

GENERAL CONDITIONS OF CONTRACT FOR STORES DEPARTMENT

These general conditions and any other condition contained in instruction to tenderes for e-tenders and any conditions mentioned specifically in the tender shall be considered as special conditions of contract and shall govern the contract (finalized by means of issue of Purchase Order or Letter of Acceptance) along with the IRS terms and conditions.

In case of any contradiction or conflict between IRS terms and conditions and these special conditions of contract, these special conditions of contract shall prevail. In case of any contradiction or conflict between conditions mentioned specifically in the tender and IRS terms and conditions, general conditions of contract or instructions to tenderers for e-tenders, conditions mentioned specifically in the tender shall prevail.

In case of any contradiction or conflict in the period of Guarantee/Warrantee mentioned in the specification and IRS terms and conditions, period, mentioned in specification shall prevail.

1.0 Acceptance of the Offers:

Railways 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.

2.0 Firm, on whom the Purchase Order will be placed against this tender case, will have to execute the previous order(s), if any, for the tendered item before commencing the supply against the new Purchase Order.

3.0 Quantity to be ordered:

a) 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 quantity without any condition would be taken as valid for ordering any quantity.

b) (i) 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.

(ii) (a) Whenever such distribution/splitting of the tendered/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-à-vis the delivery schedule incorporated in the tender enquiry etc.

being same/similar) in the manner detailed in the table below:

| Price differential between L1 and L2 | Quantity distribution ratio between L1 and L2 |
|--------------------------------------|--|
| Up to 3% | 60:40 |
| More than 3% and 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 shall decide keeping in view conditions laid down in paras (iii) & (iv) below. |

b) 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 Para (ii) a above.

c) 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 their right to decide on the quantity distribution ratio proportion.

- (iii) The rate of the highest eligible tendered within the zone of consideration has to be, per se, reasonable to the Purchaser.
- (iv) 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 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 a fair and transparent manner with due conformity to the Principle of natural Justice and Equity.
- c) Option Clause: The following Option Clause will be applicable for all tenders valuing more than Rs.75 Lakhs:
- i. The purchaser reserves the right to decrease the ordered quantity by a quantity not exceeding 30% of the ordered quantity or the quantity unsupplied, whichever is less, on the date of issue of letter intimating such reduction.
 - ii. The purchaser 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.

4.0 Procurement from Approved Sources wherever mentioned in the tender schedule.

4.1 Approval Category - Part-I & Part –II categories of vendors earlier followed by RDSO stand merge as “Approved vendors”.

4.2 Eligibility for securing order

4.2.1 Approval Status

As per the policy of procurement, bulk purchase will be made from the firms who have been approved by RDSO, either before or on the date of tender opening, to manufacture and supply the item. The tenderers are to enclose copies of such approval letters along with their offers. The status of the firm will be reckoned as on the date of tender opening and not thereafter. But, in case of removal/suspension/banning etc. after opening of tender, such changes shall be taken into account while considering the offers.

4.2.2 Performance of Firm

It may specifically be noted that approval of a vendor only signifies its technical capability to supply the items for which, it has been approved/registered and it is quite likely that such vendors differ in terms of capacity, past-performance etc. The quantities to be ordered on approved sources/ therefore/ will be decided/ duly considering factors past performance, capacity, delivery requirements, quantity under procurement, nature of item, outstanding order load etc. In case of placing order on more than one firm splitting of quantities will be following the general principle of quantity to be ordered given in para 3.0 above.

4.2.3 VITAL Documents to be uploaded for Performance

Tenderers must submit performance in performance statement format of techno commercial offer in part C. Besides this firm must upload statement of pending order with liquidating plan. For claiming successful supply of earlier purchase orders tenderer should also attach scanned attested photo copies of Purchase Orders, inspection certificates and Receipt Note/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/Production Unit. Such bidders are to note that non-submission of such VITAL 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.

4.3 For Developmental Order (Firm not approved for Item)

4.3.1 VITAL Documents to be uploaded for Performance

If the tendering firms(s) is not approved by RDSO as mentioned above either for placement of bulk order or for developmental order, then they must submit their credentials details i.e machinery and Plant, Testing Facilities, QAP, Technical Manpower, etc as an attachment to their E-bid. In deserving cases, as the offers from new suppliers may be considered for developmental orders only after confirmation of their capacities/capabilities by RDSO. Failure to furnish requisite credentials as mentioned above will make their offer liable to be ignored.

4.3.2 Quantity for Developmental Order

Minimum 80% of the net procurement quantity (NPQ) shall be ordered on "Approved Vendors" only.. Placement of developmental order shall be considered only.

- (I) Where the approved vendors are not adequate and it is desirable to develop more sources for bringing in more competition or improvement in quality or indigenisation.
- (II) Where the rates received from new sources are lower than those applicable to Approved Vendors and where new source are having potential for supply of quality material and are having infrastructure of plant and machinery and testing equipment.
- (III) Developmental order can be given upto 20% of the NPQ on unregistered /untried firms about whom Railway is prima facie satisfied that they are capable of executing order.
- (IV) To avoid ambiguity, the term "developmental order" shall be used for all such orders and shall be written on all such purchase orders issued by Railways.

4.4 Procurement of materials failing in the category other than those in Para 4.1 to 4.3 above.

In these cases, the Railways reserves the right to make bulk procurement from the bidders who conform to/comply with the eligibility criteria (as detailed in the E- 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 that they are capable of executing the orders but whose capacity to supply bulk quantity has not been established in the past.

Unless otherwise specifically mentioned in the eligibility criteria, detailed in E-tender, manufacturers having satisfactory past performance in supply of item(s), same or similar to tendered item(s), in the preceding 3 years (Three years), or their authorized agents, shall only be considered for bulk order. Satisfactory past performance will be signified by both qualitative and quantitative performance to zonal railways / PUs.

Performance statement shall be filled in the format, provided at Annexure D of instruction to tenderers for e-tendering. Scanned copies of documentary evidence for the performance shall be attached with the offer.

5.0 Public Procurement Policy on MSEs:

5.1 (i) In pursuance of the Public Procurement Policy on MSEs agencies mentioned at 5.2 (i) for the item tendered.

(ii) MSEs registered with agencies mentioned at 5.2 (i) 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 allow 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 MSE can be together ordered up to 20% of the total tendered value 20% out of this 20 % i.e. 4 % of total ordered quantity will be order on the firms owned by SC/ST if rate comes within L1 + 15%, the MSE firms owned by SC/ST should submit documents to prove their status as SC/ST to get this benefit.*

5.2 (i) "MSEs who are interested in availing themselves of these benefits will enclose with their offer the proof of their being MSE registered with any of the agencies mentioned in the notification of Ministry of MSME indicated below:-

a) District Industries Centers

b) Khadi and Village Industries Commission

c) Khadi and Village Industries Board

d) Coir Board

e) National Small Industries Corporation

f) Directorate of Handicraft and Handloom g)Any other body specified by Ministry of MSME

5.2 (ii) The MSEs must also indicate the terminal validity date of their registration.

Failing 5.2 (i) & 5.2 (ii) above, such offers will not be liable for consideration of benefits.

5.3 Public Procurement Policy for preference to make in India:

This price preference clause is applicable to the tenders in which indigenous and foreign based firm(s) participate(s) simultaneously, in that case policy of procurement shall be as under-

5.3.1 Purchase preference shall be given to indigenous suppliers in all procurements in the manner specified here under. :

(a) In procurement of goods having sufficient indigenous capacity and indigenous competition, and where the estimated value of procurement is Rs.50 lakhs or less, only indigenous suppliers shall be eligible. If the estimated value of procurement of such goods is more than Rs. 50 lakhs, the provisions of sub-paragraph b or c. as the case may be, shall apply.

(b) In the procurements of goods which are not covered by sub-paragraph (a) and which are divisible in nature, the following procedure shall be followed:

i. Among all qualified bids, the lowest bid will be termed as L1. If it is from a indigenous supplier, the contract for full quantity will be awarded to L1.

ii. If L1 bid is not from a indigenous supplier, 50% of the order quantity shall be awarded to L1 . Thereafter, the lowest bidder among the indigenous suppliers, will be invited to match the L1 price for the remaining 50% quantity subject to the indigenous supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such indigenous supplier subject to matching the L1 price . In case such lowest eligible indigenous supplier fails to match the L1 price or accepts less than the offered quantity, the next higher indigenous supplier within the margin of purchase preference shall be

awarded accordingly . In case some quantity is still left uncovered on indigenous suppliers, then such balance quantity may also be ordered on the L1 bidder.

(c) In procurements of goods not covered by sub- paragraph (a) and which are not divisible, and in procurement of services where the bid is evaluated on price alone, the following procedure shall be followed :

i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is from a indigenous supplier, the contract will be awarded to L1.

ii. If L1 is not from a indigenous supplier, the lowest bidder among the indigenous suppliers, will be invited to match the L1 price subject to indigenous supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such indigenous supplier subject to matching the L1 price.

iii. In case such lowest eligible indigenous supplier fails to match the L1 price, the indigenous supplier with the next higher bid within the margin of purchase preference shall be invite to match the L1 price and so on and contract shall be awarded accordingly . In case none of the indigenous suppliers within the margin of purchase preference matches the L1 price then the contract may be awarded to the L1 bidder.

The criteria of splitting the Qty. among more than one firm as mentioned in clause 3.0 stand superseded to the extent mentioned above.

5.3.2 Exemption of small purchases : Notwithstanding anything contained in Para 5.3.1 Procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempted from this.

5.3.3 Minimum indigenous content : The condition prescribed in the Para 5.3.1 & 5.3.2 shall be applicable to only those products in which the minimum indigenous content is 50% . However In the cases, where indigenous content is prescribed other than 50%.

purchaser at its discretion may prescribe a higher or lower percentage in respect of any particular item on case to case basis and may also prescribe the manner of calculation of indigenous content.

The minimum indigenous content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

5.3.4 Margin of Purchase Preference : The margin of purchase preference shall be 20%.

5.3.5 Verification of indigenous content :

a. The indigenous supplier at the time of tender, bidding or solicitation shall be required to provide self-certification that the item offered meets the minimum indigenous content and shall give details of the location(s) at which the indigenous value addition is made.

b. In cases of procurement for a value in excess of Rs.10 crores, the indigenous supplier shall be required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of indigenous content.

c. False declarations will be in breach of the Code of integrity under Rule 175(1)(i)(h) of the General Financial Rules for which a bidder or its successors can be debarred for up to two years as per Rule 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

d. A supplier who has been debarred by any procuring entity for violation of this order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively from the date on which it comes to the notice of other procurement entities.

e. Verification of indigenous component, Complaints and debarment of bidder etc. will be governed by Railway Board Letter No. 2015/RS(G)/779/5 Dated 03/08/2017.

6.0 Time Preference

In case contract shall be placed on higher tenderer as a result of this invitation to the tender, in preference to the lowest acceptable offer in consideration of offer of early delivery the Contractor will be liable to pay to the Government the difference between the contract rate and that of the lowest acceptable tender on the basis of final FOR destination including all element of freight, Sale Tax, Local Taxes, Duties and other incidentals, in the case of failure to comply supplies in terms of such contract within the date of delivery specified in the tender and incorporated in the contract.

7.0 Quotations for Imported items:

7.1 Quotations in Foreign Currency:

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

7.1.2. 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.

7.2 Imported Stores offered by Indian Agents in Indian Currency:

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

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

b (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.

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

(i) 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.

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

(iii) 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.

- d. Tenderer has to indicate the following while submitting the offer:
 - i. The precise relationship between the foreign manufacturer/principal and their agents/associates.
 - ii. The mutual interest, which the manufacturer/principal and the Indian agent/associates have in business of each other, is to be indicated.
 - iii. Indian agent's Permanent Account Number is to be indicated.
 - e. Any additional expenditure incurred on account of Customs Duty and Exchange Rate variation during pendency of the Contract will be on contractor's account.
 - f. 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.
- 7.3 The amount of Agency commission payable to the Indian Agent will not be more than what is specified in the Agency agreement between the tenderer (i.e. the foreign principal) and the Indian agent. A certified photocopy of the Agency commission agreement must be submitted alongwith the offer.
- 7.4 The Indian agent will be required to submit a certificate, along with their Agency Commission Bill, confirming that the amount claimed as Agency commission in the bill has been spent/will be spent strictly to render services to the foreign principal , i.e., M/s (i.e. contractor) in terms of agency agreement. The purchaser or their authorized agencies and/or any other authority of Govt. of India shall have rights to examine the books of the Indian Agent and defect or misrepresentation in respect of the afore indicated confirmation coming to light during such examinations will made the foreign principal (i.e., the contractor) and their Indian Agent liable to be banned/suspended from having business dealing with Indian Railways, following laid down procedure of such banning/suspension of business dealings.
- 7.5 Check list, to be filled by the tenderer is filed at Annexure-B of these General Conditions of Tender for Supply Contracts.

8.0 Payment Terms:

- 8.1 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.
- 8.2 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.
- 8.3 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. -
- 8.4 In deserving cases, 98% / 2% payment can also be considered within the framework of extant rules and procedures.
- 8.5 **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 (Proforma at Annexure-A) of the contractor for 10% of the value of the machinery or plant.

8.6 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 Railway reserves the rights to avail themselves of such rebates / discounts.

8.7 Payment through NEFT/RTGS:

National Electronic Fund Transfer (NEFT) is mandatory from 01-01-2008. No Registration/Renewal of Firms will be granted without NEFT system after 01-01- 2008. All payments after 1.4.2008 are made only through NEFT/RTGS. Firms have to fill and attach the Mandate Form (as per Annexure C of Instruction to Tenderers for E-Tenders) 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.

9.0 Inspection Clause:

- 9.1 Material peculiar to Railways such as parts and fittings of rolling stock except raw material, which have been found rejected 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 of assets. All such rejected materials peculiar to Railways should be mechanically defaced to prevent sale to Railways again.
- 9.2(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 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.
- 9.3 The Consignee will do final inspection and acceptance of the supplied material after receipt of the material.
- 9.4 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.
- 9.5 The material supplied by the successful tender/tenderers shall strictly conform to specification indicated against it.
- 9.6 No consignment or part of consignment which has once been rejected may again be submitted except in case where the inspecting officer considers the defect may be rectified. The Purchaser or the inspecting officer shall have free access to the works Factory of the manufacturer's at the all reasonable times.

He shall be at liberty to inspect the material used in the manufacture at any stage and may take such actions as may be considered necessary even to terminate the contract if it is found that the agreed quality etc. is not being adhered in the manufacture of the supplies.

- 9.7 In the event of any delay in supply of material the Administration reserve the right either to purchase material from elsewhere at the risk and cost of the contractor's or penalize the contractors for such default for the under delivered portion of any supply in terms of IRS conditions of contract.
- 9.8 All supplies shall be subject to inspection on receipt of stores at destination as specified in individual orders. Not with standing a quotation for delivery in the particular state the contractor's responsibility will not cease until delivery has been taken at destination by the purchase or by such officer as nominated by him. The decision of the purchase in

case of dispute as regards quality or supplies delivered shall be final and shall be entitled to reject any or all supplies as unsuitable.

10.1 Terms of Delivery:

- 10.1 Mode of dispatch should be preferably by road. Road permit will be issued by consignee after submission of call letter by supplier addressed to Inspecting Agency for inspection of ordered material against same contract No. & date.
- 10.2 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.
- 10.3 The supplier should arrange transit Insurance for risk in transit, since risk in transport in all such cases rests with the supplier.
- 10.4 The firms who offer to dispatch the Stores by Road or FOR Station of dispatch basis, but freight prepaid up to the Destination may seek reimbursement of such freight charges. Such re-imburement shall be made at actual and against documentary evidence within the upper ceiling of Freight charges as indicated by them or Rail freight by Passenger Train whichever is lower. However for evaluation of offers, it is the quoted Freight, which will be considered.
- 10.5 If tenderer fills Nil freight charges in the rate page and mentions delivery terms as FOR: station of despatch basis, elsewhere, then no freight charges will be reimbursed to the firm i.e. freight charges will be borne by the firm.
- 10.6 Unless otherwise clearly stated in the tender or contract, the FOR condition shall be "FOR: Destination for deliveries by Road.

11.1 Delivery Schedule:

- 11.1 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.
- 11.2 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 exists. Such extensions of delivery dated may be considered with Liquidated damages and Denial Clause as per IRS conditions of Contract.
- 11.3 Upper limit for recovery of liquidated damages in supply contracts will be 10% (Ten Percent) of value of contract irrespective of delays, unless otherwise provided, specifically in the contract.
- 11.4 Railway shall 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.
- 11.5 L.D. will not be waived unless reasons of delays in supplies are beyond the control of supplier.

12.1 Cartel Formation:

- 12.1 Whenever all or most of the approved firms quote equal rates and cartel formation is suspected, Railways reserve the right to place order on one or more firms with exclusion of the rest without assigning any reason thereof.
- 12.2 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.

12.3 The firms who quote in cartel may be warned that their names are likely to be

deleted from list of approved sources.

- 12.4 "Whenever tender is floated with purchase restriction from sources approved by nominated authorities and there exists a suspected cartel situation by approved sources or the rates available from approved source/sources are adjudged unreasonably high, despite fair efforts as permissible, the purchaser reserves the right to place orders on firms outside the approved vendors list, without any restrictions."

"This supersedes instructions contained in para 4 of Railway Board Letter No.2001/RS(G)/779/4 dated 5.8.2002."

13.1 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.

14.0 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 Proforma of the Warranty bank guarantee is given in annexure 'A' of these conditions.

15.0 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.

16.1 Procurement from Manufacturer's authorized agents/ Distributors:

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

- 16.2 One agent cannot represent two Suppliers or quote on their behalf in a Particular tender.

- 16.3 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.

- i. 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 manufacturer and not in the ware house/ go-down or Shop of the dealer.
- ii. Direct dispatch from the premises of the manufacturer to the Railways consignee after inspection and acceptance by RITES/RDSO.
- iii. Submission of manufacturer's Test and Guarantee Certificate with each lot of supplies.
- iv. The authorized agents/distributors price will not exceed to what the manufacturer would have quoted.

- 16.4 The tenders must give full particulars of their local agents, liaison agent, if any, while submitting their offers. The name of such local agent, his full address, telephone number etc. should be clearly indicated. Any authorization issued by the tenderer subsequent to the opening of the tender will not be entertained.

- 16.5 Offer of original manufacturer having satisfactory past performance or his authorized agent will only be considered for bulk supply. The bidders must submit documentary evidence to prove credentials of manufacturer. **Refer Para 4.3 also.**

17.0 ARBITRATION CLAUSE:

As per revised IRS Condition amended by railway board letter No. 97/RS/(G)/779/2 Dated:16/02/17.

- 18.0** Subject as otherwise provided in this contract all notices to be given on behalf of the president of India and all other action to be taken on his behalf, will be given or taken by the Dy. Chief Materials Manager/Senior Materials Manager/Asstt. Materials Manager, NE Railway, PCMM office Gorakhpur,
- 19.0** The acceptance of this tender shall constitute a binding contract between the successful tenderer and the President of Union of India.
- 20.0** Bank guarantees in regard to earnest money deposit, security deposit i.e. performance guarantee etc. are acceptable from all scheduled banks except Punjab & Sind Bank.
- 21.0** Bank Guarantees (BG's) to be submitted by suppliers/contractors should be sent directly to the concerned authorities by the issuing Bank under registered post A.D.
- 22.0 Raw Material secured by Govt. Assistance**

Where any raw material(s) for the execution of the contract are procured with the assistance of Government either by issue from Government stock or purchase under the arrangements made as permit or Licence(s) issued by Govt. the contractor shall hold the said materials as trustee for government and use each materials, economically and solely for the purpose of the contract against which they are issued and not dispose them off without the permission of the Government and return, if required by the purchaser all surplus or unserviceable materials they may be left with him after the completion of the contract or its termination for any reason, whatsoever, on his being paid such as government may fix with due regard to the conditions of the purchaser shall be borne by the contractor's in the event of the contract being cancelled for any default on his/their part. The decision of Government shall be final and conclusive. In the event of a breach of the aforesaid conditions the contractor(s) shall in addition to throwing himself/themselves open to action for contravention of terms of the License(s) or permit(s) and/or original breach of trust be liable to account to Government for all money advantage or profit resulting or which in the usual course would have resulted to him/them by reason of such breach.

**Principal Chief Materials Manager
For & on behalf of the President of India**

I/We agree to the above conditions.

Signature of tenderer
Whether partner/managing director/Proprieter's
Full Address & Telephone No:

PROFORMA FOR WARRANTY GUARANTEE BOND

To:

**The President of India'
Acting through
Principal Chief Materials Manager
North Eastern Railway,
Gorakhpur-273012.**

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, herein after called the "Sellers" have agreed to sell to you (hereinafter referred to as the "Government") _____
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 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 up to 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.
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

General Conditions Of Contract for Stores Department

_____ i.e. for _____ months counted from the date of placing the stores in services, and shall continue to be enforceable for further six months i.e. up to _____ (date), hereinafter called the said date.

9. 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 _____

Read and Accepted.

Signature of Tenderer _____

(Designation)

(Banks common Seal)

NOTE: 1. The Bank Guarantee shall be executed on non-judicial stamp paper @ 5 / thousand of BG value duly attested by Notary Public or Executive Magistrate.

2. Bank Guarantees should be sent directly to the concerned authorities by the issuing Bank

under registered post A.D.

Check List to be filled in import cases by tenderer

- | | |
|---|--------|
| i. Have you submitted the authorization letter Authorizing your agent to quote on this tender? | Yes/No |
| ii. Have you indicated the complete name and address of the agents and details of the services to be Rendered by the agents? | Yes/No |
| iii. Is the agent going to render after sale service? | Yes/No |
| iv. In case the answer to (iii) is yes, confirm that the Agent has necessary infrastructure and competent Staff to render the same. | Yes/No |
| v. Have you submitted a copy to your agreement with your Indian agent? | Yes/No |
| vi. Manufacturer or their sole selling agents may note that an agent can represent only one firm in a tender and any manufacturer cannot submit two offers against a tender through different sole selling agents or one directly and one through sole selling agent. In such a situation both the offers will be rejected. | Noted |
| vii. Have you indicated your Indian Agent's Income Tax Permanent Account number? | Yes/No |
| viii. Are you aware that any payment against the contract, if placed to your Indian agent directly by You in currency other than in Indian rupee is against the Indian Laws? | Yes/No |
| ix. Are you aware that failure to disclose the full amount of remuneration/agency commission payable to your Indian Agents shall render the contract void? | Yes/No |