stores as may be prescribed by the contract;

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

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

**0114.** "Signed" includes stamped, except in the case of an acceptance of tender or any amendment thereof.

**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;

**116.**"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;

**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 written notice of acceptance of the tender has been posted to the contractor, deposit with the Railway concerned (in cash or the equivalent in Government Securities or approved Banker's Guarantee Bond) a sum equal to 10 per cent of the total value of the stores detailed in the contract for which, the tender has been accepted, subject to **upper ceiling of Rs. 10 Lakhs for contracts valuing upto Rs.10 Crores & Rs.20 Lakhs for contract valuing above Rs.10 Crores.**

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

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

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

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

- b) Vendors registered with Railways upto the monetary limit of their registration for the items ordered/trade groups for items ordered or vendors on approved list of RDSO/PUs/CORE/ Railways etc. for those specific items for which they are on approved list or other Railways, Govt. Departments on their specific request and on merits of the case as considered by tender committee.
- c) Tenderers seeking waiver of Security Deposit on this ground shall have to submit requisite documentary evidence.

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

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

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

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

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

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

#### **0600. Delivery.**

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

**0602.** The Purchaser shall not be liable to render assistance to the Contractor in securing or to arrange for or provide transport to the Contractor unless it is so specifically stated in the contract, notwithstanding that transport of the stores, is controlled by or under the orders of the Government.

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

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

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

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

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

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

- (a) recover from the Contractor as agreed liquidated damages and not by way of penalty a sum equivalent to 2 per cent of the price of any stores (including elements of taxes, duties, freight, etc.) which the Contractor has failed to deliver within the period fixed for delivery in the contract or as extended for each month or part of a month during which the delivery of such stores may be in arrears where delivery thereof is accepted after expiry of the aforesaid period, or
- (b)
  1. Risk Purchase clause is deleted for all orders for safety items, as levy of 10% Security deposit has been made compulsory in all such order/(except in case of vendors registered with NSIC upto the monetary limit of their registration for the items ordered). In case of failure of contract, Security Deposit shall be forfeited. Such failure shall be recorded & will be considered by Railways on merit in future cases.
  2. In respect of orders for materials other than safety items where 10% security deposit has been taken from firms, Risk Purchase clause is deleted and in case of default by such firms, the Security Deposit shall be forfeited.
  3. In such cases as covered under (1) and (2) above, the quantities unsupplied shall be procured independently without risk and cost of the original firm/supplier.
  4. Adverse performance of such firms will be recorded and intimated to the approving authority & also to be taken into account in future tender cases on merit.
  5. Such cases which are not covered under Para (1) & (2) above. Risk Purchase provisions shall continue for them as per existing guideline as given below.
- (c) The Purchaser reserves the right to purchase or authorise the purchase of the stores not so delivered or others of a similar description (where stores exactly complying with particulars are not in the opinion of the Purchaser, which shall be final, readily procurable) at the risk and cost of the Contractor. It shall, however, be in the discretion of the purchaser to collect or not, Security Deposit from the firm/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, with 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 22 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 instalment due under the contract, or

- (iii) cancel the contract and purchase or authorize the purchase of the stores or others of a similar description (when stores exactly complying with particulars are not, in the opinion of the Purchaser, which shall be final, readily available at the risk and cost of the Contractor. In the event of action being taken under Sub-clause (ii) above or under this Sub-clause, the provision of Clause 0702 above will apply as far as applicable.
- (iv) where under the contract the price payable is fixed F.O.R despatching station, the Contractor shall, if the stores are rejected at destination by the consignee, be liable, in addition to his other liabilities, including refund of price recoverable in respect of the stores so rejected, to reimburse to the Purchaser the freight and all other expenses incurred by the Purchaser in this regard.

#### **0800. Extension of Time for Delivery-**

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

#### **0900. Examination of Drawing, Specifications and Patterns-**

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

#### **1000. Mistakes in Drawing.**

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

#### **1100. Samples.**

**1101. Advance Sample-**Where an advance sample is required to be approved under the terms of the contract, the Contractor shall submit the sample free of cost to the Inspecting Officer within the time specified in the acceptance of tender. If the Contractor is unable to do so, he must apply immediately to the Office issuing the acceptance of tender for extension of time stating the reasons for the delay. If the Purchaser is satisfied that a reasonable ground for an extension of time exists, he may allow such additional time as he considers to be

justified (and his decision shall be final) with or without alteration in the delivery period stipulated in the acceptance of tender and on such conditions as he deems fit. In the event of the failure of the Contractor to deliver the advance sample by the date specified in the acceptance of tender or any other date to which the time may be extended as aforesaid by the Purchaser or of the rejection of the sample, the Purchaser shall be entitled to cancel the contract and, if so desired, purchase or authorize the purchase of the stores at the risk and cost of the Contractor, in which case the provisions of **Clause 0700** shall apply as far as applicable.

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

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

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

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

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

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

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

**1109. Loan of Samples-**If a certified sample is lent to the Contractor, it will bear a label containing *inter alia* variations known to the Inspecting Officer between the said sample and the stores desired. If the Contractor finds any further variation between the certified sample and the particulars of specifications

mentioned in the contract he shall at once refer the matter to the Inspecting Officer and the Contractors shall also give intimation of such discrepancy to the Purchase Officer. The Contractor shall follow the instructions of the Inspecting Officer as to what sample of particulars should guide the production of stores and the decision of the Inspecting Officer in the matter shall be final and binding on the Contractor.

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

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

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

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

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

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

**1300. Inspection by Inspecting Officer.**

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

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

of the component / stores, etc. as deemed essential.

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

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

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

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

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

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

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

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

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

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

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

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

**1500. Responsibility of the Contractor for Executing the Contract.**

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

make claims against a Railway Administration or other carrier in respect of non-delivery, short delivery, mis-delivery, loss, destruction, damage or deterioration of the goods entrusted to such carrier by the Contractor for transmission to the consignee or the interim consignee as the case may be.

**1502. Consignee's Right of Rejection** – Notwithstanding any approval which the Inspecting Officer may have given in respect of the stores or any materials or other particulars or the work or workmanship involved in the performance of the contract (whether with or without any test carried out by the Contractor or the Inspecting Officer or under the direction of the Inspecting Officer) and 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 despatch or delivery or during transit or otherwise howsoever.

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

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

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

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

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

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

#### **1506. Changes in a Firm :-**

- (a) Where the Contractor is a partnership firm, a new partner shall not be introduced in the firm except with the previous consent in writing of the Purchaser, which may be granted only upon execution of a written undertaking by the new partner to perform the contract and accept all liabilities incurred by the firm under the contract prior to the date of such undertaking.
- (b) On the death or retirement of any partner of the Contractor firm before complete performance of the contract, the Purchaser may, at his option, cancel the contract and in such case the Contractor shall have no claim whatsoever to compensation against the Purchaser.
- (c) If the contract is not determined as provided in Sub-clause (b) above notwithstanding the retirement of a partner from the firm he shall continue to be liable under the contract for acts of the firm until a copy of the public notice given by him under Section 32 of the Partnership Act, has been sent by him to the Purchaser by registered post acknowledgement due.
- (d) Consequence of breach** -Should a partner in the Contractor firm commit a breach of Sub-clause 1505 above or the Contractor should commit a breach of the conditions 1506(a) of this Sub-clause, it shall be lawful for the Purchaser to cancel the contract and purchase or authorize the purchase of the stores at the risk and cost of the Contractor and in that event the provisions of Clauses 0600 and 0700 as far as applicable shall apply.
- (e) The decision of the Purchaser as to any matter or thing concerning or arising out of this sub-clause or on any question whether the Contractor or any partner of the Contractor firm has committed a breach of any of the conditions in this sub-clause contained shall be final and binding on the Contractor.

#### **1507. Assistance to the Contractor:-**

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

price of the stores payable under the contract shall be reduced proportionately, and the extent of such reduction shall be determined by the Purchaser whose decision shall be final and binding on the Contractor.

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

**1600. Use of Raw Materials secured with Government Assistance.**

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

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

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

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

#### **1700. Indemnity.**

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

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

#### **1800. Packing.**

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

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

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

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

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

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

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

#### **1900. Notification of Delivery.**

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

#### **2000. Progress Reports.**

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

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

## **2100. Freight.**

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

## **2200. Removal of Rejected Stores.**

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

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

**2203.** The stores that have been despatched by rail and rejected after arrival at destination may be taken back by the Contractor either at the station where they were rejected or at the station from which they were sent, after refunding the price paid for such stores and other charges refundable as a consequence of such rejection. If the contract placed for delivery f o. r. station of despatch, the Contractor shall pay the carriage charges on the rejected consignment at public tariff rates from the station of despatch to the station where they are rejected. If the Contractor elects to take back the goods at the station from which they were

despatched, the goods shall in addition, be booked back to him freight to pay at public tariff rates and at owner's risk. The Contractor shall be liable to reimburse packing and incidental costs and charges incurred in such return or rejected stores in addition to other charges refundable as a consequence of rejection. The goods shall remain the property of the Contractor unless and until accepted by the Purchaser, after inspection.

### **2300. System of Payment.**

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

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

- (a) 95% payments for the stores or each consignment thereof will be made to the firms against proof of inspection and despatch. The original railway receipt should be sent to the Accounts Officer responsible for payment along with 95% bill advising the particulars of despatch to the consignee. The Accounts Officer after passing the 95 % bill should pass on the original railway receipt to the consignee for taking delivery of the consignment. It should, however, be ensured that there is no delay in the Accounts Office transmitting the original railway receipt to the consignee.
- (b) The balance of 5% shall be paid on receipt of the stores or each consignment thereof in accordance with the terms of the contract in good condition by the consignee, with a certificate to that effect endorsed on the copy of the Inspection Note by the Consignee which shall accompany the bill submitted by the Contractor.
- (c) In the case of F.O.B. & C. & F. contract 95 per cent of the price will be paid on presentation of shipping documents and inspection certificate and the remaining 5 per cent on receipt of the stores in accordance with the terms of the contract in good condition by the Consignee, and on producing the certificate of such receipt endorsed on one copy of the Inspection Note by the Consignee, or alternatively at the Contractor's option, the full value of the stores will be paid after inspection, on receipt of the consignment in accordance with the terms of the contract in good condition by the Consignee and on producing a certificate of such receipt endorsed on one copy of the Inspection Note.

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

and consignee's receipt as aforesaid to the Accounts Officer concerned.

**Note-**

- (1) *The system of 95 percent and 5 percent payment is not applicable to claims amounting to Rs.1000/-or below. In such cases only a single bill for value should be submitted.*
- (2) *In the case of Running Contracts, the system of payment will be similar to the above except that payment would be 98 per cent and 2 per cent instead of 95 per cent and 5 per cent specified above.*

**2400. Withholding and lien in respect of sums claimed.**

**2401.** Whenever any claim or claims for payment of a sum of money arises out of or under the contract against the Contractor, the Purchaser shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the Contractor and for the purpose aforesaid, the Purchaser shall be entitled to withhold the said cash security deposit or the security, if any, furnished as the case may be and also have a lien over the same pending finalisation 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 finalisation 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 there after to the Purchaser and provided also the Contractor shall be liable to pay to the Purchaser for any extra expenditure he is thereby put to and Contractor shall, under no circumstances, be entitled to any given on re-purchase.

**2700. Laws governing the Contract.**

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

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

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

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

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

- (1) The Contractor shall comply with the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contractor Labour (Regulation and Abolition) Central Rules, 1971, as modified from time-to-time, wherever applicable and shall also indemnify the Purchaser from and against any claims under the aforesaid Act and the Rules.
- (2) The Contractor shall obtain a valid license under the aforesaid Act as modified from time-to-time before the commencement of the contract and continue to have a valid license until the completion of the contract. Any failure to fulfill this requirement shall attract the penal provisions of the contract arising out of the resultant non-execution of the contract.
- (3) The Contractor shall pay to labour employed by him directly or through Sub-Contractors the wages as per provisions of the aforesaid Act and the Rules wherever applicable. The Contractor, shall, notwithstanding the provisions of the contract to the contrary, cause to be paid the wages to labour indirectly engaged on the contract including any engaged by his Sub-Contractors in connection with the said contract, as if the labour had been immediately employed by him.
- (4) In respect of all labour directly or indirectly employed in the contract for performance of the Contractor's part of the contract, the Contractor shall comply with or cause to be complied with the provisions of the aforesaid Act and the Rules wherever applicable.
- (5) In every case in which, by virtue of the provisions of the aforesaid Act or the Rules, the Purchaser is obliged to pay any amount of wages to a workman employed by the Contractor or his Sub-Contractor in execution of the contract or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Act and the Rules or to incur any expenditure on account of the contingent liability of the Purchaser due to the Contractor's failure to fulfill his statutory obligations under the aforesaid Act or the Rules the Purchaser will recover from the Contractor, the amount of wages so paid or the amount of expenditure so incurred, and without

prejudice to the rights of the Purchaser under Section 20, Sub-section (2) and Section 21, Sub-section (4) of the aforesaid Act, the Purchaser shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/or from any sum due by the Purchaser to the Contractor whether under the contract or otherwise. The Purchaser shall not be bound to contest any claim made against it under Sub-section(i) of Section 20 and Sub-section (4) of Section 21 of the aforesaid Act except on the written request of the Contractor and upon his giving to the Purchaser full security for all costs for which the Purchaser might become liable in contesting such claim. The decision of the Purchaser regarding the amount actually recoverable from the Contractor as stated above, shall be final and binding on the Contractor.

#### **2800. Headings.**

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

#### **2900. Arbitration.**

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

#### **3000. Fall Clause. Deleted**

#### **3100. INSPECTION & REJECTION:-**

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

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

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

**3200. Warranty/Guarantee-3201.** The Contractor/Seller hereby covenants that it is a condition of the contract that all goods/stores/articles furnished to the Purchaser under this contract shall be of the highest grade free of all defects and faults and of the best materials, quality, manufacture and workmanship throughout and consistent with the established and generally accepted standards for materials of the type

ordered and in full conformity with the contract specification, drawing or sample, if any and shall, if operable, operate properly.

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

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

**3204.** The Contractor/Seller shall, if required, replace the goods or such portion 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).

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

(ii) The Contractor shall, if the authorised Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the 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).

(iii) If on such examination, it is established that the contracted price is in excess of the actual cost plus reasonable margin of profit, the Purchaser shall have the right to reduce the price and determine the amount to a reasonable level.

(iv) Where a contract provides for book examination clause, the Contractor or its agency is bound to allow examination of its books within a period of 60 days from the date the notice is received by the Contractor, or its agencies calling for the production of documents as under clause (i) above. In the event of Contractor's or his agency's failure to do so, the contract price would be reduced and determined according to the best judgement of the Purchaser which would be final and binding on the Contractor and his agencies.

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

In cases where only a portion of the stores ordered is tendered for inspection at the Fag end of the delivery

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

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

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

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

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

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

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

**3600. Purpose of Contract and Parties to the Contract.**

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

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

**3603.** AnyvariationofthiscontractshallnotbebindingonthePurchasercrunlessoruntilsame 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 f.o.r or c.i.f. at the

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

**3800. Increase or Decrease of Quantities: Deleted.**

**3900. Maintenance and Replacement of Stocks.**

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

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

**4000. Reporting Progress of Contract.**

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

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

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**PROFORMA FOR BANK GUARANTEE TOWARDS EARNEST MONEY**

To:

The President of India  
Acting through  
The Controller of Stores,  
South East Central Railway,  
Bilaspur (C.G.)495004

In consideration of the President of India (hereinafter called "the Government") having agreed to accept from ..... (hereinafter called "the said Tenderer(s)") earnest money in the form of Guarantee Bond, under the terms and conditions of tender ..... dated ..... in connection with ..... (hereinafter called "the said Tender") for the due observance by the said Tenderer of the stipulation to keep the offer open for acceptance for a period of 90 days from the date of opening of tenders, to execute an agreement within the time specified, to start work within the period specified after notification of the acceptance of his/their tender and the deposit of Earnest Money in cash or furnish fresh Bank Guarantee for the said amount as part of security for the due and faithful fulfilment of the contract on acceptance of the tender on production of a Bank Guarantee for Rs..... (Rupees.....only), we, ..... Bank Ltd., do hereby undertake to pay on demand to the Government, the sum of Rs ..... in the event of the said tender having incurred forfeiture of Earnest Money/Security Deposit as aforesaid for the breach of any of the terms or conditions of the stipulations aforesaid and contained in the said tender under an order of the authority competent to invite tender.

We ..... Bank Ltd. further agree that the guarantee herein contained shall remain in full force and effect till the authority competent to invite the tender discharges the guarantee, subject however that the Government shall have no right under this Bond after the expiry of one year from the date of its execution and our liability under the bond shall be discharged if the demand for payment is not made within this period, we,..... Bank Ltd, lastly undertake not to revoke this guarantee during its currency except with the previous consent of the Government in writing.

Dated.....day of .....  
For .....Bank Ltd.

**MODEL FORM OF BANK GUARANTEE BOND FOR SUBMISSION OF SECURITY DEPOSIT**

To:

The President of India  
Acting through  
The Controller of Stores,  
South East Central Railway,  
Bilaspur (C.G.) 495004

**GUARANTEE BOND**

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

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

3. We under take to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s)/Supplier(s) in any suit or proceeding pending before any Court or tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this Bond shall be a valid discharge of our liability for payment thereunder and the Contractor(s)/ Supplier(s) shall have no claim against us for making such payment.

4. We -----(Indicate the name of the bank) ----- further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the

Government under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till -----  
(Office/Department) Ministry of -----certifies that the terms and conditions of the said Agreement has been fully and properly carried out by the said Contractor(s) and accordingly discharges this Guarantee. Unless a demand or claim under this guarantee is -----we shall be discharged from all liability

5. We -----(Indicate the name of the bank) ----- further agree with the Government that the Government shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Government against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the Government or any indulgence by the Government to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)/ Supplier(s).

7. We -----(indicate the name of bank)-----lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing.

Date the -----day of -----20—  
For -----  
(indicate the name of Bank)

## PROFORMA FOR WARRANTY GUARANTEE BOND

To:

The President of India  
Acting through  
The Controller of Stores,  
South East Central Railway,  
Bilaspur (C.G.)495004

Sub: Guarantee No-----for------(Amount) Covering Machine(s)  
Serial No-----supplied to (Consignee/s) -----

Ref: Contract No-----dated-----Placed on M/ s -----

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

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

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

4. That in consideration of the promises and at the request, of the said Sellers, we hereby irrevocably undertake and guarantee to pay to the Government of India or at such other place as may be determined by you forthwith on demand and without any demur, any sum upto a maximum amount of -----(Rs. -----) representing 10 per cent of the value of the Stores despatched under the said contract in case the Sellers make default in paying the said sum or make any default in the performance observance or discharge of the guarantee contained in the said contract.

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

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

Read and Accepted

4

Signature of Tenderer

7. We undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the Sellers in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal.

The payment so made by us under this bond shall be valid discharge of our liability for payment thereunder and the Sellers shall have no claim against us for making such payment.

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

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

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

Date -----

Signature -----

Place -----

Printed Name -----

Witness -----

(Designation)

(Banks common Seal)

## EFT MANDATE FORM

From : M/s.

Date :

To:  
**FA & CAO**  
**South East Central Railway,**  
**Bilaspur (C.G.)**

Sub : Bank Details for EFT payments.

\*\*\*\*

The mandate form for Electronic fund transfer duly filled in is submitted herewith for payment of our bills.

### ELECTRONIC FUNDS TRANSFER MANDATE FORM

Name of City	
Bank and branch's 9 digit Code No. appearing on the MICR cheque issued by the Bank	
Bank's Name	
Branch Address	
Branch Telephone / Fax No.	
Supplier's Account No.	
Type of Account	
Supplier's name as per Account	
Telephone no. of supplier	
Supplier's E-mail ID	

Confirmed by Bank

Signature of supplier with  
Stamp and address

Enclose a copy of crossed cheque

Read and Accepted

1

Signature of Tenderer

## APPENDIX-I

Tender No. \_\_\_\_\_ to be opened on \_\_\_\_\_

### STATEMENT OF DEVIATION FROM TENDER SPECIFICATION

Particulars of Deviation from the requirement of the Tender specification are given below :

Sl. No.	Item No. of Specification.	Specification as per Tender.	Particulars of Deviations.
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Place :

Date :

Signature and Seal of  
Tenderer

Note :

1. Use reverse side and/or attach additional sheets, if necessary.
2. In case, there is no deviation from Tender specification the statement should be returned duly signed with the endorsement "NO DEVIATION".

## APPENDIX-II

Tender No. \_\_\_\_\_ to be opened on \_\_\_\_\_

### STATEMENT OF DEVIATION FROM STANDARD TERMS AND CONDITIONS.

Sl. No.	Item No. of the Standard terms and conditions	Terms and Conditions as per Tender.	Particulars of Deviation
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Place :

Date :

Signature and Seal of  
Tenderer

Note :

1. Use reverse side and/or attach additional sheets, if necessary.
2. In case, there is no deviation from the Standard Terms and Conditions of the Tender/Contract, the statement should be returned duly signed with the endorsement "NO DEVIATION".

Tender No. \_\_\_\_\_ to be opened on \_\_\_\_\_

**PERFORMANCE STATEMENT**

We give below relevant particulars in respect of our capacity, capability (including knowhow), inspecting and testing facilities (including quality control), financial resources and details of past actual performance for the same/similar type of work executed by us for Government Department and Government Undertakings and well known firms in the Private sectors.

**Part- I**

- 1. Name and address of the firm :
- 2. Address of the works :
- 3. Major lines of production with foreign collaboration arrangements, if any, during last three years :
- 4. a) Installed capacity :  
b) Capacity utilised :  
c) Percentage utilisation of capacity :  
d) Remarks :
- 5. Details of machine and equipments installed. :
- 6. Details of testing and : inspection facilities including Metallurgical/Quality control. :
- 7. Details of Technical and other staff employed. :

**Part- II**

- 1. Name and address of the: Dealers. :
- 2. An appreciation of financial resources to execute the job. :

**Part- III**

- 1. Details of orders secured and executed for same or similar item as per Proforma given below (attached details) :  
:

### **Proforma**

1. Sl. No. :
2. Order No. and Date :
3. Name of party :
4. Description of materials ordered :
5. Quantity ordered :
6. Rate at which ordered. :
7. Delivery period as per Contract. :
8. Actual date of delivery. :
9. Reason for delay of delivery. :
10. Remarks. :

### **Part- IV**

Additional Remarks (including area and layout of the factory).

Place :

Date :

Signature and seal of Tenderer