

## GENERAL TENDER CONDITIONS

**NOTE:**

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

### 1. Acceptance of the Offers:

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

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

### **2.0 Splitting of tendered quantity:**

#### **2.1 Case of no prior decision to split the order -**

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

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

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

#### **2.2 Case of pre-decided split ordering –**

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

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

(A) The Purchaser reserves the right to distribute the procurable quantity on one or more of the eligible tenderers. Zone of consideration of such eligible tenderers will be the right of the Purchaser. The zone of consideration will be a dynamic mix of inter-se position of firms, supply performance of the firms, quantity being procured, critically of and lead time of supply of the item, number of established suppliers, their capacity etc.

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

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

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

- (i) When no price negotiation has been called for, the original rates as obtained at the time of tender opening. However, the rate of the highest eligible tenderer within the zone of consideration has to be per se reasonable.
- (ii) When price negotiation has been called for, the reference L1 rate for assessment of ration will be the original rate of L1 firm (suitable for bulk quantity) – say firm “A” - as obtained at the time of tender opening.

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

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

2.5 For cases where the Rlys/PUs had entered into ToT/JV agreements, the following clause should be stipulated as tender conditions.

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

2.6 In the cases of inadequate Capacity-cum-capability, dissatisfactory past performance, large quantity of outstanding orders (liquidation of which will take very long time)

etc., the Purchaser shall have the right to distribute the procurable quantity amongst tenderers with due consideration to these constraints and in such a manner that would ensure timely supply of material in requisite quantity to meet the needs of operation, maintenance, safety etc., of the Railways, regardless of inter-se-ranking of the tenderers and in a fair and transparent manner with due conformity to the Principles of Natural Justice and Equity.

***Addition – 2.7 Quantity Option Clause - For tenders valuing Rs.75 lakhs and above, the purchaser shall have the right to increase or decrease the ordered 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 can vary the order quantity by exercising the option clause during the currency of the contract giving reasonable time / notice for executing such increase or decrease. Option clause can be exercised up to last date of scheduled DP Mentioned in purchase order, even if the supply of original ordered quantity is completed before the last date of scheduled delivery.***

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

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

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

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

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

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

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

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

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

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

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

- a) Such tendering firms which are not approved by vendor approving agency (other than RDSO) for placement of developmental orders must submit their credentials details i.e. Machinery & Plant, Testing facilities, QAP, Technical Man power etc.
- b) Such offers are technically suitable.
- c) Credential of the firms i.e. firms who have submitted adequate evidence towards their capacity-cum-capability, past performance etc. and prima facie the Railways are satisfied that the Tenderer is capable of executing the orders but whose capacity to supply bulk quantity has not been established in the past, the capacity-cum-capability claimed/exhibited in their offers submitted, will be verified by the Railways wherever considered necessary before placement of Purchase Order on unapproved firms either by deputing their representative or by engaging agencies of RDSO/RITES etc., at the discretion of Railways.
- d) Failure to furnish requisite credentials details i.e., machinery and plant, testing facilities, QAP technical manpower etc., will make the offer liable to be ignored.

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

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

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) whereas developmental orders may be considered for placement on other sources whose offers are competitive and who have submitted adequate evidence towards their capacity-cum-capability and prima facie the Railways are satisfied they are capable of executing the orders but whose capacity to supply bulk quantity has not been established in the past.

4.1 Purchase / Price Preference Clause:

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

5. Quotations for Imported items:

5.1. Quotations in Foreign Currency:

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

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

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

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

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

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

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

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

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

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

- c) Compliance of sea/air worthy packing condition in manufacturer's original packing with manufacturer's tamper proof seal and compliance of the Packing condition as laid down in IRS Conditions of Contract Para- 1800. Failure to comply with any of the aforesaid conditions as referred above will make the offer liable to be rejected.
4. Tenderer has to indicate the following while submitting the offer:
- (a) The precise relationship between the foreign manufacturer/principal and their agents/associates.
  - (b) The mutual interest which the manufacturer/principal and the Indian agent/associates have in business of each other is to be indicated.
  - (c) Indian agent's Permanent Account Number is to be indicated.
5. Any additional expenditure incurred on account of Customs Duty and exchange Rate variation during pendency of the Contract will be on contractor's account.
6. For bearings manufactured in foreign countries, Visual inspection by RITES inside India after receipt is acceptable with import documents and original manufacturer's test and Warranty/ Guarantee certificate. Firm should consent to deposit security money as per IRS conditions for due execution of the contract if asked to do so. This is irrespective of the fact whether the firm is registered with this Railway or not.

## **6. Payment Terms:**

- 6.1 Payment for the stores or each consignment thereof will be made to the contractor on submission of bill accompanied by the prescribed documents mentioned in the contract.
- 6.2 95% payment for the stores or each consignment thereof will be made against Inspection Certificate and proof of dispatch. For dispatch of material by road, it is the challan of the supplier duly certified by the consignee Gazetted Officer towards receipt of material at consignee's end will constitute the proof of dispatch for the purpose of payment. For rail dispatch, clear and unqualified RR/PWB may be considered as the proof of dispatch.
- 6.3 For balance 5%, payment will be made on receipt and acceptance of stores by the consignee, signified by granting of Receipt Note. In other words, balance 5% payment shall be made against Receipt Note.
- 6.4 However, in this connection it is to be made clear that for orders valuing upto Rs.5 lakhs, no advance payment will be made and only 100% payment will be made against receipt and acceptance of the material by the consignee i.e., against Receipt Note.

- 6.5 In deserving cases, 98% / 2% payment can also be considered within the framework of extant rules and procedures.
- 6.6 For Machinery & Plant items: 80% payment will be allowed after receipt of the machine in good and acceptable condition at consignee's end against inspection certificate and the supplier's challan certified by the consignee Gazetted Officer. Balance 20% payment will be made on successful installation, commissioning and testing of the machine and also furnishing of a Bank Guarantee towards warranty obligations of the contractor for 10% of the value of the machinery or plant.
- 6.7 Discounts / rebates linked with early payment and / or early granting of Receipt Note etc within specified days will not be considered for determination of inter-se ranking of the offers. However, the Railways reserves the rights to avail themselves of such rebates / discounts.

**6.8 For MSME Firms:**

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

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

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

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

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

The amount of GST paid shall be available for set off against output liability.
  8. On issue of Document of Authorization, following accounting entries shall be made:-
 

Relevant Expenditure head	Dr.
Misc. Adv.	Cr

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

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

Demands Payable/ Misc Advance Cap\* Cr.

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

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

9. The reimbursement procedure in case of accredited banks selected as Railways' banker will be directly debiting the amount to the government account through scrolls. In case of non-accredited banks, the Accounts Officer concerned while authorizing a non-accredited bank to open LC will send copy of their letter to RBI/ Public Accounts Department / Mumbai and after verification/checks regarding authorization, RBI/ PAD will forward the papers to RBI/ CAS/ Nagpur with appropriate instructions for debiting Govt. account and make reimbursement to the paying bank on demand. After making the payment, the non-accredited bank authorized to open LC will send documents and also Accounts Officer's letter in original to RBI/CAS /Nagpur for debiting Govt account and getting reimbursement. After making payment to the party, the paying bank will also send a copy of the scrolls/documents to the PAO who issued the authorization for opening of LC. A copy of the scroll will also be sent to Local Point Branch of the bank for settlement and reporting as per extant system in vogue. The scroll should contain LCDA no. on scroll to facilitate reconciliation. Daily MIS thereof shall also be sent to CRIS.
10. On receipt of debit scrolls /documents, the Accounts Office will conduct necessary checks and debit Demands Payable /Misc. Advance (Cap) by credit to suspense head 8660-PSB Suspense. This suspense will be cleared by the Accounts Officer on receipt of the clearance memo from CAS/Nagpur.
11. The Railways will get confirmation from their Banker once the payment is released to supplier's/contractor's Banker. Acknowledgment will be placed in Purchase Order/Contract file and Contractors ledger and works Register/ Purchase Suspense Ledger will be updated accordingly.
12. It is expected that Railways would see reduction in rates offered in works and supply contract. The impact of release of payment through LC should, therefore, be evaluated after a year and reported to Board for appraisal.
13. Necessary modifications in General Conditions of Contract and IRS condition of contract, relevant Railway Codes will follow. Relevant applications viz IREPS, IPAS including integration with SBI software and protocol thereof are being carried out. Once these modifications are made, this pilot initiative will apply on all Notice inviting Tenders (NIT) of stores/ works/ services for tenders having value of Rs.10 lakh and above, w.e.f. April/ 2018.

#### **Sl.No.6.9.14 Instructions for tenderers on LC mode of Payments.**

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

- a. All Tenders invited by Zonal Railways and Production Units, having estimated value of

Rs. 10lakhs and above.

- b. The LC will be a sight LC.
- c. The bidder, at the time of bidding itself, shall exercise an option, in favour of taking Payment due against the said tender, through LC arrangement, The option so exercised, Shall be an integral part of the bidders offer.
- d. Option once exercised shall be final and no change shall be permitted, thereafter, during execution of contract.
- e. The incidental cost @0.15% of LC value, towards issue of LC and operation thereof shall be borne by the supplier/contractor and shall be recovered from their bills.
- f. State Bank of India through its branches shall be the Banker for Railways for opening domestic letters of credit for ensuing year. The arrangement would cover all such contracts finalized against tender issued during the said period and shall extend till final execution of these contracts.
- g. The schedule of payment liability arising in the contract shall be established by the Railways based on the prescribed delivery schedule/stages of supply.
- h. The acceptable, agreed upon document for payments to be released under the LC so opened: shall be a Document of Authorization.
- i. The supplier/contractor shall submit their bills for completed supply to the bill processing authority mentioned in supply/contract agreement to issue Document of Authorization to enable supplier/contractor to claim the authorized amount from their Banker.
- j. Accounts officer responsible for passing the claim will issue the Document of Authorization.
- k. The supplier/contractor shall take print out of the Document of Authorization available on IREPS portal and present his claim to his banker(advising bank) for necessary payments as per LC terms and conditions. The claim shall comprise LC Document of Authorization, Bill of Exchange and invoice.
- l. The bank shall also recover any amount as may be advised by Railway against the contractor/supplier.
- m. The contractor/vendor shall indemnify and save harmless the railway from and against all losses, claims and demands of every nature and description brought or recovered against the Railways by reason of any act or omission of the Contractor/Vendor, his agents or employees, in relation to the letter of Credit(LC). All sums payable/borne by Railways on this account shall be considered as reasonable compensation and paid by Contractor/vendor.

#### **7. Inspection Clause:**

- (a) Material peculiar to Railways such as parts and fittings of rolling stock except raw material, which have been found rectified during inspection and which could not be rectified, are required to be defaced by the inspecting authority to avoid recycling of such rejected material and to avoid ultimate failures to assets. All such rejected materials peculiar to Railways should be mechanically defaced to prevent sale to Railways again.
- (b) (i) Material to be pre-inspected by RDSO or RITES at Railways option, or as stated in this Tender Enquiry. Tenderers are requested to quote to quote accordingly. At a alter date any request for change in inspection clause will not be considered.  
(ii) In case the firm fails to offer the material for inspection against call issued to the inspecting agency or if the material have to be re-inspected due to rejection of the material at firms premises by the inspecting agency or due to non dispatch of material within validity of

Inspection Certificate then 50% of the inspection charges applicable for The offered quantity subject to maximum of Rs 5,000/- and actual cost Of the test charges incurred will be paid by the supplier to the inspecting agency.

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

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

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

#### **7.1 Statutory Variation Clause:**

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

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

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

(a) Mode of dispatch should be preferably by road.

(b) Suppliers should clearly quote-FOR Conditions i.e. station of dispatch or destination. If firm's offer is FOR Destination then applicable freight charges should be clearly indicated.

(c) Transit Insurance for risk in transit should be arranged by the supplier, since risk in transport in all such cases rests with the supplier.

(d) The firms who offer to dispatch the Stores by Road on FOR Station of Despatch basis, but freight prepaid up to the Destination may seek reimbursement of such freight charges. Such reimbursement shall be made at actual and against documentary evidence within the upper ceiling of Freight charges as indicated by them or Rail freight by Passenger Train 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 )Liquidated Damage (LD) on delayed supply:**

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

**10. Cartel Formation:**

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

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

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

**12. Warranty Bank Guarantee:**

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

**13. Marking of Material Supplied:**

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

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

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

1. Inspection by RITES/RDSO at the manufacturing premises of the relevant manufacturer. RITES/RDSO shall categorically confirm in the Inspection Certificate, that inspection of the material has been actually made in the manufacturing premises of the manufacturers and not in the ware house/ godown. Shop of the dealer.
  2. Direct dispatch from the premises of the manufacturer to the Railways consignee after inspection and acceptance by RITES/RDSO.
  3. Submission of manufacturer's Test and Guarantee Certificate with each lot of supplies.
  4. The authorised agents/distributors price will not exceed that which the manufacturer would have quoted.
- 14(5) a)(i) In a tender, either the Indian agent on behalf of the Principal/OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same item/Product in the same tender.
- ii) In a tender, if Indian agent on behalf of the Principal/OEM or Principal/OEM bids simultaneously for the same item/product in the same Tender, then both the offers will be considered ineligible and will be Summarily rejected.
- b)(i) If an agent submits bid on behalf of the Principal/OEM, the same agent shall not submit a bid on behalf of another Principal/OEM in the same tender for the same item/product.
- (iii) If an agent submits bids on behalf of the Principal/OEM and also on behalf Of another Principal/OEM in the same tender for the same item/Product, then Both offers will be considered ineligible and will be summarily rejected.
- (c) In view of the above, Manufacturer may note that an agent can represent only One firm in a tender and any manufacture cannot submit more than one offer Against a tender through different sole selling agents or one offer directly and Other offers through sole selling agents, in other words, in a tender, either the Indian agent on behalf of the Principle/OEM or Principal/OEM itself can bid but both cannot bid simultaneously for the same items/product in the same tender. In such a situation all the offers will be rejected. Also a "100% Indian Subsidiary" of the the foreign firm cannot bid through another agent. The

Relation between the Principal/OEM & Agent or Indian Subsidiary(100% or Otherwise) should be contractually established and clear.

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

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

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

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

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

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

- (i) Tender sets will be provided free of cost to MSEs registered with the above agencies for the item tendered.
- (ii) MSEs registered with the above agencies for the item tendered will be exempted from Payment of Earnest Money.
- (iii) In tenders, participating MSEs quoting a price within price band of L1 + 15% shall be allowed to supply a portion of the requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a MSE and such MSEs can be together ordered upto 25% of the total tendered value.
- (iv) a)Quantity reserved for ordering on MSE Vendors under the MSMED Act 2006 has been enhanced to 25% against the existing 20%  
b)The sub-target for procurement from MSEs owned by SC/ST shall remain at 4% and for MSEs owned by Women the sub-target shall be 3% out of the total 25%.

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

- (i) District Industries Centers

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

(b) (II) The MSEs must also indicate the terminal validity date of their registration. Firm failing to submit the information as indicated in para b (i) and (ii) above, such offers will not be liable for consideration of benefits detailed in MSE Notification of Government of India dated 23.03.12.

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

(ii) Prior turnover and prior experience in Public Procurement to all Start-ups (whether Micro & Small Enterprises (MSEs) or otherwise) is relaxed, subject to meeting of quality and technical specifications in accordance with the relevant provisions of GFR 2005.

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

#### **16. Payment through NEFT/RTGS**

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

#### **17. Force Majeure Clause:**

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

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

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

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

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

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

#### **18. Requirement of BIS Certification for raw Materials:**

If the specification of material used to manufacture the tendered item comes under the mandatory certification of BIS,(the details of mandatory certification are indicated on the Bureau of Indian standards(BIS) website-[www.bis.org.in](http://www.bis.org.in) under “Product Certification” \_ Mandatory Certification” the firm will ensure the purchase of material from the sources which are having BIS License and with ISI mark. The necessary related documents will be required to be submitted by the firm if the same is asked for by inspecting agency or any third party. The firm will produce the trail of documents and test certificates to show that the said item has been sourced from BIS license and with ISI mark This will be applicable to individual item and/ or a part in the assembly/ Fabricated item. ISI stamp should be demonstrated by the vendor/supplier/ Contractor on the item or its salvage, which should be available in vendor’s Premises.

#### **19. Case where L1 Bidder withdraws:**

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

**20. 1. Technical Bid and Initial Price Offer:**

- i. Bidder will be simultaneously required to submit a Technical & Commercial Bid and Initial Price offer. Offers found eligible for bulk order shall be categorized as qualified for bulk order for the purpose of RA, offers found eligible for developmental order shall be categorized as Qualified for Development order for the purpose of RA.
- ii. Offers not complying with essential technical & commercial requirements of the tender shall be declared as Ineligible for any order.
- iii. Initial Price Offer of only those bidders categorized as Qualified for Developmental Order or Qualified for Bulk Order, shall be opened and tabulated by system separately, category wise. Extent instructions for tabulation shall apply for tabulation of Initial Price Offers.

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

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

**a. Selection of vendors for Reverse Auction for bulk ordering:**

Number of Vendors Qualified for Bulk Order	Number of vendors to be selected for Reverse Action	Remarks
Less than or equal to 5	All	The bids disallowed from participating in the Reverse Action shall be the highest bidder(s) in the tabulation of initial Price Offer. In case the highest bidders quote the same rate. The initial Price Offer received last, as per time log of IREPS, shall be removed first, on the principle of last in first out, by IREPS system itself.
More than 5 and up to 10	Number of Vendors Qualified for Bulk Orders minus 2 highest subject to minimum 5.	
More than 10	50% of Vendors Qualified for Bulk Order (rounded off to next integer) subject to minimum 8.	

- b. Selection of vendors for Reverse Auction for developmental ordering: All bids found qualified for Development Order shall participate in Reverse Auction for developmental orders.
  - c. Maximum time allowed for Reverse Auction, both for bulk ordering or developmental ordering shall be 05 days.
  - d. During Reverse Auction process, bidders shall not be allowed to bid a rate higher than their lowest Initial price offer.
- 3. Reverse Auction among bids categorized as Qualified for Developmental Order and Qualified for Bulk Order shall be conducted concurrently on IREPS. Bidders shall only be able to see the auction screens Relevant to them for each category. Purchaser shall be permitted to see all the auction screens for Both categories on line.**
- 4. Developmental order upto 20% of NPQ can be placed by Zonal Railways/Pus on eligible vendors, Without waiting for capacity/capability assessment by nominated centralized agency. Capacity/Capability assessment by nominated centralized agency**

shall be done subsequent to placement of Developmental order,if not already done. In case a developmental order is placed prior to Capability/Capacity assessment by nominated agency developmental order shall be issued with a Condition that the developmental order is subject to outcome of Capacity/Capability assessment.

5. Quantity to be covered on developmental orders shall be limited to 20% of the net Procurable Quantity. The quantity covered on developmental orders may be within or outside NPQ.

6. After obtaining the final bids of the Reverse Auction, tenders shall be finalized as per existing Procurement policy and procedurs based on the eligibility and quantity distribution criteria as defined in the tender document.

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

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

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

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

The methodology to handle these rejections are given below.

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

- i) In case of rejection of pre-inspected goods at consignee end, the material rejection advice/ rejection memo should be sent by consignee to all concerned i.e. firm, purchaser, pre-inspecting agency, paying authority as per the contract etc. without fail.
- ii) Financial Recovery: In case payment has been made to the firm for the material, the concerned paying authority as per contract should note the rejection advice details in its recovery register for effecting recovery of payments made, as the case may be.
- iii) If the firm desires to have joint inspection, joint inspection of rejected material will be held with pre-inspecting agency and the firm. In case of failure of either of the two parties to associate with joint inspection, the joint inspection should be held by the consignee with whichever of the two parties comes for joint inspection. Irrespective of whether the party(ies) attend joint inspection or not, the modality of joint inspection etc will have to be completed within 21 days of communication of rejection advice to the supplier(in line with IRS Conditions of Contract Clause 703). For imported material, the time limit will be 45 days.
- iv) Firm may be permitted to collect the rejected goods only after the firm has deposited the payments already made by Railway (if any) to the firm or equivalent amount has been recovered for this purpose.
- v) In case of replacement supply against the rejected goods, the same should be pre-inspected by same pre-inspecting agency who passed the material earlier. In line with IRS Conditions of Contract clause 703, no inspection charge will be paid by Railway to the inspection agency for the replacement supply.
- vi) However, in case of component level rejection in an pre-inspected item (which is an assembly) the replacement supply of that component can be accepted based on firms internal inspection certificate/guarantee certificate and final inspection by consignee.

### **B. Material rejected in warranty.**

I Material are rejected in warranty in the following situations:

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

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

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

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

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

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

A(i), (ii), (iii) and (iv) of para 1.1A above except for the following changes. The 'rejection advice' mentioned in para 1.1A(i) will be replaced by the 'warranty rejection advice'. The time which can be taken for the completion of modality of joint inspection as per para 1.1A(iii) will be 45 days (instead of 21 days) from the date of communication of rejection advice to the supplier. More time is being given

for joint inspection because this is a case wherein supplies have already been taken into the usage system of Railways. Thus, either the pre-inspection agency or the firm or the railways may like to have a more detailed understanding of the failure.

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

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

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

**III Inspection of the replacement supply against warranty rejection:**

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

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

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

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

**OR**

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

**OR**

The replacement supply can be made by firms own internal inspection certificate.

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

(C) However in case the warranty failure is of a component of an assembly supplied, the component can be accepted on firm's own Guarantee Certificate/internal inspection

certificate and consignee's final inspection for both the categories (Cat B (a) and Cat B I [b]) of warranty failure.

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

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

1.2 At the option of the depot officer/end-user, rectification of the material rejected {under category 1.1(A) and 1.1(B)} may be permitted within railway premises by the firm only after the firm has refunded the payment (if already made by Railway) or equivalent amount has been withheld for this purpose. However, from the date of communication of rejection advice, the rectification activity has to be completed within 21/45 days for indigenouS/imported material respectively for rejection of the category 1.1(A) and 45/90 days for indigenouS/imported material respectively for the rejection of the category 1.1(B). If more time is taken beyond this, applicable ground rent will be levied on the firm.

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

## **Special Tender Conditions-Implementation of GST**

\*\*\*\*

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

- 2.0** 1. All vendors should have GST Registration Number.  
2. GST Act and Rules are applicable from time to time is applicable.

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

### **(B) Addition to the General Tender Conditions**

#### **EVALUATION OF OFFERS UNDER NEW GST REGIME:**

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

2.i)The offers shall be evaluated based on the GST rate as quoted by each bidder and same will be used for determining the inter se ranking. While submitting offer, it shall be the responsibility of the bidder to ensure that they quote correct GST rate and HSN number.

ii)Purchaser shall not be responsible for any misclassification of HSN number or incorrect GST rate if quoted by the bidder.

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

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

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

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

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

GST Declaration:

- i) Onus of correct classification and rate is on the firm.
- ii) GST will be paid on production of documentary proof.
- iii) The firm shall pass on (as per section 17(1) of CGST/SGST Act) any reduction in tax rate on supply of goods or any benefit of input tax credit to the Railway through a commensurate reduction in price without any undue delay. To the above effect the firm should give declaration that all the benefits accruing on account of change in tax rate and any additional input tax credit (ITC benefit) shall be passed on to the Railway.
- iv) Any kind of reduction in prices obtained by the supplier due to implementation of GST is to be passed on to the purchaser as per Anti Profiteering clauses of GST Act at any point of time during the period of the contract.

## Amendment IRS Condition of Contract-Para 2900.

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

Revised Clause No.	Revised Clause
2900(a)(i)	In the event of any question, dispute or difference arising under these conditions or any special conditions of contract, or in connection with this contract (except as to any matters the decision of which is specially provided for by these or the special conditions), i.e. accepted matters (Non-arbitrable) the same shall be referred to the sole arbitration of an Arbitrator in terms of the Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015. Arbitrator shall be person possessing qualifications laid down in para 2900 (a) (ii) and shall be appointed by the General Manager in the case of contracts entered into by the Zonal Railways and Production Units; by any Member of the Railway Board/Director General (Railway Stores), 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.
2900(a)(ii)	Qualification for appointments as Sole Arbitrator: (a) Retired Railway Officer not below SAG level 3 years after his date of retirement (b) Age of Arbitrator at the time of appointment shall not exceed 70years.
2900(a) (iii)	An Arbitrator may be appointed notwithstanding the total no. of arbitration cases in which he has been appointed in the past. Retired Railway Officer being appointed as arbitration, however, will not be one of those who had an opportunity to deal with the course of their duties as railway servant have expressed views on all or any of the matters under dispute or difference.
2900(a)(iv)	The award of the arbitrator shall be final and binding on the parties to this contract.
2900(d)	<b>This clause is deleted.</b>
2900 (e) (i)	The cost of arbitration shall be borne by the concerned parties in terms of section 31 (a) of Arbitration and Conciliation Act, 1996 as amended by Arbitration and Conciliation (Amendment) Act, 2015. The cost shall inter-alia include fee of the Arbitrator, as per the rates fixed by Railway Board from time to time. Further, the fee payable to the Arbitrator would be Governed by instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the Arbitrator is appointed by the Railway administration under this clause or by any court of law unless specifically directed by Hon'ble court otherwise on the matter.
2900 (e) (ii)	Arbitrator shall be entitled to 50percent extra fee, if award is made

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

Annexure -A

PROFORMA FOR WARRANTY GUARANTEE BOND

To

THE PRESIDENT OF INDIA

Acting through the Controller of Stores,  
South Central Railway,  
6th Floor, Rail Nilayam,  
Secunderabad-500071

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

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

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

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

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

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

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

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

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

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

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

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

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

Witness -----

- (Designation)

(Banks common Seal)

.....

Annexure-I  
LC/DA NO.-----  
Dt. \_\_\_\_\_

DOCUMENT OF AUTHORIZATION

1. It is certified that Work job assigned in Contract No.....

Dated.....under Inland Letter of Credit No.....

Dated.....

Or

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

2. The beneficiary of Letter of Credit M/s.....is entitled to

Receive payment aggregating INR..... out of a total LC amount of

INR.....against the first/second\* commercial Invoice No\_\_\_\_\_dated

\_\_\_\_\_for INR raised against the above contract on the strength of this certificate.

3. PAYMENTS ALREADY MADE:

1. Invoice No.

2. Invoice No.

& so on

Total

4. THIS PAYMENT:

5. LC BALANCE AFTER THIS PAYMENT.

Signature & seal of Applicant  
(Railway Authority)

\*As applicable

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

**ANNEXURE - II**

**PROFORMA FOR TENDER SPECIFIC AUTHORISATION FROM MANUFACTURERS**

Ref No: \_\_\_\_\_  
\_\_\_\_\_

Date:

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

Dear Sir,

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

\*\*\*\*\*

We, \_\_\_\_\_ (full address with PAN number) established Manufacturer  
of \_\_\_\_\_ having factory / factories  
at \_\_\_\_\_ do hereby authorize M/s. \_\_\_\_\_

(Company's name, full address with PAN number) to represent us, to bid, negotiate and conclude the  
contract on our behalf with you against your the subject tender. \_\_\_\_\_

It is also confirmed that:

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

Yours faithfully,

(Signature, Name & Designation)  
For and on behalf of M/s. \_\_\_\_\_  
(Name and address of the Manufacturer)

