



Stores Department

MODERN COACH FACTORY, RAE BARELI

This document is applicable to e-tenders for supply contracts issued by Principal Chief Materials Manager, MCF/Rae Bareli Office. The document in three sections consists of the followings and the special conditions of tender, if any, uploaded on IREPS website and forms an integral part of the e-tender of a particular item/group of items along with the Tender Schedule published on the IREPS website:

Section I	Instructions to tenderers (Page 05 to 30)
Section II	General Conditions of Tenders/Contract (Page 31 to 70)
Section III	Annexures (Page 71 to 105)
Note:- Tenderers are required to go through the tender documents thoroughly before submitting their offers.	

Address for correspondence:

Office of the
Principal Chief Materials Manager
Modern Coach Factory,
Lalganj, Rae Bareli (UP)-229120

Website of MCF: www.mcf.indianrailways.gov.in

Website for e-tenders: www.ireps.gov.in

PAN: AAAGM0289C

GSTIN: 09AAAGMO289C1ZH

Revision: 24

Date of issue: 22/02/2023

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SECTION-I
GENERAL INSTRUCTIONS

1.0 General Instructions to tenderers:

1.1 The Principal Chief Materials Manager (PCMM), Modern Coach Factory (MCF), Lalganj, Raebareli- 229120 on behalf of the President of India (hereinafter referred to as the Purchaser), invites e - tenders from established and reliable manufactures or their authorised agents (herein after referred as Vendor/ Tenderer/ Firm/ Bidder/Supplier) for supply of goods as mentioned in the tender schedule of e-tender uploaded on the website of IREPS: www.ireps.gov.in. All correspondence related to the tender should be made only with the PCMM, MCF.

1.2 Tenderers are advised to carefully read all the instructions, the general and special conditions of tender, and Revised Indian Railway Standard (IRS) Conditions of Contract-September 2022 Version 1.0 or latest before submitting the offer. By submission of offer with the tenderer's digital signature in the format of techno-commercial bid and financial bid on the IREPS website, hereinafter stated as e-tender form for brevity, it shall be construed that the tenderer has read, understood and accepted all conditions of the tender documents including all conditions uploaded for the tender and corrigendum, if any, and undertakes to abide by the same.

1.2.1 For detailed instructions specific to tender conditions, such as, Price, GST, delivery terms etc. tenderers must refer to General Conditions of Tender given in Section-II of this document.

1.3 Tenderers must submit all information in English. Information in any other language must be accompanied with its authenticated translation in English. Failure to comply with this may render the offer liable to be rejected. In the event of any discrepancy between an offer in a language other than English and its English translation, the English translation shall prevail.

1.4 Tenderers must ensure that the conditions laid down for submission of e-tenders detailed in subsequent paras, are completely and correctly complied with. Tenders which are not complete in all respect as stipulated in these tender documents, are liable to be rejected.

1.5 The Principal Chief Materials Manager or any other officer authorised on behalf of the President of India is not bound to accept the lowest or any tender or to assign any reason for doing so and reserves himself the right to cancel the tender, or to accept any tender in respect of the whole or any portion of the items specified in the e-tender and the successful tenderer shall be required to supply the same at the terms and conditions specified in the contract.

1.6 In case of any contradiction in the terms and condition appearing in IRS Conditions of Contract and General Conditions specified in the tender documents, the latter will prevail. In case of any contradiction between the General Conditions and Special Conditions specified in the tender documents, the latter will prevail.

1.7 Local conditions:

It will be imperative on each tenderer to fully acquaint himself/ herself of all the local conditions and factors, which would have any effect on the performance of the contract and cost of the stores. The Purchaser shall not entertain any request for clarifications from the tenderer regarding such local conditions. No request for the

change of price, or time schedule for delivery of stores will be entertained on this ground after the Purchaser accepts the offer.

1.8 Pre-requisites for vendors desirous of participating in e-tenders:

- 1.8.1** Vendors intending to participate in the e-tenders available on the Indian Railways e- procurement website “www.ireps.gov.in” will have to obtain a Digital Signature Certificate (DSC) ‘Class III’ type in tenderer’s name from an approved certifying agency. The list of certifying authorities issuing the Digital Signature Certificates is available on the website www.cca.gov.in.
- 1.8.2** With the Digital Signature Certificate, vendors will have to register themselves on-line using the link “New Vendors” option available on the home page of the website www.ireps.gov.in duly filling the complete information as required in the web page and attaching their digital signature using “Sign & Submit” button. Upon registration, the website will provide a registration number, which the vendors may note for future correspondence.
- 1.8.3** Vendors are advised that Centre for Railway Information Systems (CRIS) New Delhi, the Web Master, will require minimum of 3 (three) clear working days to provide the user-ID and password which will be sent to the e-mail address provided by vendor during the registration process. In case of any difference in the information provided by the vendor during registration on website and that available in the digital signature certificate, the request will be rejected and an e-mail will be sent duly communicating the reasons for rejection. CRIS will not be responsible for vendor’s failure to participate in a tender due to any technical problems arising during the process of registration or submission of offers.
- 1.8.4** The digital signature certificates (DSC) are issued with limited currency/validity date. The vendors are required to re-register themselves with the website ‘www.ireps.gov.in’ whenever their DSC is renewed. Vendors are advised to get the DSC renewed well in advance and in general no request for postponing the date of tender closing may be entertained on this account.
- 1.8.5** Vendors are advised to familiarize themselves with the e-tendering process with the help of “User Manual” available at home page of website “www.ireps.gov.in” under Learning Center and Help Desk/Frequently Asked Questions (FAQ)/ e-Tender on the same website.

2.0 Downloading of Tender Documents and corrigenda:

- 2.1** Tenderers can download tender documents from website www.ireps.gov.in free of cost. The Purchaser will not be responsible for any delay/delays in downloading of tender documents from the website.

2.2 Corrigenda:

Purchaser reserves the right to issue corrigenda to the tender document before the due date of opening of the tender and additional time if warranted, may be given for such corrigenda. It is the responsibility of the tenderer to regularly check any correction or modifications to the tender documents published through corrigendum on the website and download the same and such corrigendum shall invariably be taken into account while considering/evaluating the offer. Tenderer can submit revised offer after

considering the effect of corrigendum, in case he has already submitted any offer prior to publication of the corrigendum.

3.0 Cost of Tender Documents:

Tender document cost is not applicable for the tender documents which are downloaded by the tenderers.

4.0 Submission of Offers:

4.1 Tenderers are required to submit their offers by filling up the e-tender form on the website itself after making the payment of the requisite Earnest Money Deposit (EMD), unless exempted as per provisions under Para 6.0 below.

4.2 All the e-tenders in prescribed electronic offer form on the IREPS website www.ireps.gov.in should be submitted before the due date and time fixed for the receipt of e-tenders as set forth in the tender document. The offer is to be submitted with digital signature by the pre- authorised personnel of the tenderer already registered with IREPS website.

4.3 Manual offers sent by post/fax or in person shall not be accepted, even if these are submitted on the firm's letter head and received in time. All such manual offers shall be considered as invalid offers and shall be summarily rejected.

4.4 The scanned copies of all necessary documents must be uploaded with the offer. In case offers are not accompanied with the required documents, same are liable to be rejected without assigning any reason. However, Railway reserves the right to consider the offers received without supporting documents, on merits in deserving cases.

On submitting the e-tender with Digital Signature Certificate, it shall be assumed that the personnel of the tenderer digitally signing the e-tender form is a legally authorized signatory, that is, he/she is-

- i) the sole proprietor of the concern or the authorized attorney of the sole proprietor,
- ii) a partner of the firm, in case of a partnership firm, or
- iii) a Director, Manager or Secretary in the case of a Limited Company, duly authorised by a resolution passed by the Board of Directors or in pursuance of the Authority conferred by Memorandum of Association of the company.

4.6 In the case of a firm not registered under the Indian Partnership Act, it shall be deemed that person digitally signing the e-tender is the attorney duly authorised by all the partners. A certified copy of power of attorney or other documents empowering the individual to digitally sign the e-tender, should also be uploaded as a part of the offer.

4.7 The tenders are uploaded on IREPS website well in advance of tender closing time/date to give sufficient time to the tenderers to participate in the tender. "Tender Closing date/time" implies the closing date/time specified in the IREPS Tender Document after which the IREPS website does not permit submission of offers by the tenderers. Hence there is no scope of

any late or delayed offer in the online bidding process. Tenderers are also advised in their own interest to submit their offers well in advance before the tender closing time/date. Railways shall not be responsible for non-participation of tenderers due to any technical problems such as network connectivity etc. on the tender closing date/time.

- 4.8** As the Modern Coach factory, Raebareli makes payment through NEFT system **as well as through letter of Credit (LC)**, tenderers are required to comply with the following –
- i) Tenderers to give consent for receipt of payment through NEFT/RTGS in a mandate form given in Annexure-I **or unconditionally accept special tender conditions for payments through Letter of Credit (para 16.19 of Section-II & Annexure-IX), while submitting their offers.**
 - ii) To provide the details of their bank account in line with RBI guidelines for the same, including bank name, branch name and address, account type, bank account No., IFS Code as appearing on MICR cheques issued by the bank etc.
 - iii) To upload certificate from their bank certifying the correctness of the information as mentioned in (ii) above.
- 4.9** In case, any clarification is required by the tenderers for submitting offers, same should be sought for from the Purchaser well before the tender opening date. It may be noted that no clarification will be given on date of tender opening.
- 4.10** In case, an invalid or unworkable or unrealistic offer is submitted by any firm allegedly by mistake & its subsequent withdrawal, it may please be noted that in such an eventuality their EMD will be forfeited. In case, they have not submitted EMD and claimed exemption, their equivalent amount will be treated as outstanding recovery.
- 5.0 Specifications and Drawings:**
- 5.1** Specifications and drawings issued by MCF and as mentioned in the description will alone be uploaded as a part of the tender documents, wherever applicable. The Principal Chief Materials Manager will not provide or upload IRS/BIS/RDSO/RCF/ICF/CLW/BLW/PLW/CORE specifications or drawings and those issued by *any* other organizations. Such drawings and specifications must be obtained by the tenderer from the appropriate authorities concerned who issue them on payment, if required.
- 5.2** If tenderers happen to quote with their own Drawing No./ Part No./ Specification/catalogue, etc., then they shall have to necessarily upload copies of all such drawings/specifications/catalogues, etc. and all the requisite documents and information as part of their offer to support that it is in conformity with the tendered drawings/specifications, failing which the offer will be liable to be rejected.

5.3 Examination of Drawing, Specifications and Patterns:

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

5.4 Mistakes in Drawing:

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

6.0 Earnest Money Deposit (EMD) for Stores Tenders:

6.1 All the tenderers are required to furnish Earnest Money Deposit (EMD) subject to following exemptions:

- (a) (i) EMD Shall normally not be called against limited tenders with estimated value upto Rs. 25 lakhs (including single tenders, global limited tenders)
- (ii) If considered necessary, authority competent to issue tender may incorporate the condition to call for EMD even in such limited tenders, on case to case basis.
- (b) MSEs registered under Udyam Registration irrespective of relevance of product category shall be eligible for exemption from payment of EMD.

However, traders/distributors/ sole agent /works contract are not exempted from payment of EMD as they are excluded from the purview of the policy.

- (c) Other Railways and Government Departments in terms of Railway Board's letter No. 2004/RS(G)/779/11 dated 24.07.2007
- (d) Indian Ordnance Factories in terms of Railway Board's letter No. 92/RSS(G)/363/1 dated 08.04.1993
- (e) PSUs owned by Ministry of Railways and PSUs for the group of items that are manufactured by them in terms of Railway Board's letter No. 2003/RS(G)/779/5 dated 10.09.2004
- (f) Vendors registered with Railways for the trade group of the item tendered.
- (g) Vendors appearing on the approved vendor lists of RDSO/PUs/CORE, for those specific items for which they are on approved list, subject to approval status being valid on the date of tender closing.
- (h) Vendors registered with Railways for supply of medicine, medical equipments and consumables shall be exempted from submission of EMD for these items.

- (i) In tenders issued against PAC, OEM in whose favour PAC has been issued shall be exempted from submitting EMD, KVIC and ACASH shall be exempted from EMD for items supplied by them.
- (j) Deleted

6.1.1 Tenderers seeking exemption from payment of EMD must upload requisite documentary evidence in support of their claim alongwith a signed declaration as per Annexure-VII. Only tenderers complying *with the* criteria mentioned in Para 6.1 can avail EMD exemption. In case of any doubt, tenderer must participate only after paying EMD. Tenderers other than those who are eligible for exemption from paying Earnest Money as detailed in Para 6.1, shall be required to pay Earnest Money Deposit on or before tender opening date, failing which their offers shall be summarily rejected.

6.1.2 Authorized agent quoting on behalf of a manufacturer shall not be exempted from remitting EMD, owing to any of the above exemptions as at para 6.1.

6.2

Estimated value of tender	EMD (rounded off to nearest higher Rs. 10 (ten))
Above Rs. 25 lakh and Upto Rs. 50 Cr.	@2% of the estimated value of the tender subject to Max. Rs. 20 lakh.
Above Rs. 50 Cr.	Rs. 50 lakh.

6.3 Railway reserves the right to enhance the upper limit on amount of EMD for high value tender cases and such upper limit will be specified in the tender documents.

6.4 EMD should be submitted online only through the payment gateway as available on IREPS website.

6.5 No interest shall be payable by the Purchaser on the Earnest Money Deposit or any other payment made to Railways.

6.6 The purchaser will initiate the refund of EMD when any one of the following conditions is satisfied.

- (a) After finalization of tender the bidder is an unsuccessful bidder.
- (b) Validity of offer expires and validity extension is not sought.
- (c) Validity of offer expires and bidder refuses to extend validity of offer.
- (d) After finalization of the tender successful bidder submits required SD.

6.7 Offers submitted without EMD shall be summarily rejected.

6.8 The Earnest Money Deposited is liable to be forfeited, if the tenderer withdraws or amends, impairs or derogates from the offer in any respect within the period of validity of his offer or if the tenderer being successful, fails to submit the Security Deposit.

6.9 (i) All vendors, exempted from submitting EMD, as per Para 6.1 of Section-I above, irrespective of type of tender, i.e. Single, limited or open, shall be required to sign a bid securing declaration as per Annexure-VII to this instruction. It shall be incorporated in the tender conditions.

(ii) There shall be no exemption to such bidders from submitting EMD and SD for all tenders publishing during the period of time they are so disqualified as per the declaration signed by them.

(iii) Authority competent to approve the disqualification shall be the tender accepting authority not below the level of SAG including SAG officers in the field units namely CMM, ADRM, CWM, CAO, CPM, subject to PHOD/CHOD having full powers to approve disqualification.'

(iv) The disqualification procedure and all correspondence thereof shall be online and digital. Updation on IREPS shall be done by minimum JAG level officer dealing with vendor registration in the the Railway.

(v) This para shall not be applicable for Govt. Departments/ ordnance factories/ other Railways/ Railway PUs/KVIC/ACASH and matter shall be taken up with them departmentally/ administratively.

7.0 Compliance of IRS, General, Special and Other Tender Conditions:

The offer shall comply with the IRS Conditions of Contract, General Conditions of Tender and Special Conditions of Tender given in the tender documents. The details of deviations from the said tender conditions, if any, should be clearly indicated in the Techno Commercial bid details under "Commercial Deviation Statement" of e-tender form and if space available is not adequate, tenderers can upload a Statement of Deviations which shall include remarks and justifications for deviations against various clauses of the tender conditions for each deviation as a part of the offer and a reference of uploaded deviation statement shall be given in "Commercial Deviation Statement". The Purchaser, however, reserves the right to accept or reject any of the deviations and his decision thereon shall be final. If there is no deviation, tenderer should indicate "No Deviation" in Commercial Deviation Statement.

8.0 Compliance of Technical Requirements:

8.1 The stores/equipments offered should be in accordance with the stipulated description, drawings and specifications mentioned in tender document published on IREPS website. The details of deviations from the drawings and specifications, if any, should be clearly indicated in the Techno Commercial bid details under the heading "Technical Deviation Statement" and if space available is not adequate, tenderers can upload a Statement of Deviations which shall include remarks and justifications for deviations against various clauses of technical specifications/drawings for each deviation as a part of their offer. A reference of uploaded deviation statement shall be given in "Technical Deviation Statement" of e-tender form. The Purchaser, however, reserves the right to accept or reject any of the deviations and his decision thereon shall be final. If there is no deviation, tenderer should indicate "No Deviation" in Technical Deviation Statement.

8.2 The Purchaser may accept internationally accepted alternative specifications which ensure equal or higher quality than the specifications mentioned in the tender specifications. However, the decision of the Purchaser in this regard shall be final.

8.3 Remarks such as "Best Make" etc. will be assumed to indicate 'Best Make' conforming to the tendered specification, unless it is specially mentioned by the tenderer that the material offered is not to the tendered specification.

8.4 The tenderer should avoid ambiguity in his offer, e.g., if his offer is to his

standard sizes/length/ dimensions, etc. he should specifically state them in details without any ambiguity. Brief descriptions such as "standard lengths", etc. should be avoided in the offer.

9.0 DELETED

10.0 Price Basis:

10.1 All tenderers must quote in Indian Rupees (INR) only, failing which the offers are liable to be rejected.

10.2 Tenderers are required to quote only one rate for each item/consignee in the prescribed fields of Financial Rate Page of e-tender form and nowhere else. Any financial terms and conditions mentioned in the fields other than the nominated fields will be ignored and will not be considered for purpose of evaluation of offer to determine the inter-se ranking of the offer, unless otherwise specified in the tender document. Tenderers are advised not to quote any terms and conditions having financial bearing anywhere else as these will not be considered and will be ignored. Similarly, any financial terms and conditions enclosed as attachments to e-offer will not be considered and will be ignored. However, Railways at their own discretion may avail the benefit of such conditions while placing contract, if the offer is considered for placement of contract. Nothing extra shall be payable over and above the all inclusive rate shown in the financial offer, except on account of Statutory Variation, if applicable. Further, Purchaser reserves the right to consider such offers even as invalid offers and same are liable to be rejected.

10.3 All the mandatory fields of the Techno Commercial Bid Details and Financial Rate Page have to be filled up by the tenderers. All inclusive rate on FOR destination basis shall be automatically calculated by the system and same will be shown to the tenderers before submission of offer.

10.4 The tenderers should quote their lowest possible price for each 'unit' specified in the "Tender Document" for the tendered item. Tenderers are not allowed to change the 'unit' of the tendered item and if they quote their price with any different 'unit', unless specified in the tender document, their offers are liable to be rejected.

10.5 Unless otherwise specified in Tender, wherever no price variation clause is specified, tenderers must submit their offers/e-Bids on fixed price basis only, that is, the quoted prices should be firm and not subject to any variation, otherwise the offer shall be summarily rejected.

10.6 Wherever multiple consignees and multiple items are mentioned in the tender document as published on IREPS website, tenderers shall quote separately for each consignee and for each item, unless otherwise specified.

10.7 The rates quoted shall not be more than the Maximum Retail Price (MRP) of the tendered item, if any. In case Railway detects at any time

that the amounts have been quoted and paid over and above the MRP of any item, goods, then Railway reserves the right to recover any such additional amounts paid for supplying, in full or in part, for such items, over and above the MRP prevailing at the time of supplies actually made. Such recoveries can be made at any time, including after the completion of the contract. In case such over pricing is detected during the course of the contract then Railway reserves the right to pay only the amounts maximum up to the MRP of such items.

11.0 Delivery Period:

- 11.1** Tenderers must refer to the delivery schedule specified in the tender document. Delivery period quoted must conform to the delivery requirement specified in the tender document and should not be vague such as “2 to 12 months. That is, offer should mention the starting time, monthly/quarterly rate of supply and completion time, such as, to commence in _____ days/ months @ _____ per month/week and completed in _____ days/months from date of issue of the purchase order.
- 11.2** The tenderer should quote specific monthly rate of supplies they intend to deliver and the completion date/month of the lot. The Purchaser will have the right to define the separate delivery period for each instalment.
- 11.3** Notwithstanding above, tenderers must note that the delivery schedules indicated in the tender document are tentative, Purchaser reserves the right to reschedule the delivery according to its production requirement at the time of finalization of tender as well as at post contract stage.
- 11.4** The purchaser reserves the right to accept higher offer for part/full quantity for early delivery period, wherever so specified in the tender specific special conditions. It should be also noted that if a contract is placed on a tenderer with higher price, in preference to the lowest acceptable offer in consideration of offer of earlier 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 all inclusive rates i.e total cost at consignee’s site/destination including all elements of freight, taxes, duties and other incidentals , in case of failure to complete supplies in terms of such contract within the date of delivery specified in the tender and incorporated in the contract.
- 11.5** Time for and Date of Delivery; the Essence of the Contract -The time for and the date specified in the contract or as extended for the delivery of the goods shall be deemed to be of the essence of the contract and delivery must be completed not later than the date(s) so specified or extended.
- 11.6 Progressing of Deliveries -**
The Contractor shall allow reasonable facilities and free access to his works and records to the Inspecting Officer, Progress Officer or such other Officer as may be nominated by the Purchaser for the purpose of ascertaining the progress of the deliveries under the contract.
- 11.7** Failure and Termination -

If the Contractor fails to deliver the goods or any installment thereof within the period fixed for such delivery in the contract or as extended or at any time repudiates the contract before the expiry of such period the Purchaser may without prejudice to his other rights: -

- (a) recover from the Contractor as agreed liquidated damages and not by way of penalty a sum equivalent to ½ (half) per cent of the price of any goods (including elements of taxes, duties, freight, etc.) which the Contractor has failed to deliver within the period fixed for delivery in the contract for each week or part of a week during which the delivery of such goods may be in arrears where delivery thereof is accepted after expiry of the aforesaid period.
Upper limit for recovery of liquated Damages in Supply Contracts will be 10 % (Ten Per cent) of value of delayed supplies irrespective of delays, unless otherwise provided, specifically in the contract, or
- (b) without prejudice to the Purchaser's right to record adverse performance of the contractor for taking appropriate administrative action, cancel the contract or a portion thereof and forfeit the security deposit.
- (c) Wherever Security deposit has been exempted for any reason, levy damages from the supplier, not by way of penalty, an amount equal to Security Deposit amount, as would have been applicable had he not been an exempted vendor. These damages shall be treated as recoveries outstanding against the Contractor and dealt with accordingly.

12.0 Validity of the offer:

12.1 The offers shall be kept valid for acceptance for a minimum period of Ninety (90) calendar days (120 calendar days for M&P Items) from the date of closing of tenders or as specified in the tender, within which period, the tenderer shall not withdraw his offer. Offers with validity period of short duration may be considered as unresponsive and those offers shall be summarily rejected, unless validity of offer is extended as per the tender condition.

12.2 The purchaser may ask for the tenderer's consent for an extension of the period of validity of offer. A tenderer granting the request for validity extension shall not be permitted to modify its tender. Offers shall be deemed to be under consideration immediately after they are opened and until such time the official intimation of award is made by the Purchaser to the successful tenderer. While the offers are under consideration, tenderers and/or their representatives or other interested parties are advised to refrain from contacting the Purchaser by any means. If necessary, the Purchaser will obtain clarifications on the offers by requesting for such information from any or all the tenderers, either in writing or through personal contacts, as may be considered necessary. Tenderers will not be permitted to change the substance of their offers after the offers have been opened.

12.3 Offers shall be deemed to be under consideration immediately after they

are opened and until such time the official intimation of award is made by the Purchaser to the successful tenderer. While the offers are under consideration, tenderers and/or their representatives or other interested parties are advised to refrain from contacting the Purchaser by any means.

13.0 Benefits to Micro and Small Enterprises (MSEs):

13.1 As per the extant public procurement policy of the Government of India, Micro and Small Enterprises (MSEs) registered under Udyam Registration irrespective of relevance of product category are entitled for benefits and preferential treatments specified in Clause 13.4 below. MSEs who are interested in availing themselves of these benefits must upload with their offer, the proof of their being MSE registered with Udyam Registration.

Note:- Traders/distributors/ sole agent /works contract are excluded from the purview of the policy

13.2. Deleted.

13.3 Non compliance of requirements of Para 13.1 above, such offers will not be liable for consideration of benefits detailed in Para 13.4 given below.

13.4 MSEs registered as per para 13.1 are entitled for the following benefits:

- i) MSEs registered as per Para 13.1 will be exempted from payment of Earnest Money.
- ii) 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 up to 25% value out of the net procurement quantity. In case L1 is not an MSE and there is more than one MSE within the range of L1+15%, only the lowest MSE shall be considered for 25% order in case of divisible item (or 100% in case order quantity is not divisible), subject to matching the L1 prices. Only on refusal of such lowest MSE to accept L1 price, second lowest MSE within the range of L1+15%, shall be considered. This process shall be continued till a MSE in the range accepts the L1 price or the MSEs in the L1+15% range are exhausted. In case no MSE accepts the L1 price or there is no MSE available, in L1+15% range, then the order shall be placed without applying this principle.
- iii) Over all 4% from earmarked 25% for MSE of procurement will be from MSEs owned by Scheduled Caste/ Scheduled tribe (SC/ST) Entrepreneurs. In the event of failure of such MSEs to participate in the tender process or meet tender requirements and L-1 price, 4% sub target of procurement earmarked from MSEs owned by Scheduled Caste/ Scheduled Tribe (SC/ST) Entrepreneurs be met from other MSEs

Overall 3 percent from within the earmarked 25 percent target shall be earmarked for procurement from Micro and Small Enterprises owned by Women.

- iv) In case tendered item is non-splitable or non-dividable, etc. Purchaser may award the full/complete supply of total tendered value to MSE quoting price within price band L1+15%, considering spirit of policy for enhancing the Govt. procurement from MSE.

13.5 An MSE shall be considered as that owned by SC/ST in following cases:

- a) In case of proprietary MSE, proprietor(s) shall be SC/ST.
- b) In case of partnership MSE, the SC/ST partners shall be holding at least 51% shares in the unit.
- c) In case of Private Limited Companies, at least 51% share shall be held by SC/ST promoters.

13.6 In case, the tenderer is a Micro or Small Enterprises (MSE), the tenderer shall also furnish the following details in their offer:

i) The category of the tenderer:

- a) Whether vendor is Micro Enterprise or
- b) Whether vendor is Small Enterprise.

ii) Each of the above categories must further mention the sub-classification whether the tenderer is an enterprise -

- a) Owned by Scheduled Castes (SC)
- b) Owned by Scheduled Tribes (ST)
- c) Owned by other than the above two categories.

iii) Confirm the following:

- a) Whether documentary proof of being registered with any of the specified agencies indicated in Para 13.1 above has been submitted with their offer.
- b) Whether the terminal date of validity of the registration with the specified agencies has been indicated in their offer.

13.7 In case, the tendered item is restricted for placement of bulk orders on approved sources, then the criteria for placement of orders on MSEs under the Public Procurement Policy for MSEs will additionally require that the MSE firms are one of the valid approved sources for the tendered item.

13.8 In terms of Railway Board letter no 2010/RS(G)/363/1 dated 04.07.17, while considering orders on startup and micro & small enterprises, criterion of prior turnover and prior experience is relaxed, subject to their meeting of quality and technical specification.

14.0 The tenderers who are large Scale vendors of Railway Units or who come under consortia of MSEs (as vendors to Railway Units) formed by NSIC, are also required to upload with their offers, the procurement and percentage of sub-contract to be made from MSEs for goods to be supplied against this tender, and also furnish the details as in Para 13.6 above for the portion sub-contracted to MSEs.

14.1 Deleted

15.0 Preference to Domestically Manufactured Electronic Products:

15.1 The Purchaser reserve the right for providing preference to Domestically Manufactured Electronic Products (DMEP) in terms of the extant policy of the Government which can be downloaded from Deity website, i.e., URL <http://meity.gov.in/esdm/pma>. Purchase preference for domestic manufacturer, methodology of its implementation, value addition to be achieved by domestic manufacturers, self certification, and compliance and monitoring shall be as per the aforesaid guidelines/notifications. The guidelines/notifications on the subject will be treated as an integral part of the tender documents.

15.2 Briefly, the preference for Domestically Manufactured Electronic Products (DMEPs) shall be operated as follows subject to status of the policy applicable as on the date of tender opening and subject to the bidder complying with all other requirements specified in the tender document:

As per extant policy of the Government of India, the electronic products for which preference will be provided to domestic manufacturers are as notified by the Concerned Ministry/Department which are as under as on 23.08.2017–

Sl. No	Product name	Notifying Ministry/Department	Notification And date	No.
1	Telecom Products	Department of Telecom	18-07/2010-IP dt.05.10.2012 read with Notification dated 11.01.2017	
2	Desktop PCs and Dot Matrix Printers	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 22.5.2014	
3	Laptop PC	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 22.5.2014	
4	Tablet PC	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 22.5.2014	
5	Smart Card	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 22.5.2014	
6	LED Products	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 22.5.2014	
7	Biometric IRIS sensors	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 01.10.2014	
8	Biometric Access Control/ Authentication devices	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 01.10.2014	
9	Biometric Fingerprint Sensors	Department of Electronics and Information Technologies, Ministry of Communication and IT	F.No.33(3)/2013-IPHW dt. 22.5.2014	

ii) Copies of all the notifications can be downloaded from <http://meity.gov.in/esdm/pma>.

iii) The quantity of procurement for which the preference will be provided to domestic manufacturers shall be percentage of the net procurable quantity as specified in the relevant notifications issued by Concerned Ministry/Department indicated in sub-para

(i) above and can be downloaded from the websites of respective ministries/departments.

iv) Percentage of domestic value addition which qualifies the electronic product to be classified as domestically manufactured shall also be as specified in the relevant notifications issued by Concerned Ministry/Department indicated in Sub Para (i) above and can be downloaded from the websites of respective ministries/departments.

15.3 In terms of above referred guidelines, domestic manufacturers are required to upload the domestic value addition in terms of Bill of Materials (BOM) for the quoted product along with their offer in the following format, failing which their offer will not be eligible for purchase preference under this policy –

Item No.	Item Description	Domestic value addition in percentage
1		
2		

15.4 The tenderers, claiming to bid in the status of domestic manufacturer must also give and upload an undertaking in the format as given as 'Form 1' of the guidelines, copy at Annexure

II. Furnishing of false information on this account shall attract penal provisions as per relevant guidelines/notifications.

15.5 Procedure for award of contracts involving procurement of specified electronic products from domestic manufacturers shall be as under:

“For each electronic product proposed to be procured, among all technically qualified offers, the lowest quoted price will be termed as L1 and rest of the offers shall be ranked in ascending order of price quoted as L2, L3, L4 and so on. If L1 offer is of a domestic manufacturer, the said tenderer will be awarded full value of the order. If L1 offer is not from a domestic manufacturer, the value of the order awarded to L1 tenderer will be the balance of procurement value after reserving specified percentage of the total value of the order for the eligible domestic manufacturer. Therefore, the lowest tenderer among the domestic manufacturers, whether L2, L3, L4 or higher, will be invited to match L1 offer in order to secure the procurement value of the order earmarked for the domestic manufacturer. In case first eligible tenderer (i.e. domestic manufacturer) fails to match L1 offer, the tenderer (i.e. domestic manufacturer) with next higher offer will be invited to match L1 offer and so on. However, Railway may choose to divide the order among more than one successful tenderer as long as all such tenderer match L1 and the criteria for allocating the tender quantity amongst a number of successful tenderer is clearly articulated in the tender document itself. In case, all eligible domestic manufacturers fail to match the L1 offer, the actual tenderer holding L1 offer will secure the order for full procurement

value. Only those domestic manufacturers whose offers are within 20% of the L1 offer would be allowed an opportunity to match L1 offer”.

15.6 In case of turnkey/system integration projects, eligibility of a tenderer as a domestic manufacturer would be determined on the domestic value addition calculated only for the value of notified DMEPs forming part of the turnkey/system integration projects and not on the value of whole project.

16.0 Public Procurement (Preference to Make in India), Order-2017-Revision:

16.1 The Government of India has issued **Public Procurement (Preference to Make in India), Order-2017-Revision Dated: 16.09.2020** to encourage 'Make in India' and promote manufacturing and production of goods and services in India.

Salient Features of aforesaid order are as under:

16.1.1 For the purpose of this Order, the definitions are as under:

- (i) 'Local content' means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Ministry, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent.
- (ii) 'Class-I local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50%, as defined under this Order.
- (iii) 'Class-II local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under this Order.
- (iv) 'Non - Local supplier' means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20%, as defined under this Order
- (v) 'L1' means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitation as adjudged in the evaluation process as per the tender or other procurement solicitation.
- (vi) 'Margin of purchase preference' means the maximum extent to which the price quoted by a "Class-I local supplier" may be above the L1 for the purpose of purchase preference.
- (vii) 'Nodal Ministry' means the Ministry or Department identified pursuant to this order in respect of a particular item of goods or services or works.
- (viii) 'Procuring entity' means a Ministry or department or attached or subordinate office of, or autonomous body controlled by, the Government of India and includes Government companies as defined in the Companies Act.

16.1.2 Eligibility of 'Class-I local supplier'/ 'Class-II local supplier'/Non-local suppliers' for different types of procurement

- (a) In procurement of all goods, services or works in respect of which the Nodal Ministry/Department has communicated that there is sufficient local capacity and local

competition, only 'Class-I local supplier', as defined under the Order, shall be eligible to bid irrespective of purchase value.

- (b) In procurement of all goods, services or works, not covered by sub-para 16.1.2 (a) above, and with estimated value of purchases less than Rs. 200 Crore, in accordance with Rule 161 (iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by Department of Expenditure. Only 'Class-I local supplier' and 'Class-II local supplier', as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries. 'Non-local suppliers' shall also be eligible to bid along with 'Class-I local suppliers' and 'Class-II local suppliers'.
- (c) For the purpose of this Order, works includes Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

16.1.3 The 'Class-I local supplier'/ 'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self- certification that the item offered meets the local content requirement for 'Class-I local supplier'/ 'Class-II local supplier', as the case may be. They shall also give details of the location(s) at which the local value addition is made.

16.1.4 In case the estimated value of tender exceeds Rs.10 crore, the local supplier are required to provide a certificate from the statutory auditor or cost auditor of the company (in the case of companies) or from a practicing cost accountant or practicing chartered account (in respect of suppliers other than companies) giving the percentage of local content.

16.1.5 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.

16.1.6 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.

16.1.7 Reciprocity clause:

- (i) When a Nodal Ministry/Department identifies that Indian Suppliers of an item are not allowed to participate and/or compete in procurement by any foreign government, due to restrictive tender conditions which have direct or indirect effect of barring Indian companies such as registration in the procuring country execution of projects of specific value in the procuring country etc., it shall provide such details to all its procuring entities including CMDs/CEOs of PSEs/PSUs. State Governments and other procurement agencies under their administrative control and GeM for appropriate reciprocal action.

(ii) Entities of countries which have been identified by the nodal Ministry/Department as not allowing Indian companies to participate in their Government procurement for any item related to that nodal Ministry shall not be allowed to participate in Government procurement in India for all items related to that nodal Ministry/Department except for the list of items published by the Ministry/Department permitting their participation.

(iii)The term 'entity' of a country shall have the same meaning as under the FDI Policy of DPIIT as amended from time to time".

16.1.8 Purchase Preference:

(i) Margin of Purchase Preference: The margin of purchase preference shall be 20%.

(ii) Subject to the provisions of this order and to any specific instructions, Purchase preference shall be given to 'Class-I local supplier' in procurements undertaken by procuring entities in the manner specified here under.

(a) In the procurements of goods or works, which are covered by para 3(b) above and which are divisible in nature, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure:

i. Among all qualified bids, the lowest bid will be termed as LI. If LI is 'Class-I local supplier', the contract will be awarded to LI.

ii. If Li bid is not a 'Class-I local supplier', 50% of the order quantity shall be

awarded to LI. Thereafter, the lowest bidder among the 'Class-I local supplier' will be invited to match the LI price for the remaining 50% quantity subject to the Class- I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such 'Class-I local supplier' subject to matching the LI price. In case such lowest eligible 'Class-I local supplier' fails to match the LI price or accepts less than the offered quantity, the next higher 'Class-I local supplier' within the margin of purchase preference shall be invited to match the LI price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the LI bidder.

(b) In the procurements of goods or works, which are covered by para 3 (b) above and which are not divisible in nature, and in procurement of services where the bid is evaluated on price alone, the 'Class-I local supplier' shall get purchase preference over 'Class-II local supplier' as well as 'Non-local supplier', as per following procedure

i. Among all qualified bids, the lowest bid will be termed as LI. If LI is 'Class-I local supplier', the contract will be awarded to LI.

- ii. If LI is not 'Class-I local supplier', the lowest bidder among the 'Class-I local supplier', will be invited to match the LI price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the LI price
 - iii. In case such lowest eligible 'Class-I local supplier' fails to match the LI price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the 1 1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the Li price, the contract may be awarded to the LI bidder.
- (c) "Class-II local supplier" will not get purchase preference in any procurement, undertaken by procuring entities.

16.1.9 Exemption of small purchases: Notwithstanding anything contained in Para 16.1.2 procurements where the estimated value to be procured is less than Rs. 5 lakhs shall be exempted.

16.1.10 Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs), 2017

16.1.10.1 Any bidder from a country which shares a land border with India will be eligible to bid only if the bidder is registered with the Competent Authority, specified in **Annexure XI**.

16.1.10.2 "Bidder" (including the term 'tenderer', 'consultant' 'vendor' or 'Service provider in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency, branch or office controlled by such person, participating in a procurement process.

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

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

16.1.10.4 "Beneficial owner" for the purpose of **paragraph 16.1.9.3** above will be as

under:

(I) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person(s), has a controlling ownership interest or who exercises control through other means.

Explanation—

- a. "Controlling ownership interest" means ownership of, or entitlement to, more than twenty-five per cent of shares or capital or profits of the company;
- b. "Control" shall include the right to appoint the majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
- (ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
- (iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
- (iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
- (v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

16.1.10.5 "Agent" for the purpose of this Order is a person employed to do any act for another, or to represent another in dealings with third persons.

16.1.10.6 The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.

16.1.10.7 Bidder must submit a certificate (self certified) as per Annexure-XII of Instructions to Tenderer along with bid for compliance of OM of MoE dated 23.07.2020. If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with law.

16.1.10.8 Validity of registration by Competent Authority:

In respect of tenders, registration should be valid at the time of submission of bids and at the time of acceptance of bids. In respect of supply otherwise than by tender, registration should be valid at the time of placement of order. If the bidder was validly registered at the time of acceptance placement of order, registration shall not be a relevant consideration during contract execution.

16.1.10.9 Notwithstanding above, the terms & conditions mentioned above will not apply to bidders from those countries (even if sharing a land border with India) to which the Government of India has extended lines of credit or in which the Government of India is engaged in development projects.

17.0 Tender Opening:

17.1 No vendor shall be required to be present in the Railway office for any e-tender opening process.

They can obtain totally transparent bid tabulation statement by logging on to the website.

17.2 Railway does not guarantee opening of tenders at the specified date and exact time due to reasons beyond control and hence tenders can be opened after due date and time also. It should, however, be noted that vendors can not submit any offer or attach any file after the due date and time stipulated under the tender notice.

18.0 Settlement of Disputes:

18.1 Conciliation of disputes

All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during the currency of the contract or after its completion and whether before or after the determination of the contract, shall be referred by any of the parties to the concerned "Chief Materials Manager (CMM) " or "Divisional Railway Manager" or "Executive Director" through "Notice of Dispute". CMM or Divisional Railway Manager or Executive Director shall, within 30 days after receipt of "Notice of Dispute", notify the name of sole conciliator to the parties, The Conciliator shall assist the parties to reach an amicable settlement in an independent and impartial manner within the terms of contract.

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

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

The conciliation proceedings shall be terminated:

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

18.2 Matters Finally Determined by the Railway: All disputes and differences of any kind whatsoever arising out of or in connection with the contract, whether during

the currency of the contract or after its completion and whether before or after the determination of the contract, shall be referred by the contractor to the General Manager (for the purpose of para 2900 the term General Manager shall imply Additional General Managers of Zonal Railways , General Managers for Production Units, Additional Member (Railway Stores), Member of the Railway Board, Head of the Organisation in case of contracts entered into by other organizations under the Ministry of Railways) and the General manager shall, within 120 days after receipt of the representation, make and notify decisions on all matters referred to by the Contractor in writing. Provided that matters for which provision has been made in any Clause of the Special or General Conditions of the Contract shall be deemed as 'excepted matters' matters not arbitrable) and decisions of the Railway authority, thereon shall be final and binding on the Contractor; provided further that "excepted matters' shall stand specifically excluded from the purview of the Arbitration Clause.

Provided further that where Railways has raised the dispute, Para 18.2 shall not apply.

18.3 Demand for Arbitration:

- 1) In the event of any dispute or difference between the parties hereto as to the construction or operation of this contract, or the respective rights and liabilities of the parties on any matter in question, dispute or difference on any account, or if the Railway fails to make a decision within 120 days (as referred in 2902), then and in any such case, but except in any of the "excepted matters" referred to in Clause 2902 of these Conditions, parties to the contract, after 120 days but within 180 days of their presenting their final claim on disputed matters , shall demand in writing that the dispute or difference be referred to arbitration.

Provided that where the claim is raised by Railways Para 2903(1) shall not apply.

- 2)(a) The demand for arbitration shall specify the matters which are in question, or subject of the dispute or difference as also the amount of claim item-wise. Only such dispute or difference. in respect of which the demand has been made, together with counter claims or set off, shall be referred to arbitration and other matters shall not be included in the reference,
- (b) The parties may waive off the applicability of Sub-Section 12(5) of Arbitration and Conciliation Act 1996 (as amended), if they agree for such waiver in writing, after dispute having arisen between them.
- 3)(a) The Arbitration proceedings shall be assumed to have commenced from the day, a written and valid demand for arbitration is received by the Railway.
- (b) The claimant shall submit his claims stating the facts supporting the claims along with all the relevant documents and the relief or remedy sought against each claim within a period of 30 days from the date of appointment of the Arbitral Tribunal.
- (c) Respondent shall submit its defence statement and counter claim(s), if any, within a period of 60 days of receipt of copy of claims from Tribunal, unless otherwise extension has been granted by Arbitral Tribunal.

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

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

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

18.5 Appointment of Arbitrator

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

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

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

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

- iii. The serving railway officer working in arbitral tribunal in the ongoing arbitration cases as per clause 18.3(a)(i) and clause 18.5(a)(ii) above, can continue as arbitrator in the tribunal even after his retirement.

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

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

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

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

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

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

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

- (a) Fast Track procedure: Parties to the arbitration agreement, may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their dispute resolved by fast-track procedure specified in Section 29B of the Arbitration & Conciliation Act, 1996, as amended.
- (b) Before proceeding into the merits of any dispute, the Arbitral Tribunal shall first decide and pass its orders over any plea submitted/objections raised by any party, if any, regarding appointment of Arbitral Tribunal, validity of arbitration agreement, jurisdiction and scope of the Tribunal to deal with the dispute (s) submitted to arbitration, applicability of time 'limitation' to any dispute, any violation of agreed procedure regarding conduct of the arbitral proceedings or plea for interim measures of protection and record its orders in day to day proceedings, A copy of the proceedings duly signed by all the members of tribunal should be provided to both the parties.

iii.(i) Qualification of Arbitrator (s):

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

The proceedings of the Arbitral tribunal or the award made by such Tribunal will, however, not be invalid merely for the reason that one or more arbitrator had, in the course of his service, opportunity to deal with the matters to which the contract relates or who in the course of his/their duties expressed views on all or any of the matters under dispute.

- 18.5(d)(i): The arbitral award shall state item wise, the sum and reasons upon which it is based. The analysis and reasons shall be detailed enough so that the award could be inferred there from.
- (ii): A party may apply for corrections of any computational errors, any typographical or clerical errors or any other error of similar nature occurring in the award of a Tribunal and interpretation of a specific point of award to Tribunal within 60 days of receipt of the award.
 - (iii): A party may apply to Tribunal within 60 days of receipt of award to make an additional award as to claims presented in the arbitral proceedings but omitted from the arbitral award.

- 18.6** In case of the Tribunal, comprising of three members, any ruling on award shall be made by a majority of members of Tribunal. In the absence of such a majority, the views of the Presiding Arbitrator shall prevail.
- 18.7** Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.
- 18.8 (a):** The cost of arbitration shall be borne by the respective parties. The cost shall inter-alia include fee of the arbitrator(s), as per the rates fixed by Railway Board from time to time and the fee shall be borne equally by both the parties. Further, the fee payable to the arbitrator(s) would be governed by the instructions issued on the subject by Railway Board from time to time irrespective of the fact whether the arbitrator(s) is/are appointed by the Railway Administration or by the court of law unless specifically directed by Hon'ble Court otherwise on the matter.
- (b):** Sole arbitrator shall be entitled for 25% extra fee over the fee prescribed by Railway Board from time to time.
- 18.9** The Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 provides parties to a dispute (where one of the parties is a Micro or Small Enterprise) to make a reference to Micro and Small Enterprises Facilitation Council, if the dispute is in regard to any amount due under Section 17 of the MSMED Act, 2006. In case a Micro or Small] Enterprise, being a party to dispute, makes a reference under the provisions in MSMED Act 2006, the provisions of the MSMED Act 2006, shall prevail over conciliation and arbitration agreement as contained in the contract.
- 18.10** Subject to the provisions of the aforesaid Arbitration and Conciliation Act 1996 (as amended from time to time) and the rules there under and relevant para of IRS Conditions of Contract and any statutory modifications thereof shall apply to the appointment of arbitrators and arbitration proceedings under this Clause.
- 18.11** The tenderers in their bids shall indicate the details of their Jurisdictional Assessing Officers (Designation, address & email id). In case of a contract award, a copy of the LOA/Purchase Order shall be immediately forwarded by Purchaser to the Jurisdictional Assessing Officer mentioned in the Tenderer's bid.

19.0 Compliance of Minimum Wages Act

Tenderers should comply with all the applicable provisions of Minimum Wages Act.

19.1 Special conditions for Supply and Installation contracts.

- A.** Contractor is to abide by the provisions of Payment of Wages act and Minimum Wages act in terms of clause 54 and 55 of Indian Railways General Condition of Contract. In order to ensure the same, an application has been developed and hosted on website www.shramikkalyan.indianrailways.gov.in. Contractor shall register their firm/company etc. and upload requisite details of labour and their payment in this portal. These details shall be available in public domain. The Registration/updation of Portal shall be done as under:
- a)** Contractor shall apply for onetime registration of their company/firm etc. in the Shramikkalyan portal with requisite details subsequent to

issue of Purchase Order. The Gazetted officer of consignee shall approve the contractor's registration on the portal within 7 days of receipt of such request.

- b) Contractor once approved by the Gazetted officer of consignee can create password with login ID (PAN No.) for subsequent use of portal for all Purchase Orders issued in their favour.
 - c) The contractor once registered on the portal, shall provide details of their Purchase Order on shramikkalyan portal within 15 days of issue of any Purchase Order for approval of concerned Gazetted officer of consignee. The Gazetted officer of consignee shall update (if required) and approve the details of Purchase Order filled by contractor within 7 days of receipt of such request.
 - d) After approval of details of Purchase Order by the Gazetted officer of consignee, Contractor shall fill the salient details of contract labours engaged in the contract and ensure updating of each wage payment to them on shramikkalyan portal on monthly basis.
 - e) It shall be mandatory upon the contractor to ensure correct and prompt uploading of all salient details of engaged contractual labour and payments made thereof after each wage period.
- B. While processing payment of any 'Final bill' or release of 'Performance Guarantee/Security deposit', contractor shall submit a certificate to the Gazetted officer of consignee or their representative that I have uploaded the contract details of contract labours engaged in connection with this contract and payments made to them during the wage period in Railway's Shramikkalyan Portal at www.shramikkalyan.indianrailways.gov.in till Month Year.

SECTION-II
GENERAL CONDITIONS OF TENDER

1.0 Price:

1.1 Tenderers should quote their rates on "FOR Destination Basis" (i.e door delivery at the premises of consignee) for the goods mentioned in the e-tender. Break up of such price must be given completely and unambiguously in the Financial Rate Page under Financial Bid Details of the e-tender form in the IREPS website. In case, the tenderers quote prices on ex-works or ex-godown basis, specific amount of freight charges must invariably be quoted instead of vague freight charges, such as 'extra at actuals'

1.1.1. In case the tenderer does not specifically state anything about the place of delivery or does not quote freight charges in his offer/e-Bid, it shall be assumed that the tenderer shall bear the freight charges and that the offer is on "FOR Destination Basis" i.e., for door delivery at consignees' premises as mentioned in the tender document. This assumption shall be final and binding on the tenderer and will not be subject to any legal dispute or arbitration in future.

1.2 The rate or amount of taxes and duties, if any, must be spelt out clearly in the break-up to be furnished in the prescribed Financial Rate Page under Financial Bid Details of the e- tender form. Even where the rate or amount of taxes/duties and freight included in the rate is Nil, this should be specifically stated in the offer.

1.2.1 Packing, forwarding and freight charges, wherever applicable, should be quoted clearly. Applicability of GST on the packing and forwarding charges shall be as per the GST Law.

1.2.2 If there is any ambiguity in respect of rates of taxes and duties other than GST, if any, the purchaser shall evaluate the offers by taking into account the highest rate of such taxes and duties as known to the purchaser for determining the inter-se ranking of the offers. Purchaser's decision in this regard shall be final and no claim regarding applicability of taxes/duties or otherwise will be entertained after opening of the e-tenders. The purchasers will, however, reserve the right not to pay such taxes and duties not specifically claimed or not indicated clearly/unambiguously by the tenderers in the Financial Rate Page under Financial Bid Details of the e-tender form.

1.2.3. The purchaser will not be responsible for any incorrect evaluation and consequent impact on inter-se ranking, if the tenderer does not fill the prescribed e-Tender offer form or submits incomplete, ambiguous or misleading rates of taxes, duties and other charges.

1.3 Price Variation Clause:

1.3.1 Tenderers are advised to quote as per specific Price Variation (PV) formulae and base date for Raw Material prices given in the schedule of requirement. Offers with deviation in the PV formula and/or base date of price(s) of input raw material(s) other than as specified in the tender schedule, will be summarily rejected. Offers from bidders quoting with fixed price where tender incorporates pre defined PVC will also be summarily rejected.

1.3.2. In case no PVC has been incorporated in the schedule of requirement, bidders must quote on fixed price basis only. Offers with PVC in such cases will be summarily rejected.

1.3.3. Tenderers who quote with price escalation on account of raw material in the tenders must note that any escalation claims will be subject to verification by the Principal Financial Adviser of Modern Coach factory, Raebareli (MCF) with reference to the records that may be called for from them, such as, records of position of ground stocks available at the time of submission of tender for verification/examination of their claims under price variation clause before their claims are accepted. If the tenderer fails to establish his claim by producing satisfactory records before the PFA of MCF, their claim will be disallowed and/or proportionately reduced.

2.0 Goods and Services Tax (GST):

2.1 GSTIN of MCF is 09AAAGM0289C1ZH.

2.2 All the bidders/tenderers should ensure that they are GST compliant and their quoted tax structure/rates are as per GST law. All tenderers who are registered under CGST/IGST/UTGST/SGST Act shall submit GSTIN (Goods and Services Tax Identification Number) details. Tenderers will examine the various provisions of the Central Goods and Services Tax Act, 2017 (CGST)/Integrated Goods and Services Tax Act, 2017 (IGST)/ Union Territory Goods and Services Tax Act, 2017 (UTGST) and respective State's State Goods and Services Tax Act, 2017 (SGST), as notified by Central/ State Government and as amended from time to time and applicable taxes before tendering/bidding.

2.3 All tenderers to incorporate HSN code of item/items being quoted along with the offer. It will be the responsibility of the bidder to quote correct HSN Code and corresponding GST rate. The offers shall be evaluated based on the GST rate quoted by each bidder and the same will be used for determining the inter-se ranking.

2.4 Whenever tender calls for set consisting of many items; tenderer/bidder has to quote clearly the break up rates of various components, showing individual item's description, Basic rate and GST rate as applicable.

2.5 Wherever installation and commission charges are quoted, taxes applicable on such charges have to be clearly mentioned by the tenderer.

2.6 The Purchaser shall not be responsible for any misclassification of HSN Number or incorrect GST rate, if quoted by the bidder. Any increase in GST rate due to misclassification of HSN number shall have to be absorbed by the supplier. 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 which is lower of the GST rate incorporated in the purchase order or billed. Vendors will be required to adjust 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.

2.7 Any amendment in GST rate shall be governed by the contractual conditions under Statutory Variation Clause (SVC). However, increase in GST rate amendments shall be considered for quoted HSN only, against documentary evidence, provided such increase of GST rates takes place after the date of tender opening. The benefit of reduction in GST rate shall have to be passed on to buyer MCF/RBL.

2.8 While quoting the rates, the tenderer shall pass on, by way of reduction in

prices, the full input tax credit that may become available in respect of all the inputs used in the supply of final goods/or services due to implementation of GST with effect from 01.07.2017 and submit a declaration in their offer of the same.

- 2.9** Tenderers while quoting for tenders would also give the following declaration:
- “I/We agree to pass on such additional input tax credit as may become available in future under GST scheme, in respect of all the inputs used in the manufacturing and/or supply of the final goods and service on the date of supply by way of reduction in price and advise the purchaser accordingly.”
- 2.10** In case the successful tenderer is not liable to be registered under CGST/IGST/UTGST/SGST Act, the MCF Raebareli shall deduct the applicable GST from his/their bills under Reverse Charge Mechanism (RCM) and deposit the same to the concerned tax authority.
- 2.11** If any tenderer is opting for ‘Composite Levy Scheme’ of GST Act, SVC shall not be applicable to such firms in case of opting out of the Composition Levy Scheme in future.
- 2.12** While making the supply, the firm shall comply with the following:
- Submit the invoice/bill clearly indicating the appropriate HSN and applicable GST rate thereon duly supported with documentary evidence.
Give a declaration that any additional Input Tax Credit benefit, if become available to supplier, the same has been passed on to Purchaser.
- 2.13** The suppliers must submit the bills as per the prescribed format along with the GST certificates provided in the MCF website www.mcf.indianrailways.gov.in>Departments>Accounts>Downloads>MCF bill format (GST).
- 3.0 Statutory Variations:**
- 3.1** Statutory variation will be considered during the original delivery period and against documentary evidence only. However increase in taxes or duties on account of misclassification or misapprehension of law shall not be allowed. Tenderers are thus advised to include Statutory Variations Clause correctly and explicitly in their offers.
- 4.0 Advance Acceptance/Counter offer, Delivery Period & Liquidated Damage (LD) on delayed Supply:**
- 4.1 Time for and Date of Delivery; the Essence of the Contract -**
The time for and the date specified in the contract or as extended for the delivery of the goods shall be deemed to be of the essence of the contract and delivery must be completed not later than the date(s) so specified or extended.
- 4.1.1** The delivery period in Store Procurement cases shall be reckoned from the date of issue of Advance PO/ Letter of Advance Acceptance/ Letter of Acceptance.
- 4.2 Failure and Termination –**

If the Contractor fails to deliver the goods or any installment thereof within the period fixed for such delivery in the contract or as extended or at any time repudiates the contract before the expiry of such period the Purchaser may without prejudice to his other rights: -

(a) recover from the Contractor as agreed liquidated damages and not by way of penalty a sum equivalent to ½ (half) per cent of the price of any goods (including elements of taxes, duties, freight, etc.) which the Contractor has failed to deliver within the period fixed for delivery in the contract for each week or part of a week during which the delivery of such goods may be in arrears where delivery thereof is accepted after expiry of the aforesaid period. Upper limit for recovery of liquated Damages in Supply Contracts will be 10 % (Ten Per cent) of value of delayed supplies irrespective of delays, unless otherwise provided, specifically in the contract, or

(b) without prejudice to the Purchaser's right to record adverse performance of the contractor for taking appropriate administrative action, cancel the contract or a portion thereof and forfeit the security deposit.

(c) Wherever Security deposit has been exempted for any reason, levy damages from the supplier, not by way of penalty, an amount equal to Security Deposit amount, as would have been applicable had he not been an exempted vendor. These damages shall be treated as recoveries outstanding against the Contractor and dealt with accordingly.

4.3 In the cases where supply is made in the extended period of D.P. (with or without LD), Price Variation (PV) as applicable on the terminal date of the original D.P shall be payable unless price has decreased after the terminal date of the original delivery period, in which case, the decreased rate will be applicable.

5.0 Delivery:

5.1 The Contractor shall as may be required by the Purchaser either deliver free or FOR or CIF or as per the delivery terms provided in the contract at the place/places detailed in the contract, the quantities of the goods detailed therein and the goods shall be delivered or despatched not later than the dates specified in the contract. The delivery will not be deemed to be complete until and unless the goods are inspected and accepted by the Inspecting Officer as provided in the contract.

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

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

5.4 No goods shall be deliverable to the consignee's depots on Sundays and public holidays or beyond normal office hours without the written permission of the consignee.

5.5 Perishable Goods:
For Goods with a limited shelf life, the contractor shall ensure that at least

75% (or any other percentage stipulated in the contract) of shelf life remains balance on delivery date. The Purchaser reserves its rights to reject expired or products with less than such specified shelf life.

6.0 Risk in Transit and Insurance:

6.1 The Purchaser will not pay separately for transit insurance and the supplier shall be responsible till the entire stores contracted to arrive in good condition at destination. Where the tenderer intends to insure the goods, the insurance charges should be clearly indicated under Other Charges in the Financial Rate Page under Financial Bid Details of the e-tender form.

6.2 The consignee will advise the supplier within 45 (forty five) days of the arrival of goods at the destination, any loss/damage etc. of the goods and it shall be the responsibility of the supplier to lodge the necessary claim on the carrier and/or insurer and pursue the same. The supplier shall, however, at his own cost replace/rectify the goods lost/damaged immediately, to the entire satisfaction of the consignee, without waiting for the settlement of the claim. In case, supplier fails to give replacement against lost/damaged goods within 45 days from the date of intimation, the Purchaser may arrange procurement at the risk and cost of supplier.

6.3 Notwithstanding any packing condition stipulated in the tender documents or in the tendered drawings/specifications, it shall be the responsibility of the Contractor to appropriately pack the stores so that they are received by the consignee at destination without any loss, destruction, damage or deterioration due to any cause whatsoever.

6.4 Special condition for items procured in sets where each set consists of multiple items/assemblies/sub assemblies:

6.4.1. The supplier will submit the packing list for each consignment truck-wise and paste/print/paint labels on individual items mentioning the item description and reference as mentioned in packing list to facilitate ease of receipt and accountal at depot.

6.4.2. To facilitate ease of identification and acknowledgement of receipt, supplier should submit photo-album (hard copy as well as soft copy) of all the items constituting a set indicating the name of individual part. This photo-album may be submitted only once which will help depot officials in identifying the items on receipt thereof.

6.4.3. Wherever feasible, supplier will pack items set-wise to facilitate receipt and accountal of materials. As far as possible, packing should be done in such a way that it will facilitate easy stacking and vertical space utilization.

6.4.4. Supplier should also indemnify the depot officer for correctness of supply of items in sets as per packing list as per the format given below:

FORMAT OF INDEMNITY FOR CORRECT SUPPLY

(to be submitted on firm's letter head only)

I, the authorized signatory ofM/s.

.....
having received Purchase Order No.....Dated
..... for supply of
Quantity.....Nos/sets valued at Rs.....

(Rupees..... only) hereby indemnify Dy.Chief Materials Manager/ ; Modern Coach factory, Raebareli acting through & on behalf of the President of India that in the event of that supplied stores are found not as per the packing list provided and quantities of parts in set is not as per tendered drawing and/or specification due to any reason whatsoever, will make good the shortfall within a reasonable period.
I, also indemnify the consignee against the loss which may accrue to the said shortage.

.....
(Signature with Name and Designation)

Station:
Date:
Company Seal

- 7.0 Weighment clause:**
In case of stores ordered on weight basis, the net weight recorded at the consignee's premises or the net weight indicated in the supplier's invoice whichever is less shall be considered for accountal and payment.
- 8.0 Unloading:**
Unloading will be done by consignee unless otherwise specified in the Special Conditions of Tender or elsewhere in the contract.
- 9.0 Evaluation of the Offers:**
Unless otherwise specified, evaluation of offers will be done as under:
 - 9.1** To facilitate evaluation and comparison, all inclusive rate will be worked out by system comprising of the basic rate, packing /forwarding charges, insurance and other charges, if any, freight charges upto destination and the applicable taxes. All inclusive cost comprising of the basic rate, packing charges, forwarding charges, insurance (if any), freight charges up to destination, any other charges as quoted and applicable taxes shall be reckoned for inter-se ranking of offers.
 - 9.2** As stipulated under clause 1.2, General Condition of the tender of the Purchaser shall evaluate the offers based on the GST rate as quoted by each bidder and same will be used for determining the inter se ranking.
 - 9.3** In case the offers are received with price variation clauses with different base dates/base prices, all-inclusive rates shall be calculated for all tenderers corresponding to a common base date/base price which shall correspond to the tender opening date, unless otherwise specified in tender document in respect of the various inputs indicated in the price variation clause quoted, so that the tenders are not vitiated on account of variations in the prices of various inputs due to different base dates/prices.
 - 9.4** Conditional discounts, such as, discounts for quantity, early payment, delivery at other than specified location, etc., will not be considered for the purpose of determining inter-se ranking of the offers. That is, the rates quoted without any attached conditions shall only be considered for the evaluation purpose. Purchaser however, reserves the right to use any of discounted rate(s) appropriate for acceptance or to counter offer to the successful tenderer(s).

- 9.5** Unless otherwise specified in the tender documents, in case of tender for multiple items, multiple consignees, the inter-se position of the bidders shall be decided item wise/consignee wise and not on the basis of total value of tender as a whole.
- 9.6** DELETED
- 9.7** In case, tenderer quotes for delivery of entire tendered quantity to one consignee against Railway's requirements of delivery to multiple consignees, such offer shall be considered valid only for quantity required as per tender schedule by the consignee to whom delivery is offered by the tenderer and it shall be considered that there is no offer for remaining consignees.
- 9.8** In case of Machinery and Plant (M&P) items, the Net Present Value (NPV) of Annual Maintenance Charges (AMC) for various years will also be added to arrive at all inclusive FOR destination rate as per clause 24.4 (iii) of Special Conditions for Machinery and Plant (M&P) Items. The rate of discounting for the NPV calculation shall be pre-disclosed in the tender documents uploaded on the IREPS website.
- 10.0** **Consideration of Offers:**
- 10.1** The Purchaser 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. In case of items of critical nature, the Purchaser reserves the right to order the entire or bulk quantity on sources with proven past performance, or the sources who comply with the eligibility criteria specified separately in the tender documents, if any, and whose offers are found technically suitable and otherwise acceptable.
- 10.2** The Purchaser 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 for acceptance of part quantity.
- 10.3** Offers of only manufacturers or their authorized dealers/distributors/agents with the tender specific authorization from the manufacturers will be considered as brought out in para 10.11.4. Offers of authorized dealers/distributors/ agents without tender specific authorization shall be summarily rejected.
- 10.3.1** Indian Agent/Authorized dealer quoting in Indian Rupees (INR) on behalf of their Foreign principals or OEM/Manufacturer, bidders have to submit the proforma invoice from their Principal. Further, in event of finalization of contract on them, they may have to provide import documents like copy of invoice, Airway bill/Bill of lading, bill of entry, Country of origin at the time of inspection, supply and also along with the bills submitted by them for claiming the payment
- 10.4** Developmental order may be given upto 20% of the Net Procurable Quantity (NPQ) on unregistered/untried firms about whom the Purchaser is prima facie satisfied that they are capable of executing the order, depending upon the credentials and/or experience with MCF, provided that their offers are technically suitable and competitive and they have submitted/uploaded

adequate evidence to establish their capacity-cum-capability, past performance etc., subject to verification of the capability claimed/exhibited in the tender, if considered necessary by the Purchaser.

- 10.4.1** However, there may be some cases of procurement of materials where MCF/RBL may not be willing to undertake the risk of the failure on the part of the supplier on whom the developmental orders have been placed. In such cases, MCF/RBL may go in for increased purchase quantity and keeping in view of budgetary and other aspects, so that 100 percent order is placed on registered/approved suppliers and quantity not more than 20% of NPQ can be ordered against developmental orders outside the NPQ.
(Authority as per Railway Boards policy letter No 99/RS(G)/709/1 Pt dated 13.1.2015)
- 10.5** In case proven suppliers of Railway/Production Unit do not respond in the tender or the performance of such suppliers not satisfactory or exorbitant rates are quoted by them or cartel formation is suspected, then offers of the untried/new firms or the MCF past suppliers for similar items may be considered for regular order for bulk or entire quantity or part quantity where prima-facie the purchaser feels and is satisfied about their capability to supply tendered items based on the information submitted by the tenderers along with the offer. Otherwise, MCF reserves the right to re-invite the tender depending upon the merit of the case.
- 10.6** MCF/RBL reserves the right to procure stores with preferential treatment as per the following Public Procurement Policies of Government of India as brought out in 'Section- I, Instructions to Tenderers' as amended from time to time:
- i. Public procurement policy for goods produced and services rendered by Micro and Small Enterprises as brought under para 13.4 of 'Section-I, Instructions to Tenderers'.
 - ii. Preference to Domestically manufactured electronic products as brought under para 15.5 of 'Section-I, Instructions to Tenderers'.
 - iii. Public procurement policy for preference to Make in India as brought under para 16.1.6 read with 16.1.1 (iii) of 'Section-I, Instructions to Tenderers'.
- 10.7** Offers not conforming to the tender requirements and not complying to tender conditions, may be rejected outright without further reference.
- 10.8** If necessary, the purchaser may seek clarifications on the offers by requesting for such information from any or all the tenderers, either in writing or through personal contact, as may be considered necessary. However, tenderers will not be permitted to change the substance of their offers after the offers/e-Bids have been opened.
- 10.9** The tender closing date will be the reference date for assessing the performance of a firm in a tender and any improvement in performance by a firm after tender opening shall not be factored in purchase decision.
- 10.10** Ordering on approved sources:
- 10.10.1 For RDSO controlled items - Ordering on RDSO approved sources:**
- (A) Bulk Order: Bulk procurement of minimum 80% of the net procurement quantity (NPO) shall be ordered on approved sources of RDSO.

(B) For developmental order: "developmental order (s) up to 20% Of NPQ may be considered on those firms Whose names appear in the vendor directory of RDSO as developmental sources.

Note:

- (1) Directory of approved vendors of RDSO, CLW, BLW, RCF, ICF, MCF and CORE as available on UVAM only shall be considered valid directories for all purposes by all stakeholders. Vendor directories being maintained in other forms (manual or online), if any, shall not be valid.
- (2) 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. 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 predecided tender criteria. Such orders shall be treated as bulk orders. (authority railway board circular no. 2001/RS/(g)1179/7 pt 2 dated:06.11.2018.
- (3) **Deleted**
- (4) New firm(s) who consider(s) themselves capable to supply the tendered item(s) are hereby advised to approach RDSO for approval first for being eligible to participate in the tender for subject item(s).(authority railway board circular no. 2001/rs(g)1179/7 pt 2 dated:25.06.2018).
- (5) Offer from authorized agent will be considered only if they submit tender specific authorization letter from the manufacturer, failing which their offer will be ignored summarily without making any further reference to them.

10.10.2 If any other Eligibility Criteria is mentioned in NIT/Special Condition, that will supersede para 10.10.

10.11 Items for which no approved vendor list has been issued:

In such cases, for being eligible for a regular order(s), the tenderer must have 'Relevant past performance "as defined in the following Para 10.11.1 and 10.11.2. Further, up to 20% of the NPQ may be ordered on new sources also, as developmental order(s), on the basis of capacity cum capability of the source as defined in Para-10.11.3. However, this is subject to a condition that rates of the developmental vendors are lower than the rates of vendors eligible for regular orders.

10.11.1 Relevant Past Performance for Regular orders:

A firm/tenderer shall be considered to possess relevant past performance for satisfactory execution if they have successfully executed at least one order placed by RCF, Kapurthala/ ICF, Chennai / MCF, Rae Bareli in the last four years as on the date of tender opening. The quantity to be ordered on such firm(s) shall depend on the past performance/quantity supplied in past/ capacity of the firm(s).

Regular bulk order(s) – Minimum 80% of Net Procured Quantity (NPQ) shall be placed on the tenderer having 'Relevant past performance as "as defined in the following Para

10.11.2. Further, balance quantity upto 20% of the NPQ may be ordered on new sources also, as developmental order(s), on the basis of capacity-cum-capability of the source as defined in Para 10.11.3

- 10.11.2** The past performance for successful execution shall mean and include performance in respect of any of the following.
- a) Tendered item, unless (b) or (c) is expressly specified in the tender schedule.
 - b) Similar item or
 - c) Any of the tendered items as the case may be.

10.11.3 “Capacity-cum-Capability” for Developmental order:

For consideration of developmental orders up to 20% of NPQ, the tenderers must be able to demonstrate their Capacity-cum-Capability to manufacture the tendered item. For this purpose they should submit along with their offer, documented past performance reports of same or similar items of equivalent rating or equivalent performance Parameters, details of M&P, testing facilities, QAP (if available), technical manpower available with them, registration for same/similar item(s) with other Government agencies or PSUs etc. or any other details as may be warranted as per the technical specification and drawing. Such tenderers are to note that non submission of such documents as per Annexure V shall be taken as their not having any such past performance and/or capacity, and their offer shall be considered further as per extant rules and no back reference in this regard will be made to them.

The assessment of capacity-cum-capability (CCA) will normally be done by M/s RITES on behalf of MCF against payment of applicable fee. MCF also reserves the right to carry out CCA by deputing its official in place of M/s RITES.

The details of CCA by RITES and vendor development policy of MCF are available on MCF's website under vendor development section.

- 10.11.4** Material to be procured from OEM or their authorized dealers / distributors:
- (a) Wherever so specified, the Railways reserve the right to place orders for either entire or bulk quantity on OEMs or their authorized dealers.
 - (b) Any firm quoting on behalf of OEM must submit tender specific authorization certificate in the prescribed Performa as Annexure-VI along with their offer and agree for inspection by the nominated agency (as the case may be) at the premises of their principals, failing which their offer shall be liable to be rejected.
 - (c) The following would be preferred in such cases:
 - (i) Inspection by RITES/RDSO/Nominated agency at the manufacturing premises of the relevant manufacturer. RITES/RDSO/Nominated agency 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 warehouse/Godown/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 supply.
 - (d) The OEM / Authorized dealers / agents must comply with the following conditions, failing which their offer(s) will be ignored:
 - (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) 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) In the tender, one OEM can be represented by one Agent only.

- 10.11.5** In case, Indian Agent quotes as a bidder (In Indian Rupee) on behalf of the

Foreign Principal, then they have to submit the Performa invoice from their Principal along with their offer. Further, in event of finalization of contract on them, they will have to submit a copy of bill of entry or bill of lading as the case may be along with the bills submitted by them for claiming the payment.

10.11.6 Items which are Railway specific and procured as per Railway Drawings/Specification but no approved list is maintained for these items.

Eligibility Criteria for Items which are Railway specific and procured as per Railway's Drawing/ Specifications:-

Tenderers should concurrently meet all the three following Eligibility Criteria mentioned in Para (a), (b) and (c) hereunder for consideration of their offer for Regular order:

(a) Past Performance: Tenderers should have successfully supplied the items SIMILAR to the tendered item/items against:-

i. One single order having the value minimum 20% of the estimated value of current tender

OR

ii. Multiple orders having total value of minimum 30% of the estimated value of current tender to Railway PUs/Zonal Railways/Central or State Govt. Departments/Central/State PSUs/or any other organization as per tender schedule, in the period constituting the Current Financial Year and previous Three Financial Years.

The term 'Items SIMILAR to the tendered item/items' means the items as defined in the tender schedule besides the tendered item(s) itself. These items are also alternatively referred as 'Similar items' in this clause of eligibility criteria.

Firm should submit necessary documentary proof showing the details of supplied items along with value, such as Receipt Notes for Stock items, Receipt & Acceptance documents for Non-Stock supplies, copy of invoices with acceptance particulars etc. In addition to above mentioned documents, firm should submit a summary sheet along with its e-Offer, in following format, to establish its claim for compliance of this clause:-

Purchase order/ Contract no	Contract placing agency	Details of document used as proof of supply*	Description of similar item/s supplied	Date of supply	Quantity of item/items	Value of Supplied items
Total Value of similar items supplied (in Rs.)						

*The date of the document produced as the proof of supply, will be considered as date of supply in case date of supply is not expressly shown in that document. Onus of submission of these documents lies completely with the tenderer only though MCF may utilize the Performance Records, if readily available with it.

In case of composite contracts that include the component of supply of similar item/items along with other supply/service components, value of relevant supply component of similar items will be allowed to be considered for compliance of this clause, provided composite contract provides for a separable value of the similar item.

(b) In-house Key Infrastructural Facilities: Firm should manufacture the tendered Item using the Processes, M&P, Testing facilities etc. as per the Drawing/Specification/Schedule of Technical Requirement (STR), referred in the description of the tender item/tender schedule.

Firm must submit a declaration of having the key/essential infrastructure facilities (Machinery & Plant required for Manufacturing, Testing etc.) in-house, as specified in relevant Drawing/Specification/Schedule of Technical Requirement (STR). Details of these key/essential infrastructure facilities should also be submitted by the firm along with its e-offer failing which its offer is liable to be rejected. However, MCF reserves the right to waive the submission of details required under this clause for those tenderers who have successfully supplied the tendered item (any one item if more than one tendered items) to RCF/ICF/MCF against regular order(s) or supplied tendered item against developmental order(s) to MCF, in a period constituting the Current Financial Year and previous Three Financial Years.

The format for submission of above mentioned details is as follows:-

Details of available Key/Essential Machinery and Plant for Manufacturing, Testing etc				
Machine/ Equipment type or function	Capability/ Capability of Machine/ Equipment	Make of Machine/ Equipment and model no	Year of Manufacture or Purchase	Special technology used in Machine/ Equipment functioning, if any

MCF reserves the right to verify the key/essential infrastructural facilities declared by the firm in the tender, at any point of time - before or after the placement of the contract. In case, declaration is found to be false by MCF, appropriate actions including cancellation of contract, administrative action and recovery of damages etc. can be taken against the firm.

(c) Financial Capability (Applicable for the tenders having estimated value more than 50 Lacs only):

Firm's Total Gross Revenue from Operations/Gross Sales Value, within the period of current financial year & previous three financial years (period to be reckoned as on the date of tender opening) must be minimum 150% of the estimated tender value.

Firm must submit a summary of financial year wise Gross Revenue from Operations/Gross Sales Value to show the compliance of this condition, duly supported by the copies of Income & Expenditure Statement or Profit & Loss account pertaining to the above period. These financial Statements must be certified by a Chartered Accountant or any Statutory Auditor. The above Mentioned documents are required to be submitted by the tenderer along with the e-offer for Consideration of regular order placement and onus of submission of these documents shall solely lie on the tenderer.

However, MCF may utilize or verify its records, if readily available with it or refer to the audited & Published Annual Reports of a registered company (as per prevailing Company law) participating in the tender, for which no claim, whatsoever, can be made on MCF by the tenderer as a matter of right.

The format for submission of above mentioned details is as follows:-

Financial Year (I)	Value of Gross Revenue from Operations/Gross Sales for the Financial Year in Rs. (II)	Audited Income & Expenditure Statement or Profit & Loss account attached for given financial
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		year? State Yes/No (III)
Total Value of Gross Revenue from Operations/Gross Sales as Audited for above mentioned financial years (Total of Column II above):-		

- 10.11.6.1** Consideration of Offers for placement of Developmental Order:
- i. Tenderers who do not comply all the three eligibility criteria given under clause 10.11.6. Para (a), (b) and (c) but only criterion under Para b) i.e. 'In-house Key Infrastructural Facilities', fully may be considered for placement of developmental order/s up to maximum 20% of the Net Procurable Quantity.
 - ii. Vendor will be considered for placement of development order.
 - a. Where the rates received from new sources are lower than those applicable to approved sources for regular order / suitable for bulk supply based on eligibility criteria where there is no approved list, and where new source are having potential for supply of quality material and are having infrastructure of plant and machinery and testing equipment.
 - b. However, for the items where it is considered essential to go for placement of development orders on vendors whose received rates are higher than the rate applicable for approved sources for regular order / suitable for bulk supply based on eligibility criteria where there is no approved list, such offers can also be considered for placement of developmental order(s). Reasonability of rates in such cases should be thoroughly assessed. (Suitable clause for applicability of one out of these two options for participation/elimination of vendors Qualified for Development Order shall be mentioned in the tender.) Rly. Board letter No.2021/RS(G)/779/21 Dt.13.12.2021.
 - iii. Quantity on a developmental order will not be more than the quantity on any of the regular orders.
 - iv. Details of the process to be followed for development of new vendors are given in the Vendor Development Policy published at MCF's website <http://mcf.indianrailways.gov.in>
- 10.11.7** If any other Eligibility Criteria is mentioned in NIT/Special Condition, that will supersede para 10.11.
- 10.12** **Items to be procured from PUs approved sources:**
- 10.12.1** Bulk order: Bulk Procurement of Minimum 80% of the net procurable quantity (NPQ) shall be made from the approved sources of MCF or RCF or ICF.
- 10.12.2** If a firm is having different status in different PUs, then higher status (of the two) will be considered for awarding the contracts. Further, if any firm is granted approval with MCF merely on the basis of their being approved with other PUs, then any delisting by parent PU will automatically mean their delisting from MCF directory also; their name appearing in MCF directory notwithstanding.
- 10.12.3** Further, balance quantity upto 20% of the NPQ may be ordered on developmental approved sources or even on those vendors who are prima-facie considered suitable on the basis of documents submitted by them along with their bids and capacity cum capability of the source as defined in Para-10.11.3. However, Purchaser has the discretion treat above mentioned two

categories of firms on different footings with regards to quantity allocations and rates.

10.12.4 If any Eligibility Criteria mentioned in NIT/Special Condition, that will supersede Para 10.12.

10.12.5 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. 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 predecided tender criteria. Such orders shall be treated as bulk orders. (authority Railway Board circular no. 2001/RS/(g)1179/7 pt 2 dated:06.11.2018.

10.13 Eligibility for tenders of Furnishing Turnkey contract

10.13.1 Regular order

10.13.1.1 Tenderer who have successfully completed the furnishing activity in at least one purchase order (for full quantity) or 10 coaches, whichever is lower, in supply and installation of coach interior involving (i) Interior panelling of sidewall (ii) roof (iii) installation of flooring (iv) seats & berths on railway coaches (mainline or EMU or Metro) in the past three years at MCF or RCF or ICF or Zonal Railway Workshops are eligible. This period of three years shall be counted with respect to date of tender opening.

“There can be situation where a tenderer is yet to satisfactorily execute at least one single purchase order of full quantity but already supplied acceptable quantity equal or more than the one who has become eligible for regular order by virtue of fulfilling the criteria mentioned. Such tenderers shall also be eligible for regular order. However, while ordering, their past performance, capacity, load etc. may be kept in view”.

“Ordered quantity in this para means the quantity ordered with original purchase order without taking in to account any subsequent increase due to operation of option clause or otherwise. In case of quantity reversion downwards, the final quantity left shall be taken as execution of one full order”.

10.13.1.2 The onus of submission of requisite documents in support of their past credentials such as Completion Certificate (of furnishing activity) with self declaration by the bidder that their work is/was accepted by consignee, rest with the Bidders. Furnishing of false declaration shall lead to termination of contract besides initiating punitive actions as per extant instruction that might include banning of business/delisting followed by other penal actions.

In case, the tenderers do not submit the requisite documents as detailed above along with their offer, the tender will be decided on the basis of available records and no back reference shall be made in this regard.

10.13.2 Developmental order

10.13.2.1 Tenderer who doesn't satisfy the eligibility condition for regular order with regard to quantity of coaches executed in the past are eligible for developmental order(s)
Or

10.13.2.2 Tenderer who have valid MOU or tie up with PUs approved manufacturer(s) of sidewall panel, roof panel & seats & berths. The onus of submission of MOU or tie-up for each activity lies with the tenderer. In absence of details, offer will be summarily ignored.

10.13.2.3 Note: In relation to clause 10.13.1 & 10.13.2 above, it is mandatory for the tenderer to source all items from RDSO/MCF/RCF/ICF approved vendors. If any item is not in RDSO/MCF/RCF/ICF approved vendor list, the same should be sourced from vendors who have successfully supplied the item to any Indian Railway Production unit in the past.

- 10.14** The tender closing date will be the reference date for assessing the performance of a firm in a tender and any improvement in performance by a firm after tender opening shall not be factored in purchase decision. (Authority: Bd's letter 99/RS (G)/709/1 dated 30.04.2015).
- 10.15** However, there may be some cases of procurement of materials where Railway may not be willing to undertake the risk of the failure on the part of the supplier on whom the developmental orders have been placed. In such cases, Railway may go in for increased purchase quantity and keeping in view of budgetary and other aspects, so that 100 percent order is placed on registered/approved suppliers and quantity not more than 20% of NPQ can be ordered against developmental orders outside the NPQ (Authority Railway Board letter 99/RS(G)/709/1 dt 06.12.2007 superseded by 99/RS (G)/709/1/Pt. Dt. 13.01.2015).
- 10.16** The approval status of the firm will be reckoned as on the date of the tender opening and not thereafter except in case downgrading/ removal/ suspension/ banning etc. After opening of tender, when changes shall be taken into account while considering the offer. (Authority: Bd's letter no. 99/RS(G)/779/1 date 18.11.2016).
- 10.17** DELETED
- 10.18** DELETED
- 10.19** In case if purchaser feels that based on past performance and/or capacity constraint, none of the approved firms are capable to supply the items, he reserves the options to place orders on developmental sources beyond 20% quantity in exceptional situations.
- 10.20** In case firms eligible for regular bulk order(s) do not respond in the tender or the performance of such supplies not satisfactory or exorbitant rates are quoted by them or cartel formation is suspected, then MCF has the discretion to consider the offers of the developmental/untried/new firms or the past suppliers for same or similar items for regular order for bulk or entire quantity or part quantity.
- 10.21** If any other Eligibility Criteria is mentioned in NIT/Special Condition, that will supersede Para 10.13.
- 10.22** Wherever sources have been approved by nominated agency, the placement of developmental orders can be considered in the following circumstances –
i) where the approved sources are not adequate or for developing indigenous sources for imported items or for new product development.
ii) where the rate received from new sources are lower than those applicable to approved sources and where new sources are having potential for supply of quality material and are having infrastructure of plant and machinery and testing equipment.
iii) whose offers are technically suitable.
iv) who meet the pre-defined eligibility/qualifying Criteria and technical capability specified in the tender document. The credentials of having met the pre-defined criteria shall be based on the details uploaded by the tenderer like past performance, infrastructure details such as machinery and plant, testing facilities, Quality Assurance Plan, technical manpower, etc, in absence of which the tenderer may not be considered for placement of any order.
- 10.23** However, development order may be given upto 20% of net procurement quantity on unregistered/untried firms about whom Railway is prima facie satisfied that they are capable of executing the order as brought out in para 10.4 above.
- 10.24** Directory of approved vendors of RDSO, CLW, BLW, RCF, ICF, MCF and CORE as available on UVAM only shall be considered valid directories for all purposes by all stakeholders. Vendor directories being maintained in other forms (manual or online), if any, shall not be valid.

- 10.25** When conducting negotiation, the firm(s) will be informed about the parameter(s) of the original offer on which revision(s) of original offer is/are solicited and his signature taken in token thereof. In the negotiated offer, any variation by the firm(s) on such aspect(s) of offer on which revision was not solicited during negotiation, will render the negotiated offer unfit for consideration (As per Railway Boards letter No 99/RS(G)/779/2 dated.13.8.2015)
- 10.26 Cartel Formation:**
- 10.26.1** Wherever all or most of the approved firms quote equal rates and cartel formation is suspected, Railway reserves the right to place order on one or more firms with exclusion of the rest without assigning any reasons thereof.
- 10.26.2** Firms are expected to quote for quantity not less than 50% of tendered quantity. Offers for a quantity less than 50% of tendered quantity will be considered unresponsive and liable to be rejected.
- 10.26.3** Wherever cartel formation is suspected, Purchaser reserves the right to place orders on any firm/firms for any quantity without assigning any reason thereof.
- 10.26.4** The firms who quote in cartel are warned that their names may be deleted from list of approved sources.
- 10.26.5** 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, even beyond prescribed limits, if any.
(Authoirty -2001/RS(G)/779/7/Pt-I dated 29-6.2017)
- 10.27** The OEM/Authorized Dealers/Agents must comply with the following conditions failing which their offers shall be summarily rejected without further reference:
- i)In a tender, either the authorized agent/dealer on behalf of the Principal/OEM or the Principal/OEM itself can bid, but both cannot bid simultaneously for the same item in the same tender. Further, against a particular tender, one Principal/OEM cannot issue Tender Specific Authorization to more than one agent/dealer. Such offers with different terms against a particular product if treated as ambiguous offers, the bidder(s) or their Principal/OEM will have no right to lodge any claim.
- ii)If an authorized agent/dealer submits bid on behalf of the Principal/OEM, the same agent/dealer shall not submit a bid on behalf of another Principal/OEM in same tender for the same item/product.
- iii)In case tenderer is not a manufacturer of tendered item and he quotes on behalf of his principal/manufacturer, he shall invariably comply with the following:
- a)Indicate the manufacturer's /Principal's name and address in his offer.
- b)Upload the tender specific authorization letter from his principal/manufacturer to submit offer against this tender, where applicable. The tender specific authorization should certify that no company, firm or individual other than M/s ____ are authorised to represent us in regard to this business against this specific tender.
- 10.28** Where a manufacturer appoints an agent/dealer/distributor on the basis of a written agreement with him for a specific territory or specific set of items, they shall give an undertaking to the following effect which ensures the followings:
- i) Pre-inspection, if applicable, will be done by RITES/RDSO (or any other

Inspecting agency mentioned in contract) at the premises of the OEM. Inspecting agency shall categorically confirm in the Inspection Certificate, that inspection of the material has been actually made at the manufacturing premises of the OEM and not in the Warehouse/Godown/Shop of the agent/dealer/distributor.

ii) Direct dispatch of material from the premises of the manufacturer to the consignee after issue of inspection certificate, without routing it through agent/dealer/distributor to ensure genuineness/quality of the supplied product.

iii) Submission of Manufacturer's TC/GC (Test and Guarantee Certificate) with each lot of supply.

iv) Price of the authorized agent/dealer/distributor will not exceed to what the Manufacturer's would have quoted.

v) The Manufacturer should confirm that no company/firm/individual other than M/s.

.....(Name of the Bidder) is authorized to represent them against this specific tender and OEM shall take full responsibility for supplies made by bidder including warranty obligation as per contract.

10.29 Eligibility Criteria for procurement of Electrical Items.

10.29.1 Eligibility Criteria for similar class of items for procurement of non critical Electrical Items to be out Sourced. (Document No. RCF/EL/EDM0007/1 Rev. 1) Annexure-XIV.

11.0 Splitting Criteria:

11.1 In case of no prior decision to split the order:

11.1.1 Normally full order would be placed on L-1 firm. However, if after due processing, it is discovered that the quantity to be ordered is more than what L1 alone is capable of supplying and there is no prior decision to split the quantities, then 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

11.1.2 In the absence of any differentiation on the above parameters, the manner of splitting will be based on the stipulation given in para 11.2.2 below.

11.2 In case of pre-decided split ordering:

11.2.1 Purchaser will specify in the special conditions 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.

11.2.2 Following provisions 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 than one of the eligible tenderers. Zone of consideration of such eligible tenderers will be the right of the Purchaser. The zone of consideration will be a dynamic mix of inter-se position of firms, supply performance of the firms, quantity being procured, criticality of and lead time of supply of the item, number of established suppliers, their capacity, etc.

(B) Whenever such splitting of the procurable quantity is made, the quantity distribution will depend (in an inverse manner) upon the differential of rates quoted by the tenderers (other aspects, i.e., adequate capacity-cum-capability,

satisfactory past performance of the tenderers, outstanding order load for the Railway making the procurement, quoted delivery schedule vis-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
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, Purchaser shall decide.

In the phrase 'differential rates quoted by the tenderers', 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.

(ii) When price negotiation has been called for, the reference L1 rate for assessment of ratio will be the original rate of L1 firm (suitable for bulk quantity), as obtained at the time of tender opening.

(C) 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 the above para.

11.2.3 Under exceptional circumstances, Purchaser reserves the right not to split the ordered quantity even in cases of where pre-decided splitting criteria is specified in the tender document.

11.2.4 In the cases of inadequate capacity-cum-capability, dissatisfactory past performance, large quantity of outstanding orders (liquidation of which will take very long time), etc., the Purchaser shall have the right to distribute the procurable quantity amongst tenderers with due consideration to these constraints and in such a manner that would ensure timely supply of material in requisite quantity to meet the needs of operation, maintenance, safety etc. of the Railways, regardless of inter-se ranking of the tenderers and in a fair and transparent manner with due conformity to the Principles of Natural Justice and Equity.

11.3 For cases where the Rlys/PUs had entered into ToT/JV agreements, Railway reserves 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 11.2.2 (B) shall apply.

12.0 Communication of Acceptance:

Acceptance of tender will be communicated by digitally signed email, FAX or formal acceptance of tender direct to the tenderer or through his authorised agents. In case where acceptance is indicated by email or FAX, the formal acceptance of tender will be forwarded to the contractor as soon as possible, but the communication of email or FAX shall be deemed to conclude the contract.

13.0 Security Deposit:

13.1 13.1(a) Unless otherwise agreed between the Purchaser and the contractor or otherwise mentioned in the tender document, the contractor shall, within 21 days of posting of written notice of acceptance of the offer to the contractor, deposit with the Railway concerned (in cash or the equivalent in Government

Securities or approved Banker's Guarantee Bond or any other approved form as stipulated in the tender document) a sum as stipulated in the tender document, towards Security Deposit.

Unless otherwise specified in the tender document, Security Deposit should remain valid for a minimum period of 60 days beyond the date of completion of all the contractual obligations of the supplier, including warranty obligations.

13.1(b) If the Contractor, having been called upon by the Purchaser to furnish security deposit, fails to make a security deposit within the specified period, it shall be lawful for the Purchaser to cancel the Letter of Award and to recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the Contractor under any other contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise howsoever, duly adjusting the Earnest Money deposit, if any, made by the contractor.

13.1(b)(i) If the contractor during the currency of the Contract fails to maintain the requisite security deposit, it shall be lawful for the purchaser at its discretion (a) to terminate the Contract for Default besides availing any or all contractual remedies provided for breaches/default, or

(b) without terminating the Contract:

(i) to recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the Contractor under the contract or any other contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise howsoever, or

(ii) treat it as a breach of contract and avail any or all contractual remedies provided for breaches/ default.

13.1(b)(ii) In the event of any amendment issued to the contract, the contractor shall furnish suitably amended value and validity of the Performance Security deposit in terms of the amended contract within fourteen days of issue of the amendment.

13.1(c) No claim shall lie against the Purchaser in respect of interest on cash deposits or Government Securities or depreciation thereof.

No interest shall be payable upon the Bid Security and Security Deposit or amounts payable to the Contractor under the Contract.

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

13.1(e) Subject to the above, the purchaser shall release the security deposit without any interest to the contractor on completing all contractual obligations, including the warranty obligations, if any.

Alternatively, for the duration of Warranty obligations, upon the contractor submitting a suitable separate Warranty Security deposit, the original Performance Guarantee Security shall be released mutatis mutandis.

- 13.2** There shall be no exemption from submission of Security Deposit (SD) for any tender or by any tenderer except the following:
- a) The Store contract cases of value upto Rs. 25 (twenty five) lakh.
 - b) Other Railways and Government Departments in terms of Railway Board's letter No. 2004/RS(G)/779/11 dated 24.07.2007
 - c) Indian Ordnance Factories in terms of Railway Board's letter No. 92/RS S(G)/363/1 dated 08.04.1993
 - d) PSUs owned by Ministry of Railways and PSUs for the group of items that are manufactured by them in terms of Railway Board's letter No. 20031RS(G)779/5 dated 10.09.2004.
 - (e) In tenders issued against PAC, OEM in whose favour PAC has been issued shall be exempted from submitting SD, KVIC and ACASH shall be exempted from SD for items supplied by them.
 - (f) Vendors registered with Railways for the trade group of the item tendered shall be exempted from SD for orders valued upto their monetary limit of registration.
 - (g) Vendors appearing on the approved vendor lists of RDSO/PUs/CORE, for those specific items for which they are on approved list, subject to approval status being valid on the date of tender closing.
 - (h) Vendors registered with Railways for supply of medicine, medical equipments and consumables shall be exempted from submission of SD for these items.
- Note:

Apart from claiming damages from vendors, in case of failure to comply with the contractual obligations, Railways shall record poor performance of the vendors for taking suitable penal action as per extant instructions.

13.3

Contract value	SD (rounded off to nearest higher Rs. 10 (ten))
Above Rs. 25 lakh and Upto Rs. 50 Cr.	@5% of contract value subject to Max. Rs. 50 lakh.
Above Rs. 50 Cr.	Rs. 1 Cr.

Railways are permitted to raise the upper ceiling of SD, upto 10% of contract value in high value cases.

- 13.3.1** All tenders/ contracts issued/ concluded till 31/03/2023 shall have performance security as per Para 13.3 or 3% whichever is lower. In all contracts entered into with the reduced percentage of Performance Security of 3%, there will be no subsequent increase in Performance Security even beyond 31/03/2023.

13.4 DELETED

13.5 DELETED

- 13.6** In the event of successful tender(s) failing to deposit/submit SD in acceptable form within the prescribed period as aforesaid, the EMD submitted by such successful tenderer(s) shall be automatically adjusted towards SD in view of the fact that in most of the cases, EMD amount would be adequate to meet the SD amount. In case where available EMD amount is less than required SD and the successful tenderer does not deposit the balance SD amount within stipulated time, then EMD shall be forfeited and case be dealt with as that of withdrawal of offer by the tenderer as per extant instructions.

If the Contractor, having been called upon by the Purchaser to furnish security deposit, fails to make a security deposit within the specified period, it shall be lawful for the Purchaser to cancel the Letter of Award and to recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the Contractor under any other contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise howsoever, duly adjusting the Earnest Money deposit, if any, made by the contractor.

- 13.6.1** If the contractor during the currency of the Contract fails to maintain the requisite security deposit, it shall be lawful for the purchaser at its discretion (a) to terminate the Contract for Default besides availing any or all contractual remedies provided for breaches/default, or (b) without terminating the Contract:
 (i) to recover from the Contractor the amount of such security deposit by deducting the amount from the pending bills of the Contractor under the contract or any other contract with the Purchaser or the Government or any person contracting through the Purchaser or otherwise howsoever, or
 (ii) treat it as a breach of contract and avail any or all contractual remedies provided for breaches/ default.
- 13.6.2** In the event of any amendment issued to the contract, the contractor shall furnish suitably amended value and validity of the Performance Security deposit in terms of the amended contract within fourteen days of issue of the amendment.
- 13.7** DELETED
- 13.8** Risk Purchase clause shall not be applicable.
- 13.9** Security Deposit (SD) shall be furnished in any one of the following forms:
 i) By depositing cash with the Chief Cashier, Modern Coach factory, Raebareli, Chennai.
 ii) Fixed Deposit Receipts (FDR), Pay Orders, and Demand Drafts, in favour of Principal Financial Advisor/MCF. The FDR must be issued with auto renewal facility.
 iii) Guarantee Bonds issued by Nationalised or Scheduled Commercial Banks as per format at Annexure-III.
 iv) Bonds of Indian Railway Finance Corporation or KRCL Bonds. (In case of Bonds issued under non-cumulative interest scheme, post dated interest warrants should be submitted along with the bonds and the interest warrants could be given back as and when the interest becomes due).
 v) Government Securities and
 vi) A deposit in the Post Office Saving Bank
- 13.10** Bank Guarantees (BGs) to be submitted by tenderer shall be sent to this office directly by the issuing bank under Registered Post AD/Speed Post/Courier. In exceptional cases, where the BGs are received through the tenderers, the issuing bank shall be requested to immediately send by Registered Post AD/Speed Post/Courier an unstamped duplicate copy of the Bank Guarantee directly to this office with a covering letter to compare with the original BG and to confirm that it is in order.
- 13.11** No claim shall lie against the Purchaser in respect of interest on cash deposits or Government Securities or depreciation thereof.
 No interest shall be payable upon the Bid Security and Security Deposit or amounts payable to the Contractor under the Contract.
- 13.12** Security deposit will be returned to the successful supplier after completion of all contractual obligations as per Para 13.1 of Section-II above and submission of following Proforma:

No Claim Certificate

PO/Contract No. Date

For supply of..... (Brief description of material)

Quantity

The above contract has been completed and I/We have no claim on Modern Coach Factory, Raebareli in respect of the said contract. The security deposit

amount of Rs. (Rupees
.....) lodged by us with
Modern Coach Factory, Raebareli, -may therefore please be refunded to
me/us.

Place:

Date:

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

14.0 Inspection by inspecting officer

- 14.1** (a) When inspection during manufacture or before delivery or dispatch is required, notice through the online portal of the purchaser/inspecting agency, if available, or else in writing, shall be sent by the Contractor to the Inspecting Officer when the goods or material to be supplied are ready for inspection and test, and no goods shall be delivered or dispatched until the Inspecting Officer has certified in writing that such goods have been inspected and approved by him.

(b) In cases where the Inspecting Authority specified in the contract requires on behalf of the Purchaser that inspection of the raw materials to be used and/or stage inspection during the manufacturing process of the component/goods, etc. is also to be done, notice through the online portal of the purchaser/inspecting agency, if available, or else in writing, shall be sent by the Contractor to the Inspecting Officer to visit his premises/works to test the raw materials and/or conduct necessary inspection during the manufacturing process of the component/goods, etc. as deemed essential.

(c) In case the purchase orders are placed on traders/agents for the items, which are peculiar to the railways, traders/agents should indicate the source of supply and it should be ensured that inspection for such items is carried out at manufacturer's premises rather than traders/agents premises, to ensure genuineness of quality of the material.

14.2 Marking of Goods

The Contractor shall, if so required, at his own expense, mark all the approved goods with a recognized Government or Purchaser's mark. The goods which cannot be so marked shall, if so, required by the Inspecting Officer, be packed at his own expense in suitable packages or cases, each of which shall be sealed and marked with such mark. The Inspecting Officer shall also have power to mark the rejected goods with a rejection mark so that they may be easily identified, if resubmitted for inspection.

14.3 Facilities for test and Examination

The Contractor shall, at his own expense afford to the Inspecting Officer all reasonable facilities as may be necessary for satisfying himself, that the goods

are being and/or have been manufactured in accordance with the particulars. The Inspecting Officer shall have full and free access at any time during the execution of the contract to the Contractor's work for the purpose aforesaid, and he may require the Contractor to make arrangements for inspection of the goods or any part thereof or any material at his premises or at any other place specified by the Inspecting Officer and if the Contractor has been permitted to employ the services of a Sub-Contractor, he shall in his contract-with the Sub-Contractor, reserve to the Inspecting Officer a similar right.

14.4 Cost of Test—

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

14.5 Delivery of Goods for Test -

The Contractor shall also provide and deliver for test, free of charge, at such place other than his premises as the Inspecting Officer may specify, such material or goods as he may require.

14.6 Liability for Costs of Special or Independent Test.—

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

14.7 Method of Testing-

The Inspecting Officer shall have the right to put all the goods or materials forming part of the same or any part thereof to such tests as required for the goods specified in the contract. The Contractor shall not be entitled to object on any ground whatsoever to the method of testing adopted by the Inspecting Officer.

14.8 Goods Expended in Test-

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

14.8.1 Powers of Inspecting Officer -

The Inspecting Officer shall have the power: —

i. before any goods or part thereof are submitted for inspection, to certify that they cannot be inspected in accordance with the contract owing to the adoption of any unsatisfactory method of manufacture.

ii. to reject any goods submitted as not being in accordance with the particulars.

iii. to reject the whole of the installment tendered for inspection, if after inspection of such portion thereof as he may in his discretion think fit, he is satisfied that the same is unsatisfactory. iv. the Inspecting Officer's decision as regards the rejection shall be final and binding on the Contractor.

14.8.2 Charges for Work Necessary for Completion of the Contract —

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

14.9 Rejection of pre-inspected item by consignee on receipt-

(i) In case of rejection of pre-inspected goods at consignee end, the material rejection advice/rejection memo will be sent by consignee to all concerned i.e., firm, purchaser, pre-inspecting agency, paying authority as per the contract etc.

(ii) Financial recovery: In case payment has been made to the firm for the material, the concerned paying authority as per contract will be advised to note the rejection advice details in its recovery register for effecting recovery of payments made, as the case may be.

(iii)(a) If the firm desires to have joint inspection, joint inspection of the 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 the joint inspection, the joint inspection will be held by the consignee with whichever of the two parties comes for joint inspection. Irrespective of whether the party(ies) attend the joint inspection or not, the modality of joint inspection etc. shall be completed within 21 days of communication of rejected advice to the supplier (in line with IRS Conditions of Contract clause 703). For imported material, the time limit will be 45 days.

(b) It is clarified that "desire" of the firm is relevant only to the extent the firm wishes to participate in the joint inspection. Such "desire" of the firm cannot decide whether joint inspection has to be carried out or not. In fact the paragraph clearly states "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". Hence the instruction makes it amply clear that the "desire" of firm can only affect firm's decision to participate in joint inspection or otherwise. Such unilateral "desire" cannot impact conduct of a transparent joint inspection procedure.

(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 will need to be pre-inspected by the 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 firm's internal inspection certificate/guarantee certificate and final inspection by consignee.

(vii) Tenderers are informed about Ministry of Steel's order No. S.O. 1149 (E) dtd 17.03.2016 also called as Steel and Steel Products (Quality Control) (Amendment) Order, 2017 as follows:

In exercise of the powers conferred by section 14 of Bureau of Indian Standard Act, 1986

“(1) No person shall by himself or through any person on his behalf manufacture or store for sale, sell or distribute any steel and steel products specified in column (3) covered under the relevant Indian Standard specified in column (2) of the schedule with effect from such dates as specified in column (6) thereof, which do not conform to the specified standard and do not bear standard mark of the Bureau of Indian Standards, on obtaining certification marks license.”

The details of mandatory certification are available on Bureau of Indian Standard (BIS) website www.bis.org.in under the link “Product Certification” => “Mandatory Certification”

14.9.1 At the option of the depot officer/end-user, rectification of the material 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, the rectification activity has to be completed within 21/45 days for indigenous/imported material respectively. If more time is taken beyond this, applicable ground rent will be levied on the firm.

14.10 In case of rejection of items, railways reserves the right to recover any such amount due to railways from the supplier, on account of inspections conducted on the items, from any pending bills or supplier’s deposits available with MCF or with any other zonal railways/PUs/units under Ministry of Railways. The inspection charges levied by railways shall be final and no claim of the supplier will be entertained on any grounds whatsoever.

14.11 Consequence of Rejection -

If on the goods being rejected by the Inspecting Officer or Interim Consignee or Consignee at the destination, the Contractor fails to make satisfactory supplies within the stipulated period of delivery, the Purchaser shall be at liberty to:

i. require the Contractor to replace the rejected goods forthwith but in any event not later than a period of 21 days from the date of rejection and the Contractor shall bear all cost of such replacement including freight, if any, on such replacing and replaced goods but without being entitled to any extra payment on that or any other account, or

ii. cancel the contract for the rejected quantity and take further action as per the provision of Clause 702(b) and 702(c) of revised IRS conditions of contract.

iii. Where under the contract some price is paid to the contractor for the goods so rejected, the Contractor shall be liable, in addition to his other liabilities, to refund of price recoverable in respect of the such rejected goods and to reimburse to the

Purchaser the freight and all other expenses incurred by the Purchaser in this regard. The above said liability on the contractor shall arise immediately after the issue of the communication of such rejection to him.

14.12 Removal of Rejected Goods-

14.12.1 On rejection of all goods submitted for inspection at a place other than the premises of the Contractor, such goods shall be removed by the Contractor at his own cost subject as hereinafter stipulated, within 21 days of the date of issue of intimation of such rejection by communication means detailed in clause 0202 of revised IRS conditions of contract.

The communication will be deemed to have been served on the contractor at

the time when such communication would, in the course of ordinary communication, reach the contractor through the means of communication used.

Provided that the Inspecting Officer/Consignee may call upon the Contractor to remove dangerous, infected or perishable goods within 48 hours of the receipt of such communication and the decision of the Inspecting Officer in this behalf shall be final in all respects.

Provided further that where the price or part thereof has been paid, the consignee is entitled without prejudice to his other rights to retain the rejected goods till the price paid for such goods is refunded by the Contractor or dispose of as per clause 2202 of revised IRS conditions of contract save that such retention shall not in any circumstances be deemed to be acceptance of the goods or waiver of rejection thereon.

14.12.2 All rejected goods shall in any event and circumstances remain and always be at the risk of the Contractor immediately on such rejection. If such goods are not removed by the Contractor within the periods aforementioned, the Inspection Officer/Consignee may remove the rejected goods and either return the same to the contractor at his risk and cost by such mode of transport as the Purchaser or Inspecting Officer may decide, or dispose of such goods at the Contractor's risk and on his account and adjust such portion of the proceeds, if any from such disposal as may necessary to recover any expense incurred in connection with such disposals (or any price refundable as a consequence of such rejection). The Purchaser shall, in addition, be entitled to recover from the Contractor ground rent/demurrage charges on the rejected goods after the expiry of the time limit mentioned above. Disposal of rejected goods in aforesaid manner will not in any way exonerate contractor but still hold him liable to pay to the purchaser, the dues detailed under para 0703(iii) of revised IRS conditions of contract besides other dues as mentioned above and action can be taken by the Purchaser as per clause 2400 of revised IRS conditions of contract, if contractor fails to pay the amount due to him.

15.0 Advice of despatch of stores:

15.1 The supplier should ensure that Lorry Receipt under which the material is sent to the Railway consignee are prepared in the favour of "consignee" and on door delivery basis only" failing which they will be required to take the delivery themselves and deliver the consignment to the consignee.

15.2 All despatch documents i.e. Lorry Receipt (LR), Invoice cum challan, Inspection certificate etc. must be sent to the consignee and copies of advice of despatch should also be sent to the Principal Chief Materials Manager, Modern Coach Factory, Raebareli- 229 120.

16.0 Payment Terms:

16.1 Unless otherwise agreed upon between the parties, payment for delivery of the goods will be made on submission of bills in the prescribed form which may be obtained from the Purchase Officer or through online billing mode on e-procurement portal of the purchaser, as decided by the purchaser, in accordance with the instructions given in the Acceptance of Tender, by a cheque or demand draft or through online mode on a branch of the Reserve Bank of India or State Bank of India transacting government business or through e-payment to the registered bank account of the Contractor at the option of the purchaser.

16.2 Payment for the goods or for each consignment thereof will be made to the Contractor on submission of bills accompanied by required document in

accordance with the following procedure in contracts where such a facility to the Contractor has specifically been agreed to by the Purchaser: —

(a) (i) For despatch by road or despatch by rail on FOR destination basis, 95% payments for the goods or each consignment thereof will be made to the Contractor against proof of inspection and proof of delivery in good condition at consignee's end. Receipted Challan signed by the Gazetted officer at consignee's end will be taken as the proof of delivery but not construe the acceptance by the consignee.

(ii) For despatch by rail on FOR station of despatch basis, 95 percent payments for the goods or each consignment thereof will be made to the firms against proof of inspection and despatch. The original railway receipt should be sent to the Accounts Officer responsible for payment along with 95 per cent bill advising the particulars of despatch to the consignee. The Accounts Officer after passing the 95 per cent bill should pass on the original railway receipt to the consignee for taking delivery of the consignment. It should, however, be ensured that there is no delay in the Accounts Office transmitting the original railway receipt to the consignee.

(b) The balance 5% payment shall be made after receipt and acceptance of the material by the consignee at his end.

(c) In the case of FOB& CFR contract, 95 per cent of the price will be paid on presentation of shipping documents and inspection certificate and the remaining 5 percent on receipt of the goods in accordance with the terms of the contract in good condition by the Consignee, and on producing the certificate of such receipt endorsed on one copy of the Inspection Note by the Consignee, or alternatively at the Contractor's option, the full value of the goods will be paid after inspection, on receipt of the consignment in accordance with the terms of the contract in good condition by the Consignee and on producing a certificate of such receipt endorsed on one copy of the Inspection Note.

16.2.1 In all other contracts or in contracts where the Inspecting Officer also acts as the interim " consignee or where inspection is carried on by the Consignee himself at destination and in all cases of local delivery full payment shall be made on submission of "Final 100 per cent bill" supported by the Inspection Certificates and consignee's receipt and acceptance certificate as aforesaid to the Accounts Officer concerned.

Note —

The system of 95 per cent and 5 per cent payment is not applicable to claims amounting to Rs. 25,000/- or below.

16.2.2 **Payment Against Time-Barred Claims**
All claims against the Purchaser shall be legally time-barred after three years calculated from the date when the payment falls due unless the payment claim has been under correspondence. The Purchaser is entitled to, and it shall be lawful for it to reject such claims.

16.3 **Payment through EFT/RTGS:**
Payments are made by MCF electronically through NEFT/RTGS only, and therefore, tenderers must comply with para 4.8 of the 'Instructions to the Tenderers. Request for making early payment will not be accepted.

16.4 **Payment terms for Machinery & Plant (M&P) items shall be as provided in the Special Conditions for procurement of M&P items specified separately under subsequent para.**

16.5 **The payment shall be subject to recoveries, if any, under the liquidated damages clause of the IRS Conditions of Contract or deduction of any amounts for which the Contractor may be liable under the contract against this tender or any other contract in respect of which the President of India is the Purchaser.**

- 16.6** Payment for the stores or each consignment thereof will be made to the Contractor on submission of bill accompanied with the prescribed documents mentioned in the contract. In cases where Price Variation Clause (PVC) is part of the contract, a working sheet along with documents in support of the PVC must be submitted at the time of claiming payment.
- 16.7** 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 irrespective of the P.O.value, 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.
The LC will be a sight LC.
- 16.8** 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.
- 16.9** 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. 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.
- 16.10** 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.
- 16.11** 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.

- 16.12** 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.

- 16.13** 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.
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(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.

- 16.14** 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.

- 16.15** 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

- 16.16** 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.

- 16.17** Following declarations will be required from the firm (supplier) while claiming payment:

(a) "It is certified that the GST % at which has been charged for the item billed for herein is as per relevant sections of CGST/SGST/IGST Acts and is legally leviable. If, however, it is found later that the rate at which the GST tariff rate has been charged is not correct, we indemnify the Modern Coach factory, Raebareli against any loss on this account."

(b) "It is certified that no refund of GST already reimbursed to me/us on the order/contract has been obtained by me/us during the quarter. And that in respect of refund/increase of refund of GST obtained on this order/contract will be passed on to the purchaser."

(c) No additional duty setoffs on the goods supplied have accrued under the GST Act or any future scheme which may be introduced while submitting the present bill.

(d) Any additional Input Tax Credit benefit, if become available to supplier, the same shall be passed on to purchaser without any undue delay.

OR

It is declared that additional input tax credit to the tune of and accordingly the same is being passed onto the purchaser and to that effect the payable amount may be adjusted.

16.18 Instructions to tenderers on LC mode of Payments:

Scheme of Letter of Credit for Domestic Supplies (including all service and maintenance contracts) tenders, having estimated value irrespective of the P.O.value:

- a. LC may be opened in all case, where Purchase Orders has been issued with LC clause irrespective of the P.O.value.
- b. 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 bidder's offer.
- c. Option once exercised shall be final and no change shall be permitted, thereafter, during execution of contract.
- d. The incidental cost @ 0.023% LC Charges (i.e., rate being charged by SBI from Railways), towards issue of LC and operation thereof shall be borne by the supplier/contractor and shall be recovered from their bills. This shall be effective on tenders issued w.e.f. 01.04.2020.
- e. The LC charges @0.023% of LC value, towards issue of LC and operation thereof shall be borne by the supplier/ contractor and shall be recovered from their bills (i.e., rate being charged by SBI from Railways). The new rates shall be effective on tenders notified w.e.f. 01.04.2020.
- f. The schedule of payment liability arising in the contract shall be established by the Railways based on the prescribed delivery schedule/ stages of supply.
- g. The acceptable, agreed upon document for payment to be released under the LC so opened, shall be a Document of Authorization.
- h. The supplier/ contractor shall submit their bills for completed supply to the bill processing authority mentioned in supply/ contract agreement to issue Document of Authorisation to enable supplier/ contractor to claim the authorized amount from their Banker.
- i. Accounts Officer responsible for passing the claim will issue the Document of Authorization.
- j. 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 condition. The claim shall comprise LC Document of Authorisation, Bill of Exchange and Invoice.
- k. The bank shall also recover any amount as may be advised by Railway

against the contractor/ supplier.

The contractor/ Vendor shall indemnify and save harmless the Railway from and against all losses, claim 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.

17.0 Option Clause:

17.1 Purchaser reserves the right to increase the ordered quantities of each description of stores shown in the contract up to 30 percent at the same price, terms and conditions anytime during the currency of the contract i.e., any time within the stipulated or extended delivery period, such that the contractor has reasonable time/notice for executing such increase.

17.2 The increase in quantity with respect to the tender quantity can be done even at the time of ordering and the tenderer shall be bound to accept the quantity so ordered on the basis of his original offer. The purchaser shall be entitled to exercise plus 30 percent option in one or more than one installment as long as the total variation in quantity does not exceed the limit of 30 percent of ordered quantity.

17.3 'Reasonable notice' as mentioned above is only for the purpose of allowing the Contractor suitable time to make necessary arrangements for the supplies and not for seeking any consent from the Contractor towards exercise of the contractual option clause. To this end, a reasonable delivery schedule for the enhanced ordered quantity stipulated in the relevant Modification Advice to the contract will suffice.

18.0 Warranty:

18.1 Warranty period mentioned in specification/MDTS is applicable. If warranty period is not mentioned in respective specification/MDTS, standard warranty period as mentioned in IRS conditions is applicable.

In case, there is a discrepancy regarding warranty period mentioned in specification/MDTS and standard warranty clause, then warranty period mentioned in specification/MDTS shall prevail.

Tenderers should further note that if the Guarantee/Warranty is a part of the tendered specification and/or tender schedule, then any deviation on this count, shall be treated as a technical deviation, which may render their offer technically unsuitable. **Bidders are advised to bring such deviation(s) clearly in the technical deviation statement. In case, this deviation is not indicated in the technical deviation statement, it will be presumed that offer is as per the tendered specification in all respect. Any ambiguity in this regard or any other respect shall be to the disadvantage of the bidder.**

Further, Suppliers shall ensure that the materials are invariably stamped with manufacturers name and month & year of manufacture as may be detailed in drawing/specification of material to enable correct reckoning of warranty.

18.2 Suppliers are advised to ensure that the materials are invariably stamped with manufacturer's, name, month and year of manufacture as may be detailed in the drawing/specification of material, so that warranty can be correctly acted upon.

18.3 Warranty rejections:

Material are rejected in warranty in the following situations:

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

18.3.1 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 with reasons of warranty rejection indicated therein. The warranty claim will be processed following procedure indicated in para 14.9 (i), (ii), (iii) and (iv) above except that 'rejection advice' will become 'warranty rejection advice'. The time which can be taken for the completion of modality of joint inspection will be 45 days in case of warranty rejection from the date of communication of rejection advice to the supplier. More time is given for joint inspection because this is a case wherein supplies have already been taken into the usage system of Railways and either the pre-inspection agency or the firm or the railways may like to have a more detailed understanding of the failure.

18.3.2 For Warranty failure in shop/shed of material received from a Production Unit (PU) of the railway, including as a purchased component of rolling stock manufactured at the PU, etc.:

(i) In cases where it may not be convenient for the end user to return the material to the stores depot to which the original supply was made by the vendor, 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. The warranty claim will be processed following procedure indicated in para 14.9 (i), (ii), (iii) and (iv) above except that 'rejection advice' will become 'warranty rejection advice' and the time which can be taken for the completion of modality of joint inspection in case of warranty rejection will be 45 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 and 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 will be 90 days. Financial recovery (if any made) against the warranty failure will be refunded to the firm on warranty quantity replacement.

18.3.3 Inspection of the replacement supply against warranty rejection:

(A) For cases of replacement supply against warranty failure falling in the category 18.3.1, the replacement supply should normally be inspected by the same inspection agency which inspected and passed original supply. Thus for clause 18.3.1, any change in inspecting authority for the warranty replacement will necessitate a formal amendment in contract.

(B) For warranty rejection falling under the clause 18.3.2:

(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.

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 under both the clauses 18.3.1 and 18.3.2 of warranty failure.

- 18.3.4** Place of warranty replacement- For warranty replacement of cases under clause 18.3.1, 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 under clause 18.3.2, 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.
- 18.3.5** 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.
- 18.3.6** At the option of the depot officer/end-user, rectification of the material rejected 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, the rectification activity has to be completed within 45/90 days for indigenous/imported material respectively. If more time is taken beyond this, applicable ground rent will be levied on the firm.
- 18.3.7** Handling of Warranty Rejections should be followed as per annexure-XV.

19.0 Procurement of Stores with ISI marking:

In case items which are to be purchased to IS specification and where ISI certified manufacturers exist, the purchase of such items will be made for ISI marked product only if their offers are technically suitable and licence acceptable. In the case of placement of purchase order directly on an ISI licensed manufacturer for ISI marked product, the material can be accepted on firm's WTC, without any third party inspection. In such cases, the tenderers shall submit copy of valid ISI/BIS licence along with the offers, failing which their offers are liable to be passed over.

(Authority: Railway Boards letter No 99/RS(G)/709/4 dated 5.11.2015)

20.0 Purchase according to Samples:

- 20.1** When samples are required, this fact shall be indicated in the tender documents. Samples must strictly conform to the tendered specification, drawing and description. Any sample submitted will be considered as supplement and not to supersede the tendered specification unless otherwise specifically indicated. In the absence of a specified acceptance in writing of any variation, the Purchaser shall be entitled to reject a claim for acceptance of supply embodying such variation.
- 20.2** Samples where called for, should be sent duly sealed to the Stores Department of MCF before the date and time of opening of tender failing which offer shall be summarily rejected. Samples should be supplied without any charge and on freight paid basis.
- 20.3** The tenderers are required to collect their samples within 15 days from the date

of intimation to do so. If the samples are not collected within the specified period, they will be disposed off and no claims whatsoever will be entertained thereafter.

21.0 DELETED

22.0 Force Majeure Clause:

22.1 (a) On the occurrence of any unforeseen event, beyond the control of either Party, directly interfering with the delivery of Services arising during the currency of the contract, such as war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lockouts, or acts of God, the affected Party shall, within a week from the commencement thereof, notify the same in writing to the other Party with reasonable evidence thereof. Unless otherwise directed by the Purchaser in writing, the contractor shall continue to perform its obligations under the contract as far as reasonably practicable and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the force majeure condition(s) mentioned above be in force for 90 days or more at any time, either party shall have the option to terminate the contract on expiry of 90 days of commencement of such force majeure by giving 14 days' notice to the other party in writing. In case of such termination, no damages shall be claimed by either party against the other, save and except those which had occurred under any other clause of this contract before such termination.

(b) Notwithstanding the remedial provisions contained elsewhere in the contract, none of the Party shall seek any such remedies or damages for the delay and/ or failure of the other Party in fulfilling its obligations under the contract if it is the result of an event of Force Majeure.

22.2 Force Majeure Clause will not be used by any party to effectively escape liability for bad performance and Contractor shall seek all reasonable alternative means for performance not prevented by Force Majeure events.

22.3 There may be a Force Majeure situation affecting the Purchaser's Organization and in such a situation, Force Majeure Clause shall be available and applicable to the Purchaser also and Purchaser shall be entitled to cancel the contract without any financial repercussion on either side.

23.0 Fall Clause: In case special condition specifically exist in the tender document that Fall Clause is applicable, then following provisions will apply for that particular tender only:

i) The price charged for the stores supplied under the contract by the contractor shall in no event exceed the lowest price at which the contractor sells the stores or offer to sell stores of identical description to any persons/organizations including the purchaser or any Department of Central Government or any Railway Office or any Railway undertaking, as the case may be, during currency of the contract. Such lower price will be applicable to supplies made after the date of coming into force of such reduction or sale or offer to sell at a reduced rate.

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

iii) The Contractor shall furnish the following certificate to the concerned Accounts Officer along with each bill for payment of supplies made against the contract.

"I/We certify that there has been no reduction in sale price of the stores of description identical to the stores supplied to the Government under the contract herein and such stores have not been offered / sold by me/us to any person/ organization including the purchaser or any Department of Central Government or any Railway Office or any Railway Undertaking as the case may be, up to the date of bill, at a price lower than the price charged to the Government under the contract."

24.0 Special Tender Conditions pertaining to procurement of Machinery and Plant (M&P) Items:

24.1 Elements of freight for indigenous purchase:

- (a) In case where the consignees are more (say more than 4 or so), the tenderers are required to quote for FOR station of despatch prices with an average freight for all consignees, which will be added to FOR station for despatch price to get FOR destination price.
- (b) In case where the consignees are four or less, tenderers are required to quote FOR station of despatch price with an actual freight for each individual consignee, which will be added for FOR station for despatch price to get FOR destination prices for each individual consignee.

24.2 Timely Commissioning of M&P:

- i) The supplier has to conduct joint inspection along with the consignee's representative at the time of opening the cases after receipt of the cases at consignee's site.
- ii) The installation, commissioning & demonstration will have to be done by the supplier immediately after the joint inspection at the consignee's site.

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

24.3 Warranty:

i) Warranty period for M&P items will be 24 (twenty-four) months from the date of commissioning and proving out of M&P. A maximum period of 2 (two) weeks will be allowed for attending and rectification of faults during the warranty period.

ii) Maximum down time during the warranty period will be 2% (two percent) for on line M&P and 10% (ten percent) for off line M&P calculated on quarterly basis.

iii) A penalty of 0.5% (zero point five percent) per week of the contract value will be levied for delay in response time for attending and rectification of faults beyond specified time during the warranty period as detailed above.

iv) Maximum penalty to be levied on account of warranty failures will be 5% (five percent) of the contract value calculated during whole of warranty period and after that if there is any delay on the part of supplier, Purchaser shall be entitled for encashment of warranty/guaranty Bonds. Such cases the bad performance of firm during the warranty period will be recorded and circulated

to all Railways for deciding future orders on the firm and when evidence to the contrary is not available, the firm's offer may even be rejected.

24.4 Annual Maintenance Contract:

i) Tenderers are required to quote for post warranty Annual Maintenance Contract (AMC) for a period of five years after expiry of the warranty period of the M&P along with their offers. The scope of AMC will include preventive and break down maintenance. AMC charges will include all costs of personnel, spares etc., except the cost of consumables required for day-to-day operation and daily maintenance checks.

ii) The maximum downtime and maximum response time as also penalties for failure to adhere to the same will be as specified in the tender documents. AMC payment terms would be linked to the performance parameters.

iii) The tenderers should quote AMC rates for each of the five years. The AMC price for each year will be firm. The AMC charges shall be separately payable in Indian Rupees only. The AMC charges would be added to the FOR destination price quoted for M&P for the purpose of comparative evaluation of offer, if so specified in the tender documents. In order to equitably compare different AMC charges for different years. The concept of NPV (Net Present Value) will be used at a predetermined rate of discounting to bring the AMC charges at the same footing in the assessment of FOR destination price. The rate of discounting and the NPV calculation shall be pre-disclosed in the tender document /Tender Schedule.

iv) The post-AMC maintenance of machines will be dealt with by the end users. In order to facilitate the same, tenderers are required to give the current cost of spares required for maintenance of machine after AMC period and the current service charges for each items of work of repair of M&P beyond the AMC period. These charges will not be included in the price of M&P for the purpose of comparative evaluation of offers

v) Tenderers who are OEM must give undertaking for supply of spare parts for a period of expected life of the machine/equipment. Other tenderers must submit undertaking from OEM for supply of spare parts for a period of expected life of the machine/equipment.

The actual contract agreement will show the AMC charges as a separate Schedule/Annexure to distinguish it from the transaction value of M&P, to avoid undue custom duty/taxes, or levies.

24.5 Validity:

The tenderers must keep the offer for M&P items valid for a minimum period of 120 calendar days from the date of opening of tender.

24.6 Payment Terms for M&P items:

The standard payment terms subject to recoveries if any, under the liquidated damages clause and general condition of contract will be as under:

a) 80% of the payment on proof of inspection certificate and Provisional Physical Receipt Certificate to be made within 30 days of receipt of documents as specified.

b) Balance 20% payment within 90 days after satisfactory installation/ commissioning and proving test of M&P subject to submission of Bank Guarantee/Warranty Guaranty Bond for an amount of 10% of contract value as

per Annexure–III towards warranty performance/warranty security.

24.7 Training:

The Contractor during commissioning of the equipment will also train the Railway staff in operation and maintenance of equipment supplied.

24.8 Maintenance manual, consumables and spare parts:

i) Contractor is required to supply 2 copies of operation and maintenance manual to enable the railway staff in operation and maintenance to be conversant with the machine.

ii) Consumables that may be required during the warranty period and are not covered in the warranty, same needs to be listed out including the quantity required along with the price.

24.9 Site preparations and installation:

i) The successful tenderer whose offer is accepted and on whom purchase order is placed, will promptly provide all the requisite details relating to the site preparations, including the lay out drawings and details of the foundations/superstructure/shed/roof as may be required, but not later than 6 weeks unless otherwise specified, to avoid delay in site preparation and installation and commissioning.

ii) If the circumstances so warrant, the supplier will be permitted to work in more than one shift for commissioning the machine, provided a request is made by the contractor. This may be permitted if the same leads to reduction of commissioning time.

24.10 Performance/Warranty Bank Guarantee:

For Machinery and Plant items, costly equipment, and capital spares, the Security deposit submitted by the supplier for 10% value of the contract value can be used to cover their warranty obligations, if same is valid for warranty period plus six (6) months claim period.

25.0 e-Reverse auction:

Beside various mode of tendering such as e-Limited tender, e-advertised tender, e-global tender, purchaser reserves the right to purchase the material through reverse auction module of IREPS. For all the e-RA Tenders above Rs. 5 Crore, Two packet Single Stage System of tendering will be followed.

25.1 Decision of tenders through Reverse Auction

25.2 Selection criteria for tender cases of Stores proposed through Reverse Auction (e-RA) :-

The Reverse Auction shall be the preferred method for procurement of Stores Tenders valued more than Rs. 5 Cr. The process of Reverse Auction shall be followed where at least three approved vendors (bulk procurement is to be from vendors approved by RDSO/ CORE/PUs etc.) or at least three proven/ likely competitive sources exist, prima facie competent for execution of bulk ordering. Financial Bids in single currency/ parameter only shall be allowed.

25.3 Procedure for award of contracts through Reverse Auction:-

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

25.4 Technical Bid and Initial Price offer :-

- a. Procuring authority shall decide the bid evaluation criteria in the tender itself, whether the evaluation shall be item wise, consignee wise or overall tender value wise.
- b. Bidder shall be simultaneously required to electronically 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 and offers found eligible for Developmental Order shall be categorized as Qualified for Development Order for the purpose of RA.

- c. Offers not complying with essential technical & commercial requirements of the tender shall be declared as ineligible for award of contract.

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.

25.5 Financial bid:

Financial Bid shall comprise of Final Price Offer obtained through Reverse Auction. Following conditions and procedure shall be followed in selection of bidders for conduct of Reverse Auction.

Selection of vendors for Reverse Auction for award of bulk ordering in Stores Tenders:

Number of tenderers qualified for Award of contract/ bulk order	Number of tenderers to be selected for Reverse Auction	Remarks
<3	Nil*	The bids disallowed from participating in the Reverse Auction shall be the highest bidder(s) in the tabulation of initial price offer. In case the highest bidders quoted 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
3 to 6	3	
More than 6	50% of Vendors qualified for bulk order/ award of contract (rounded off to next higher integer)	

		itself.
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Note :-

i. *If the number of tenders qualified for bulk order/Award of Contract is less than 3, RA shall not be done and tender will be decided on the basis of initial price offer(s).

Offers Qualified for Development Order, with initial price offer lower than the highest initial price offer of a vendor Qualified for Bulk Order and selected for Reverse Auction after elimination, shall be allowed to participate in RA.

MSE Criteria: All MSEs (Micro & Small Enterprises) found Qualified for Bulk Development Orders/Award of Contract but could not be selected for Reverse Auction as per criteria stipulated above, but are within the range of 15% of lowest Initial Price Offer of the bidder qualified for bulk order shall be permitted to participate in the Reverse Auction, irrespective of their inter-se ranking on the basis of Initial Price Offer. Such MSEs shall be over and above the number of vendors selected for Reverse Auction as per criteria stipulated above. In case of Stores tenders, lowest initial price bid shall mean lowest initial price bid of vendor qualified for bulk order. However, in case all the bidders qualifying for bulk as well as for developmental order (before applying elimination criteria) are within MSE category this clause shall not apply.

Make in India criteria: All bidders eligible for benefits under Public Procurement (Preference to Make in India) Order - 2017, found qualified for Bulk/Developmental Order/Award of Contract and are within the specified range of price preference, under the Make in India Policy, of lowest Initial Price offer of the vendor qualified for bulk order shall be permitted to participate in the Reverse Auction, irrespective of their inter-se ranking on the basis of Initial Price offer. Such bidders shall be over and above the number of vendors selected for Reverse Auction as per criteria stipulated above. However, if all the bids qualified for bulk order as well as for developmental order (before applying elimination criteria) also qualify under "Make in India Order, 2017" criteria, this clause shall not apply.

- 25.6** Reverse Auction among bidders categorised as Qualified for Developmental Order and Qualified for Bulk Order shall be conducted concurrently on IREPS/Suitable Platform in Stores tenders. Qualified Bidders shall be able to see both the auction screens i.e. auction screen of Reverse Auction amongst bidders qualified for bulk order and auction screen of Reverse Auction amongst bidders qualified for developmental order. However, bidders shall only be permitted to bid on the respective screens relevant to them as per their qualification. Purchaser shall not be permitted to see any of the auction screens. Purchaser should only be intimated on website about the status of Reverse Auction, i.e. when the auction will start' had started, whether the auction is live or whether the auction has closed.
- 25.7** 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.
- 25.8** After obtaining the final price offers through Reverse Auction, the lowest bid of only those bidders who had participated in the Reverse Auction shall be tabulated and considered for ordering. The offers of bidders which were eliminated from Reverse Auction as per criteria stipulated above shall be tabulated separately and shall not be considered for any ordering. All the relevant policies of Government of India at the relevant time shall be applicable.

25.9 On submission of final price offers through Reverse Auction, it shall be construed that the tenderer has revalidated the original validity of the offer for further ninety (90) days from the date of e-RA.

26.0 Guidelines for classification of steel plants/producers:

As per Railways Boards letter No 87/RS(G)/753/2 dated 29.11.2017 Guide lines for classification of steel plants/producers be shall be applicable.

SECTION – III

ANNEXURE – I

ELECTRONIC FUND TRANSFER (EFT)
MANDATE

I/We _____ am/are expressing my/our consent for getting my/our payment directly credited to my/our Bank Accounts/s towards supply of Stores to Modern Coach Factory, Raebareli-229 120	
<u>Company's Seal & Signature of</u> <u>Authorized Signatory</u> ----- ----- Date _____	
Name of the Company/ Supplier	
Vendor/ Supplier's	
Code Postal Address	
Name of the Bank & Branch	
Address (with Telephone No.)	
09 Digits MICR Code of the Bank	
IFSC (IFS Code) of Bank	
Account No. (15 Digits only)	
Type of Account Income	
Tax PAN No. Please	
attach following:	1. Copy of Cancelled cheque leaf.
	2. Copy of PAN Card.
	Signature of Tenderer's Authorized Signatory & Date
The above Account No. has been verified and details furnished above are found correct.	
Bank Seal & Signature -----	

Form - 1

Format for Affidavit of Self Certification regarding Domestic Value Addition in an Electronic Product to be provided on Rs.100/- Stamp paper.

Date: _____

I, _____ S/o., D/o., W/o _____,

Resident of _____ do hereby solemnly affirm and declare as under:

That I will agree to abide by the terms and conditions of the policy of Government of India issued vide Notification No. 8(78)/2010-IPHW, dt: 10.02.2012.

That the information furnished hereinafter is correct to the best of my knowledge and belief and I undertake to produce relevant records before the procuring authority or any authority so nominated by the Department of Electronics and Information Technology, Government of India for the purpose of assessing the domestic value-addition.

That the domestic value addition for all inputs which constitute the said electronic product has been verified by me and I am responsible for the correctness of the claims made therein.

That in the event of the domestic value addition of the product mentioned herein is found to be incorrect and not meeting the prescribed value addition norms, based on the assessment of an authority so nominated by the Department of Electronics and Information Technology, Govt. of India for the purpose of assessing the domestic value addition. I will be disqualified from any Government tender for a period of 36 months. In addition, I will bear all costs of such an assessment.

That I have complied with all conditions referred to in the Notification No., wherein preference to domestically manufactured electronic products in Government procurement is provided and the procuring authority is hereby authorize to forfeit and adjust my EMD and other security amount towards such assessment cost and I undertake to pay the balance, if any, forthwith.

I agree to maintain the following information in the Company's record for a period of 8 years and shall make this available for verification to any statutory authorities. Further I am submitting the following details -

- i. Name and details of the Domestic Manufacturer (Registered office, Manufacturing unit, location, nature of legal entity).

- ii. Date on which this certificate is issued.
- iii. Electronic Product for which the certificate is produced.
- iv. Procuring agency to whom the certificate is furnished.
- v. Percentage of domestic value addition claimed.
- vi. Name and contact details of the unit of the manufacturer.
- vii. Sale Price of the product.
- viii. Ex-Factory Price of the product.
- ix. Freight, Insurance and handling.
- x. Total Bill of Material.
- xi. List and total cost value of inputs used for manufacture of the electronic product.
- xii. List and total cost of inputs which are domestically sourced. Please attach certificates from suppliers, if the input is not in-house.
- xiii. List of cost of inputs which are imported, directly or indirectly.

For and on behalf of _____ (Name of firm/entity)

Authorized signatory (To be duly authorized by the Board of Directors)

<Insert Name, Designation and Contact No.>

MODEL FORM OF BANK GUARANTEE BOND

GUARANTEE BOND FOR (Mention purpose of BG)

In consideration of the President of India (hereinafter called "the Government") having agreed to exempt----- (hereinafter called "the said Contractor(s)") from the demand under the terms and conditions of Letter of Acceptance/ Agreement No. ----- dated----- made between ----- and----- for ----- (hereinafter called "the said Letter of Acceptance/ Agreement"), of security deposit for due fulfilment by the said Contractor (s) of the terms and conditions contained in the said Letter of Acceptance/ Agreement on production of a bank Guarantee for Rs..... (Rupees..... only)

1. We ----- (*Indicate the name of the bank*) ----- (hereinafter referred to as "The Bank") at the request of ----- contractor(s) do hereby undertake to pay to the Government an amount not exceeding Rs----- against any loss or damage caused to or suffered or would be caused to or suffered by the Government by reason of any breach by the said contractor(s) of any of the terms or conditions contained in the said Letter of Acceptance/ Agreement.
2. We ----- (*Indicate the name of the bank*) ----- do here by undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Government stating that the amount claimed is due by way of loss or damages caused to or would be caused to or suffered by the Government by reason of any breach by the said Contractor(s) of any of the terms or conditions contained in the said Letter of Acceptance/ Agreement or by reason of the Contractor(s) failure to perform the said Letter of Acceptance/ Agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs.-----.
3. We undertake to pay to the Government any money so demanded notwithstanding any dispute or disputes raised by the Contractor(s)/Supplier(s) in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this Bond shall be a valid discharge of our liability for payment there under and the Contractor(s)/ Supplier(s) shall have no claim against us for making such payment.
4. We (*Indicate the name of the bank*) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Letter of Acceptance/ Agreement and that it shall continue to be enforceable till all the dues of the

Government under or by virtue of the said Letter of Acceptance/ Agreement have been fully paid and its claims satisfied or discharged or till----- (Office/Department) Ministry of ----- certifies that the terms and conditions of the said Letter of Acceptance/

discharges the Guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the ----- we shall be discharged from all liability under this Guarantee thereafter.

5. We ---(Indicate the name of the bank)----- further agree with the Government that the Government shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Letter of Acceptance/ Agreement or to extend time of performance by the said Contractor(s) from time to time or to postpone for any time or from time to time any of the powers exercisable by the Government against the said Contractor(s) and to forbear or enforce any of the terms and conditions relating to the said Letter of Acceptance/ Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the Government or any indulgence by the Government to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Contractor(s)/ Supplier(s).
7. We --(Indicate the name of bank)-- lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing.

Dated the----- day of.....20..

For ----(Indicate the name of Bank)-----

PROFORMA FOR PERFORMANCE STATEMENT

(FOR A PERIOD OF LAST 3 YEARS)

Tender No..... Date of opening.....

Name of the firm.....

No.	Order placed by (full address of Purchaser)	Order No. & Date	Description of Stores	Unit Price, ED, ST & FOR terms	Date of completion of delivery		Remarks indication reasons for late delivery, if any	Have the Stores been satisfactorily supplied and any adverse comments from Purchaser/User
					As per Contract	Actual		

Signature and Seal of tenderer (s)

PROFORMA FOR EQUIPMENT AND QUALITY CONTROL

Tender No..... Date of opening.....

Name of the firm.....

Note:-All details required only for the items tendered

1. Name & Full address of the firm.
2. Telephone & Fax No. Office/Factory/Works.
3. E mail address.
4. Location of the manufacturing factory.
5. Details of Industrial Licence, wherever required as per statutory regulations.
6. Details of Plant & Machinery erected and functioning in each Deptt. (Monographs & description pamphlets be supplied if available).
7. Details of the process of manufacture in the factory in brief.
8. Details & Stock of raw material held.
9. Production Capacity of item(s) quoted for, with the existing plant & Machinery.
 - 9.1 Normal
 - 9.2 Maximum
10. Details of arrangement for quality control of products such as laboratory testing equipments etc.
11. Details of Staff
 - 11.1 Details of technical supervisory staff-in-charge of production & quality control
 - 11.2 Skilled labour employed

11.3 Unskilled labour employed

11.4 Maximum No. of workers (skilled and unskilled) employed on any day during the 18 months preceding the date of application.

12. Whether stores are tested to any standard specification, if so, copies of original test certificates should be submitted in triplicate.
13. Are you registered with the Directorate General of Supplies & Disposals, New Delhi. If so, furnish full particulars of registration, period of currency etc.
14. Are you a Small Scale Unit, registered with National Small Industries Corporation Ltd., New Delhi. If so, furnish full particulars of registration, currency period etc.

Signature and Seal of tenderer (s)

PROFORMA FOR AUTHORITY FROM MANUFACTURERS

No.....

Dated.....

To

The President of India,
Acting through the Pr. Chief Materials Manager,
Modern Coach Factory,
Raebareli (U.P.)-229 120

Dear Sir,

Subject: PCMM/MCF/Raebareli's Tender No.....

Wean established and reputed
manufacturer of, having factories at do
hereby authorize M/s (Name
and address of Agents) to represent us, to bid, negotiate and conclude the contract
on our behalf with you and against Tender No.....

No company/firm or individual other than M/s
are authorized to represent us in regard to this business against this specific tender.

Yours Faithfully

(Name)

For & on behalf of M/s.....

(Name of Manufacturers)

Note:-This letter of authority should be on the Letter Head of the manufacturing concern and should be signed by a person competent and having the power of attorney to bind the manufacturer.

Bid securing declaration to signed by bidders availing exemption from submission of EMD

"I/we certify that my/ our offer is eligible for exemption from submission of bid security/ Earnest Money Deposit, in terms of the tender conditions.

In case my/our claim to exemption from submission of bid security/ Earnest Money Deposit is not found valid as per terms of the tender. I/we understand and accept that Railways has unquestionable right to summarily reject my bid and my offer shall not be considered for ordering. Further, I/we hereby understand and accept that if I/we withdraw or modify my/our bids during the period of validity, or if I/we are awarded the contract and on being called upon to submit the performance security/ Security Deposit, fail to submit the performance security/ Security Deposit before the deadline defined in the request for bid document/ Notice Inviting Tender, I/we shall be debarred from exemption of submitting Bid Security/ Earnest Money Deposit and performance security/ Security Deposit for a period of 6 (six) months, from the date I/we are declared disqualified from exemption from submission of EMD/SD, for all tenders for procurement of goods issued by any unit of Indian Railways published during this period."

Signature of Bidder

WORKS TEST CERTIFICATE

(On the letter head of the manufacturer)

Ref.:

Dated

1. P.O No. & Date :
2. Description :
3. Challan No. & Date :
4. GST Invoice No. & Date :
5. Drg. And Specification reference:
(in case the same is as manufacturer's Drg. & Specn. It should be mentioned)
6. Qty : (A) OrderedQty.....
(B) Qty. Inspected.....
(C) Qty. Inspection so far including this WTC
(D) Qty. Balance
7. Addressed of Plant where manufactured:
8. Vendor identification marking on the components:
9. Details of packing & Qty. Within the Pkg/Box:
10. Product Serial No./Qty. Details if applicable:
11. Certificate - That the material identification above has been processed, tested & inspected in accordance with the requirements of the P.O applicable Specification including any amendments and conforms to the requirements thereof. All these relevant records as well as other technical information may be required by MCF will be retained for the warranty period.
12. We guarantee to replace at destination any part where manufacturing defects in material or workmanship have been determined in line with terms stated in the contract. This material was packed and marked in compliance with the requirements of the contract.

Authorized Signatory
(Name & Designation)
Supplier Stamp

Format of letter from Executive Branch to Accounts Office for opening of LC

Office of the.....
Railway.....

No.....

Dated :

The PFA/Dy.FA/SR.AFA
MCF/RBL/LLJ.

Sub: Opening of LC
Ref: Supply Order/Contract Agreement No.

It is requested to open a sight LC against the above referred Supply Order/Contract Agreement in favour ofThe details of beneficiary are as under:

- a) Name of Contractor/Supplier
 - b) Vendor Code
 - c) Address
 - d) Tender No.
 - e) Contract Agreement No.
 - f) Description of Goods/Service
 - g) Value of Contract
 - h) Stages of Payment
 - i) Validity of Period of LC
 - j) Expected payment within 6 months (LC Amount)
 - k) Beneficiary
- 1) Bank name
 - 2) Address
 - 3) Account No.
 - 4) IFSC code

It is certified that the supplier/contractor has exercised the option of taking payment due against the tender, through LC arrangement in IREPS portal at the time of bidding itself and the option has been flagged in the IREPS. This has the approval of.....

(Signature)

Name:.....

Designation.....

(Official Seal)

Certificate of Local Content for Availing “ Make in India” Preference

Tender No.:

Opening Date:

Item Description:

I/We have examined the information, records and books of Accounts presented before me/us by our client(s) (Name and complete address of the company) and certify that the local content, which is the amount of value added in India (i.e. the total value of the item procured excluding net domestic indirect taxes, minus the value of the imported content, if any, of the above mentioned item including all custom duties), as a proportion of the total value, in percent is (percentage of local content)

We understand that this certificate is being produced by our client named above, for the purpose of availing purchase preference under Public Procurement (Preference to Make in India), Order 2017, when the certified local content is minimum 50%, in the above mentioned tender. We are aware that any false declarations in this respect will be in breach of the Code of integrity under Rule 175(1) (i) (h) of the General Financial Rule for which our client or its successors can be debarred for up to two years as per 151 (iii) of the General Financial Rules along with such other actions as may be permissible under law.

I/We are also aware that I/We am/are liable to be taken up under Section 22 of the Chartered Accountants Act, 1949 along with such other actions as may be permissible under the Company and other relevant laws, in case of any false/incorrect certification of local content mentioned as above, by us.

Date:

(Seal & Signature of the Auditor/Cost Accountant)

Competent Authority and Procedure for Registration

- A. The Competent Authority for the purpose of registration under this Order shall be the Registration Committee constituted by the Department for Promotion of Industry and Internal Trade (DPIIT)*.
- B. The Registration Committee shall have the following members*:
 - i. An officer, not below the rank of Joint Secretary, designated for this purpose by DPIIT, who shall be the Chairman;
 - ii. Officers (ordinarily not below the rank of Joint Secretary) representing the Ministry of Home Affairs, Ministry of External Affairs, and of those Departments whose sectors are covered by applications under consideration;
 - iii. Any other officer whose presence is deemed necessary by the Chairman of the Committee.
- C. DPIIT shall lay down the method of application, format etc. for such bidders as stated in para -1 of this Order.
- D. On receipt of an application seeking registration from a bidder from a country covered by para 1 of this Order, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, as per guidelines issued from time to time. Registration shall not be given unless political and security clearance have both been received.
- E. The Ministry of External Affairs and Ministry of Home Affairs may issue guidelines for internal use regarding the procedure for scrutiny of such applications by them
- F. The decision of the Competent Authority, to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services, and may be for a specified or unspecified duration of time, as deemed fit, The decision of the Competent Authority shall be final.
- G. Registration shall not be granted unless the representatives of the Ministries of Home Affairs and External Affairs on the Committee concur'.
- H. Registration granted by the Competent Authority of the Government of India shall be valid not only for procurement by Central Government and its agencies/ public enterprises etc. but **also for procurement by State Governments and their agencies! public enterprises etc. No fresh registration at the State level shall be required.**
- I. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.
- J. For national security reasons, the Competent Authority shall not be required to give reasons for rejection/ cancellation of registration of a bidder.
- K. In transitional cases falling under para 3 of this Order, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority, giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.
- L. Periodic reports on the acceptance/ refusal of registration during the preceding period may be required to be sent to the Cabinet Secretariat. Details will be issued separately in due course by DPIIT,

[Note:

- i. In respect of application of this Order to procurement by/ under State

Governments, all functions assigned to DPIIT shall be carried out by the State Government concerned through a specific department or authority designated by it. The composition of the Registration Committee shall be as decided by the State Government and paragraph G above shall not apply. However, the requirement of **political and security clearance as per para D shall remain and no registration shall be granted without such clearance.**

Registration granted by State Governments shall be valid only for procurement by the State Government and its agencies/ public enterprises etc. and shall not be valid for procurement in other states or by the Government of India and their agencies/ public enterprises etc.]

Certificate for Compliance of OM of MoE dated 23.07.2020

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"

Annexure-XIII

Certification by persons under consideration to be nominated as Arbitrator.

1. Name

2. Contact Details:

3. I hereby certify that I have retired from Railways w.e.f. _____ in _____ grade.

Or

I hereby certify that I am serving Railway Officer and am presently posted as _____ in grade.

4. I have no any past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind.

Or

I have past or present relationship in relation to the subject matter in dispute, whether financial, business, professional or other kind. The list of such interests is as under:

5. I have no any past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of the Arbitration and Conciliation Act 1996.

Or

I have past or present relationship with or interest in any of the parties whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to my independence or impartiality in terms of the Arbitration and Conciliation Act 1996. The details of such relationship or interest are as under:

6. There are no concurrent circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months.

Or

There are circumstances which are likely to affect my ability to devote sufficient time to the arbitration and in particular to finish the entire arbitration within twelve months. The list of such circumstances is as under:

DOCUMENT NO.: RCF/EL/EDM0007/01 Rev-1

TECHNICAL ELIGIBILITY CRITERIA (SIMILAR CLASS OF ITEM)
(For PL nos. mentioned as under and such other items)

SN	ITEM DISCRPTION	PL No.		Similar class Items
1	Control Panel For Ventilator Fan	33641596	-	Manufacturer of Panels for Starter/Control applications for min 40HP Star Delta Starter Working Voltage 3-Phase 415 VAC OR above.
	Control Panel Battery Charging	33641961	-	
	Control Panel Radiator Fan	33641950	-	
2	LIGHT DIFFUSER FOR LHB (for all LHB Coach Variants)	33641845	(LHB TYPE COACHES)	OEM or Manufacturer of Similar items for Railway Coaches or Metro Railway/Automobile/Aviation applications etc.
		33642205	(FOR CEILING LIGHT)	
3	FRP/SMC/DMC Component FDB, EFT, CLEATS	42985018	EFT BOARD	OEM for Manufacturer of FRP/SMC/DMC items for Railway coaches or Metro Railway / Automobile / Aviation applications etc. OR for General Electrical applications/ or Sub-Station upto 11KV System or above.
4	BATTERY FUSE BOXES FOR LHB COACHES	33640786	(+VE)	OEM for Manufacturer of Panels for 110VAC/DC & above for Rolling stock applications or for General Applications of 110V AC/DC Voltage level or above.
		33640178	(-VE)	
5	PRE-COOLING PLUG & SCKOCT 125AMP,415V, IP67,5POLE	33641560	Plug for LHB coaches	OEM/OEM Authorised agents having valid authorisation from OEM for supply of IP67 External Charging Plug/Socket arrangement for Railway coaches or Metro Railway/Automobile/Aviation applications etc.
		33635092	Socket for LHB coaches	
6	SWITCH PLATE ASSEMBLIES (for all LHB Coach Variants)	33642436	ANTYODAYA	OEM/OEM Authorised agents having valid authorisation from OEM for supply of Similar type Modular Switch Plate items for Railway Coaches, Metro Railways/ Automobile /Aviation applications etc. OR Modular Switch plate items for General Electrical applications also.
		33640774	LHB SCN	
		33640968	HM LACCN	
		33641572	LHB FAC	
		33641705	LHB (1 st +2T)	
		33642023	LHB GS	
		42020219	LHB SCZ	

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		33642606	LHB NON AC	
		33640038	LHB SCN	
		33643660	LHB LWSLRD	
		33642084	LHB 2TIER	
		33642886	LHB BUFFET	
7	Call Bell/Annunciator	33642114	LHB FAC Annunciator	Manufacturer of call Bell/Annunciators for Railway Coaches or Metro Railway/Automobile/Aviation applications etc.
8	Terminal CONNECTOR COMPLETE	33640191	Flat Connecting With WAGO Terminal Blocks	OEM/OEM Authorised agents having valid authorisation from OEM for Supply of Similar items for Railway coaches or Metro Railway /Automobile/ Aviation applications etc.
		33641808	T. Strip For AC FAC/EOG COACHES	
		33641810	T. Strip For LHB BUFFET COACH	
		33641821	T. Strip LACCN	
		33642138	T. STRIP LHB 2T	
9	DOUBLE INLET CENTRIFUGAL BLOWER ASSEMBLY	33635158	110VAC EX. Fan LHB NAC	OEM/OEM Authorised agents having valid authorisation from OEM for supply of Similar items for Railway Coaches or Metro Railway /Automobile /Aviation applications etc. or Manufacturer of Fan blowers assembly with motor min. 2KW.
		33635274	3 Ø 415V AC	
		33630069	3 Ø 190V AC	
10	SINGLE INLET CENTRIFUGAL BLOWER	33635262	3 Ø 415VAC (For Pantry)	
11	PUMP EQUIPMENT WITH CONTROLLER	33635080	For LHB Coaches	OEM/OEM Authorised agents having valid authorisation from OEM for supply of Similar items for Railway Coaches or Metro Railway /Automobile /Aviation applications etc. or Manufacturer of 3-phase Pump Equipment with Programmable Controller of min. rating 5HP or above.

29.06.2022	<i>Ankey</i>	<i>Bhunda</i>	<i>Singh</i>	<i>B</i>
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12	SMOKE DETECTOR UNIT FOR LHB EOG COACHES SPEC NO. EDTS087 REV'B'	33635146	For LHB P. Car	OEM/OEM authorised agents having valid authorisation from OEM for supply of Similar items for Railway Coaches, Metro Railway /Automobile /Aviation applications etc. or OEMs for Proven Fire Detection and Suppression System in Stationary/ Buildings/ Data Centres applications.
13	TRANSFORMER 5KVA	33635493	5 KVA	OEM for supply of Similar items for Railway Coaches or Metro Railways/Automobile/Aviation applications etc. OR Manufacturer of Dry type TXR of min capacity of 5KVA or above.
14	TRANSFORMER 3KVA	33635717	750V/415V,3Ø dry type distribution transformer for LVPH coach	OEM for supply of Similar items for Railway Coaches or Metro Railways/Automobile/Aviation applications etc. OR Manufacturer of Dry type TXR of min capacity of 3KVA or above.
		33635328	3KVA delta/star 415/190V, transformer	
15	CAPACITOR BANK FOR LHB EOG TYPE POWER CAR & COACHES	35982913	LHB POWER CAR	Firm shall be OEM for supply of Similar items for Rolling Stock applications etc. OR Manufacturer of Panels for minimum working voltage of 415VAC /Capacitor banks for Power Factor Improvement.
		35982925	LHB COACH	
		33643260	LHB GSAC	
16	PA SYSTEM	33640300	LHB POWER CAR	OEM/OEM Authorised agents having valid authorisation from OEM for supply of Similar items for Railway Coaches or Metro Railways/Automobile/Aviation applications etc. or any other Rolling Stock Applications.
		33640312	LHB P. CAR	
		33640993	L HB 2T/3T	
		33641006	LHB BUFFET	
		33641535	LHB EX.CC	
		33642011	FOR DOUBLE DACKER	

29.06.2022	<i>Ankur</i>	<i>Bhinder</i>	<i>Suresh</i>	<i>D</i>
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17	CABLE HARNESS (For LHB coaches other than appearing in RCF Vendor list)	33622351	LVPH	Manufacturer of Cable Harness for Railway LHB AC /Non AC, MEMU Railway Coaches, Metro Railway, Locomotives OR Automobile Industry/Aviation Industry applications/ or Industrial applications such as Heavy Machinery & Plant Equipment etc.
		-	LHB GSAC	
		-	LHB composite AC coaches (2T+3T)	
		33642874	LACCN Economy	
		33642953	LSLRD	
		33645681	LSCZ	
18	CABLE JACKET SYSTEM	33620301	NW:25mm	Firm shall be OEM/OEM authorised agents having valid authorisation from OEM for supply of Similar items for Railway Coaches or Metro Railway/Automobile/Aviation applications etc.
		33620325	NW:16mm	
		33622048	NW:40mm	
		33622590	NW:20mm	
		33622700	NW:10mm	
		33620052	NW:6mm	
19	CABLE BINDER (for LHB Coaches)	33620064	3.6X200mm	Firm shall be OEM/OEM authorised agents having valid authorisation from OEM for supply of Similar items for Railway coaches or Metro Railway/Automobile/Aviation applications etc.
		33622929	4.8X300mm	
		46190009	2.5X100mm	
20	2.5KW Battery Charger	33642989	LHB HOG/EOG LVPH	OEM of min capacity of 2.5 battery charger for Railway Coaches, Metro Railway /Automobile /Aviation applications etc or any other Rolling Stock applications
21	Side Light	45988284	-	Manufacturer of Head light/Tail light/Passenger alarm coach indication light for Railway Coaches or Metro Railway/Automobile/Aviation applications etc.

29.06.2022	<i>Ankur</i>	<i>Bhuvan</i>	<i>Sankar</i>	<i>D</i>
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22	✓ Railway Carriage Fan 110 AC Bracket Fan Type 225 mm Sweep	45180520	-	OEM of carriage fans for Railway Coaches, Metro Railway /Automobile /Aviation applications etc or any other Rolling Stock applications
23	Crimping Socket	42900037	1.5 mm ² /Item-11	Manufacturer of Crimping Socket for Railway, Metro Railway, Locomotives OR Automobile Industry/Aviation Industry applications/ or Industrial applications such as heavy Machinery & Plant Equipment etc.
		42900015	2.5 mm ² /Item-10	
		42988913	6 mm ² /Item-4	
		42980616	6mm ² /Item-5	
		33621421	6 mm ² /Item-6	
		45982004	10 mm ² /Item-1	
		33622747	10 mm ² /Item-2	
24	✓ 120 Ah VRLA Battery	45170095	-	Firm shall be OEM of VRLA batteries for Railway Coaches or Metro Railway/Automobile/Aviation applications etc.
25	12V, 70 Ah VRLA Battery	33641729	-	Firm shall be OEM of VRLA batteries for Railway Coaches or Metro Railway/Automobile/Aviation applications etc.

29.06.2022	<i>Ankur</i>	<i>Bhude</i>	<i>Sanku</i>	<i>D</i>
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भारत सरकार Government of India
रेल मंत्रालय Ministry of Railways
रेलवे बोर्ड (Railway Board)



No. 2022/RS(G)/779/7(3390005)

Dated: 17.10.2022

The General Managers, All Indian Railways/PUs, NF(C), CORE
DG, RDSO/Lucknow, NAIR/Vadodara
PCAO, PLW/Patiala, COFMOW
CAO, WPO/Patna, RWP/ Bela

Sub: Handling of Warranty Rejections

Ref: Railway Board's letter No.2000/RS(G)/379/2 dated 07.08.2015 and 18.01.2018.

Background

Consolidated instructions on handling of warranty rejections were issued vide Railway Board's letter no.2000/RS(G)/379/2 dated 07.08.2015 and 18-01-2018. These instructions primarily stipulate linking of warranty rejections to the concerned supplying stores depot and relevant purchase orders by the user and arrange for warranty replacements duly conducting joint inspections with pre-inspection agency and the firm.

Review of Warranty Management system indicated practical difficulties in efficient handling of several of warranty issues, centralized database, monitoring of warranty settlement, resultant deterrent actions and system improvements. The system of handling warranty rejections is largely manual and whatever computerization is there, it is on separate systems which are not fully equipped to handle warranty rejections end-to-end, and are not integrated. Also, the policy did not cater for many scenarios which are encountered while dealing with the warranty rejections e.g. warranty rejections of components of Rolling Stocks supplied by Private/Govt/Railway units, cases where PO/stores depot/User depot is not linked, epidemic failures, inefficient marking on the items for linking of items to vendor/purchase orders, warranty claims by users, communication of warranty period to end user etc

Under this background, the consolidated policy instructions on warranty rejection handling including an Online Integrated Warranty Management System over IR, covering entire warranty management landscape to include all types of warranty failures, including epidemic failures, keeping in view practical field conditions for implementation are being issued in this circular. This circular supersedes earlier circulars on the subject.

1. **Digitisation of Warranty Management System**
 - i. The entire Warranty Management System shall be digitized and made paperless.
 - ii. The existing maintenance Applications viz CMM, FMM, WISE, SLAM, PUs local system, etc. shall be integrated with UDM/ IMMS/IREPS for seamless transfer of required data. A provision shall be made on these platforms to facilitate end uses to register warranty complaints. Duplicate feeding on UDM is to be avoided. All systems dealing with warranty rejection of vendor and their response should have provision of uploading/attaching documents.
 - iii. Provision shall be made on IREPS for the vendors to input dispatch details such as batch number, serial number, major sub component of the item, date of manufacturing (in MM/YYYY), expiry date (wherever applicable), manufacturer's marking, make/Brand, etc. against the Purchase Orders for each consignee. These details would be passed to iMMS/UDM and reflected in DRR/R-Note/CRN generated on iMMS/UDM and for indicating the same while issuing the materials through Issue Notes. Inspecting Agencies shall also indicate these details explicitly in the Inspection Certificate. End Consignee receiving the material from the vendor will verify these details at the time of receipt of material and explicitly indicate the same in iMMS/UDM.
 - iv. Warranty period shall be captured in digital form as stated in Para 4 of this letter.
 - v. Centralized Recovery Register shall be digitized & maintained in IPAS and linked with iMMS/UDM for seamless both-ways data flow between these applications for recovery.
 - vi. The Warranty Rejections of vendors and their responses shall be linked with Unified Vendor Approval Module (UVAM). Cognizance of these warranty rejections of vendors shall be taken for reviewing the Approval of vendors by vendor approving authorities.
 - vii. Cognizance of these warranty rejections of vendors shall be taken by the procuring authorities in deciding the tender cases.

2. Materials are rejected under warranty in the following situations:
 - (A) Material rejected was issued to the user (shop/shed etc) from its attached Stores Depot or attached User Depot (both Stock & Non-stock).
 - (B) Material rejected was received from a PU or a Stores Depot or a User Depot which is not the attached depot of the end user including that received directly through centralized procurement (both Stock & Non-stock).
 - (C) Material was rejected in the field and was fitted at some other Workshop/Shed/Depot. Material either received or fitted through Supply Contract, Works Contract or Service Contract or any other type of contracts (both Stock & Non-stock).
 - (D) Failure of components of Rolling Stocks received from Railway PUs/ PSUs/ Workshops/ Private Manufacturers

The Methodology of handling these rejections are dealt with below:

(A) For Warranty rejection in Shop/Shed etc where rejected material was issued from its attached Stores Depot or attached User Depot (both Stock and Non-stock items)-

- i. In case the material was accounted for in Stores Depot in iMMS after receipt from vendor, end-user shall register the warranty complaints with reasons and other details, as required, on the

systems like CMM/FMM/WISE/SLAM/MU etc. available with them & electronically transfer such data to UDM through integrated system or shall register the warranty complaints directly in UDM (as convenient and practical for the end- user) and issue "Advice Note" of returned stores on UDM with the approval of competent authority (Gazetted Officer) to return the rejected material to attached Stores Depot for issuing "Warranty Rejection Advice" (i.e. warranty claims lodging) by attached Stores Depot.

However, in case the material was accounted for in User Depot in UDM after receipt from the vendor, there is no need for issuing "Advice Note" & to return the rejected material to attached Stores Depot.

"Warranty Rejection Advice" (i.e. warranty claims lodging) shall be issued to the firm with the approval of gazetted officer of the end consignee of attached Stores Depot/ User Depot (depending upon where rejected material was accounted for after receipt from vendor) on iMMS/UDM after getting the warranty rejected material from end-user.

Before, issuing the "Warranty Rejection Advice", the concerned user of iMMS/UDM & gazetted officer shall satisfy himself about the availability of the rejected material, correctness of PO (Purchase Order) and applicability of warranty period and ensure that other details including reason(s) for warranty rejection are genuine as per specification, drawing and terms and conditions of the Contract. This should be decided within 15 days.

- ii. Rejected material shall be taken out from the ledger of Stock-Holder in iMMS/UDM (as the case may be). The "Warranty Rejection Advice" shall be issued on iMMS/UDM by attached Stores Depot/ User Depot to all concerned i.e. firm, purchaser, pre-inspecting agency, vendor approving agency, paying authority etc. as per the contract- without fail.
- iii. In the Warranty Rejection Advice, the vendor shall be called upon for replacement of rejected stores or for deposition of equivalent amount of rejected material, within a period of 60 days from the date of Warranty Rejection Advice. Date of issue of Warranty Rejection Advice by gazetted officer to be taken as date of Warranty Rejection Advice.
- iv. It shall be ensured that initiation of warranty complaint by user and issue of Warranty Rejection Advice in UDM/iMMS is not delayed by concerned officials/officers and warranty rejection advice should be issued within 15 days of detection of warranty complaint. However, if the warranty complaint is detected within warranty period, the "Warranty Rejection Advice" must be issued within warranty period.

On issue of "Warranty Rejection Advice", the "Warranty Rejection Register" should automatically get updated.

- v. On getting the "Warranty Rejection Advice", the inspecting agency shall take suitable action against the inspecting officials and ensure necessary corrective actions; duly informing the Officer who has approved the "Warranty Rejection Advice". Recovery of inspection charges from the concerned inspecting agency for the rejected item(s) shall be made by any Bill Paying Authority across IR on pro-rata basis for the quantity and as per the rate of inspection charges for the inspection agency. Claim for recovery of inspection charges against the concerned 3rd party inspecting agency (like RITES etc.) shall automatically get noted into "Centralized Recovery Register" maintained in IPAS on the basis of "Warranty Rejection Advice"; which shall specifically mention the name of inspecting agency. After recovery of inspection charges by any Bill Paying

Authority, "Centralized Recovery Register" w.r.t. recovery of inspection charges to be automatically updated in IPAS to that extent so as to avoid multiple recoveries of inspection charges by different Railways and communicate the recovered amount to iMMS/ UDM.

- vi. Any Bill Paying Authority across IR shall withhold the payment of equivalent amount of rejected material through "Centralized Recovery Register" from firm's Bill(s) at the earliest, till the full amount is withheld and the same shall be released only after disposal/closure/settlement of the warranty claim or deposition of equivalent amount of rejected material or after recovery, whichever is earlier. After withholding of amount by any Bill Paying Authority, "Centralized Recovery Register" to be automatically updated in IPAS to that extent so as to avoid multiple withholdings by different Railways and communicate the withheld amount to iMMS/ UDM.
- vii. Firm shall be allowed to collect the rejected materials only after deposition of payments already made by Railway (if any) to them or after recovery of equivalent amount by Accounts or against replacement quantity. Rejected material should be suitably defaced before handing-over to the firm to avoid re-use and necessary provision about digital capturing in respective modules may be done.
- viii. Warranty Quantity Replacement-
 - a. Replacement of rejected quantity shall be made to the end consignee at the Stores Depot/User Depot which received the original supply from the firm.
 - b. The warranty quantity replacement will be supplied and accounted for in iMMS through R/Note & RO if "Warranty Rejection Advice" has been issued through iMMS. However, where "Warranty Rejection Advice" has been issued through UDM, the warranty quantity replacement will be supplied and accounted for in UDM through CRN. R-Note/CRN should be clearly marked as "Warranty Replacement CRN/R-Note, Not for Payment".
- ix. Replaced/rectified material shall have warranty for the replaced/rectified goods till the original warranty period plus the time from the warranty rejection advice to material replacement/rectification.
- x. Vendor would be permitted to lift the rejected material (subject to clause 2(A)(vii) above) "free of cost" within the period mentioned in Para 2(A)(iii) above. After this time, ground rent shall be applicable.

In cases where firm fails to lift the rejected material within the time period mentioned in para 3203 of IRS Condition of Contract, at the expiry of the period, no claim whatsoever shall lie against the Purchaser in respect of the said goods, which may be disposed of by the Purchaser in such manner as he thinks fit. Without prejudice to the generality of the foregoing, all the provisions in the Indian Railways Standard Conditions of Contract relating to the 'rejection of goods' and 'failure' and 'termination' add and Clause 3100-02 shall apply.

- xi. In case disposal/closure/settlement of the Warranty Rejection Advice is not done by firm within the period of 60 days, Recovery Advice of equivalent amount of rejected material for which Warranty Claim has not been disposed/closed/settled shall be automatically sent from iMMS/UDM (depending upon from where Warranty Rejection Advice has been issued) to IPAS and the "Centralized Recovery Register" of IPAS shall be automatically updated for recovery. If any amount is already withheld against the "Warranty Rejection Advice", the same shall be treated as recovered amount and adjusted accordingly. For balance amount, any Bill Paying Authority across IR shall recover the amount mentioned in "Centralized Recovery Register" from firm's

Bill(s), if any. Paying Authorities should not delay the recovery and ensure recovery expeditiously. Even if the payable amount against a Bill and withheld amount are not enough for the full recovery against a Warranty Claim, the Paying Authority should proceed with partial recovery to the extent of payable amount against that Bill and balance recovery amount will remain in the "Centralized Recovery Register" for further recoveries from other Bill(s).

After recovery, the "Centralized Recovery Register" should be automatically updated immediately to avoid multiple recoveries by different Railways and communicate the recovered amount to IMMS/ UDM.

- xii. Generally, no rejected quantity replacement/rectification should be allowed once recovery has been made by Accounts or the recovery amount has been deposited by vendor. While receiving fresh replacement supplies/allowing Re-inspection/Rectification/Amount deposition by vendor against Warranty Rejection Advice after the period of 60 days, user in IMMS/UDM must ensure that these activities are allowed only to the extent the Claim amount has not been recovered by Railways. Once recovery of the warranty claim amount is made in IPAS/deposition by the firm, user will not be allowed to initiate process of receipt of fresh replacement supplies / Re-inspection / Rectification to the extent recovery of the Warranty Claim amount has been completed in IPAS/deposited by firm against Warranty Rejection Advice.

However, there may be some cases against a Warranty Rejection Advice like:

- a. Fresh replacement supplies have been received before recovery but material taken into Ledger by user after recovery
- b. Re-inspection or Rectification allowed before recovery but material taken into Ledger by user after recovery
- c. Amount deposited by vendor before recovery but details of such deposition entered by user after recovery
- d. Warranty Rejection Advice withdrawn altogether after recovery
- e. Any other incidence like Court /Arbitration Judgement/Order etc. after recovery

In such cases, in all fairness; equivalent amount recovered has to be refunded to the vendor In case of (a) to (e) above, recovered inspection charges shall also be refunded to the inspection agency.

For such cases, the officer approving the Warranty Rejection Advice, with the approval of his officer next in hierarchy (minimum JA grade officer), can issue "Recovery Refund Letter" on iMMS/UDM on advice of the Stock Holder which shall be visible to all stake-holders including IPAS as well as vendor. Vendor may submit his Supplementary Bill on the basis of "Recovery Refund Letter" to the concerned Paying Authority which has deducted the refundable amount on-line or off-line; depending upon the case whether the Bill against which recovery has been made was submitted on-line or off-line. IPAS will pass-on information of all such refunds against a "Warranty Rejection Advice" to iMMS/UDM so that this information can be made available to all stake-holders. Necessary checks & balances should be provided in IPAS to ensure that vendor is not refunded the recovered amount more than the actual recovered amount or the amount mentioned in "Recovery Refund Letter".

- xiii. **Inspection of Replacement Supply-** In line with IRS Conditions of Contract clause 0703, Vendor shall bear all cost of such replacement including freight, cost of inspection and inspection charges to inspecting agency, if any, on such replacing and replaced stores but without being entitled to any extra payment on that or any other account.

The replacement supply shall normally be inspected by the same inspection agency which inspected and passed the original supply. However, inspection clause for replacement of quantity rejected under warranty can be changed from 3rd Party Inspection (RITES/RDSO etc.) to Consignee Inspection with the approval of minimum JA grade level officer of the office issuing Warranty Rejection Advice, duly considering practicability of the case due to low quantity/value, criticality of the item, quality issues involved etc.

(B) For Warranty rejection in Shop/Shed etc of the material received from a PU or a Stores Depot or User Depot which is not the attached Depot of the end user including that received directly through centralized procurement (both Stock and Non-stock items)-

- i. In such cases it may not be convenient for the end user to either return the material or communicate to the Stores Depot/User Depot (where the account of supply received from vendor was originally made). Thus, in all such cases, the warranty rejected material shall be kept in safe custody of the end user. End User shall register the warranty complaints with reasons and other details, as required, on the system like CMM/FMM/WISE/SLAM/MU etc. available with them and electronically transfer such data to UDM through integrated system or shall register the warranty rejections directly in UDM (as convenient and practical for the end-user). "Warranty Rejection Advice" (i.e. warranty claims lodging) shall be issued to the firm with the approval of gazetted officer of the end user on UDM after linking with PO, R/Note/CRN/Accountal Details.

Before, issuing the "Warranty Rejection Advice", the concerned user of UDM & gazetted officer shall satisfy himself about the availability of the rejected material, correctness of PO and applicability of warranty period and ensure that other details including reason(s) of warranty rejection are genuine as per specification, drawing and terms and conditions of the Contract

- ii. The "Warranty Rejection Advice" shall be issued on UDM by End User to all concerned i.e. firm, purchaser, pre-inspecting agency (if known), vendor approving agency, paying authority etc without fail.
- iii. Warranty Quantity Replacement-
- a. Replacement of rejected quantity shall be made at the end of end user.
 - b. The warranty quantity replacement will be supplied and accounted for in UDM through CRN. The CRN should be clearly marked as "Warranty Replacement CRN, Not for Payment".
- iv. Other provision shall be as per sub-Para (iii) to (xiv) of Para 2(A) above, except Para (viii) of 2(A)

(C) For Warranty rejections in the field where material rejected was fitted at some other Workshop/Shed/Depot- Material either received or fitted through Supply Contract or Works Contract or Service Contract (both Stock and Non-stock items)-

- i. In such cases it may not be convenient for the end user to either return the material or communicate to the Stores Depot/User Depot (where the account of supply received from vendor was originally made) or to the concerned Workshop where items were fitted.
- ii. Such case shall also be dealt as per Para 2(B) above.

(D) Warranty rejections of Rolling Stocks received from Railway PUs/PSUs/Workshops/Private Manufacturers and their components -

- i. Rolling Stocks are manufactured by following agencies:

SN	Type of Rolling Stocks	Manufactured by
1	Wagons	Private Manufacturers, Railway PSU, Railway Workshop
2	Coaches	Railway PUs/PSUs/Private Manufacturers
3	Locomotives	
4	Train-Sets	
5	MEMU, DEMU, EMU etc.	

- ii. Manufacturing Units of Rolling Stocks should provide the following details of all components/sub-assemblies used/fitted in that rolling stock to inspecting agency as well as consignee railway/end user. Inspecting agency, during inspection of Rolling Stock shall ensure digital capture/entry of this data into the respective digital platform.
 - a. Rolling Stock Number
 - b. Name of the Rolling Stock supplier
 - c. Contract number & Date against which Rolling stock supplied to Railway
 - d. Contact details of Rolling Stock Supplier
 - e. Name and address of component manufacturer and/or supplier.
 - f. Date of manufacture of component (MM/YYYY).
 - g. Inspecting agency for the component.
 - h. Inspection details of component
 - i. Warranty of component in months.
 - j. Vendor Approving agency of the component.
 - k. Batch/Product Marking, serial number etc of component.
 - l. Any further details to facilitate complete identification of the supplier of component by end user
- iii. For individual components, all Rolling Stock Manufacturers/Suppliers shall be responsible to honour the warranty claims on the basis of warranty period of individual components instead of the entire rolling stock.
- iv. The warranty settlement will be processed as per procedure as under
 - a. **Rolling stock is supplied by a private manufacturer or Railway/other PSUs-**

Warranty claim shall be lodged against Rolling Stock supplier.

This shall be same case as 2(B) above except that in case of items appearing in the approved vendor list of vendor approving agencies, information about such cases shall also be shared with vendor approving agencies.

Rolling Stock Supplier shall be the interface between Railway and component supplier. He has to organize the complete warranty settlement. Any action by the component supplier shall be at the specific direction and authority of Rolling Stock supplier.

b. Rolling stock supplied by Railway PUs, Workshop-

In all such cases, the warranty rejected material shall be kept in safe custody of the end user. End User shall register the warranty rejections with reasons of rejection and other details, as required, on the system like CMM/FMM/WISE/SLAM/MU etc. available with them & transfer such data to UDM or shall register the warranty rejections directly in UDM (as convenient and practical for the end- user).

The concerned Railway PU or Workshop shall replace the rejected component within 60 days from warranty rejection registration date at the end of concerned end User registering the warranty rejection either as a fresh supply by Railway PU/workshop or get it replaced/rectified through the component manufacturer/supplier whose supplies have been rejected.

Simultaneously, the Railway PU/Workshop shall raise the warranty claim by issuing "Warranty Rejection Advice" on UDM on concerned component manufacturer/supplier separately from their end as per the process detailed in Para 2(B) above.

3. Rectification of the rejected stores-

- i. In case the vendor requests for rectification/repair of rejected stores in terms of Para 2, rectification/repair to be permitted in exceptional circumstances and only if the item can be effectively rectified/repared at the user end and with specific prior approval of the officer next in hierarchy (minimum JA grade officer) to the gazetted officer issuing Warranty Rejection Advice. At the option of the Depot Officer/ officer of end-user (depending upon who has issued the "Warranty Rejection Advice"), rectification/repair of rejected stores by the firm shall be permitted within railway premises only.
- ii. If firm requests to rectify/repair the rejected stores at its own premises, same shall be allowed only if the item has unique traceability to ensure that the rejected item cannot be supplied to any other consignee/user and if supplied, it can be traced. For taking out the rejected quantity for rectification/repair, equivalent value of rejected item shall be deposited by the firm.
- iii. However, the rectification activity shall have to be completed within timelines given in sub-Para iii of case 2(A) from the date of issue of "Warranty Rejection Advice." After this, process for recovery shall be initiated.

4. Linking the rejected stores with PO, R/note, warranty period etc –

- i. Marking of stores has been mandated as per Clauses 1103, 1302, and 2704 of IRS Condition of Contract, which must be ensured.

- ii. Specification/drawing of the item should include conditions for marking of the item for establishing unique traceability of the item, accountability and performance monitoring of the item/supplier. Marking should be with manufacturer's name, lot/batch number, serial number, month and year of manufacture (in MM/YY format). If possible, Railways' purchase order number and date, consignee code, suppliers' IREPS vendor code and warranty period in number of months may also be included to have complete traceability. Drawing/specification must specifically indicate the types of acceptable marking mechanism/method. Marking method selection should be based on factors like item function, item geometry, type of surface, item size, operating environment, age/ life, criticality, cost, etc. Marking method prescribed in the drawing/specification should be good enough to ensure that unique traceability is possible for the lifecycle of the product and if not possible, at least up to the warranty period of the item.
- iii. Direct Part Marking (DPM) for items shall be done based upon the criticality/cost/feasibility to have DPM of the item. The criticality/cost/feasibility shall be decided by the concerned Railway Board Directorates depending upon the nature of the item or/and its end use. This scheme will help in pin-pointing the responsibility, shall improve traceability, accountability and performance monitoring of the item and that of the supplier. Part Marking should be part of specification and should at least indicate manufacturer's name, lot/batch/item No., month, and year of manufacture in MM/YY format. If possible, Purchase Order number and date, consignee code, IREPS vendor code and warranty period in number of months may also be included. It shall be responsibility of the firm to develop a unique coding scheme/mechanism for ensuring traceability of its product. The firm shall intimate the same to the purchaser at the time of supply. In case it is not possible to have these details as part marking on the item, alternate marking scheme and its implementation may be decided by the concerned Directorates.
- iv. Onus of marking and traceability as per purchase order shall be on vendor
- v. The record of fitment of item shall be captured digitally on UDM and/or other applications / Maintenance Modules like CMM/FMM/SLAM/WISE/MU etc.
- vi. Capturing Warranty Period digitally in unambiguous terms:
 - a. In terms of RB letter No. 78/RS(G)/777/1 dated 07/05/2004:
 - (i) Warranty Clause specified in the tenders should normally be same as that in IRS conditions of contract.
 - (ii) Wherever it is considered necessary to have Warranty Clause in technical specifications at variance with Warranty Clause in IRS conditions of contract, then technical department, while submitting the indents, and while providing the specifications, will advise clearly about applicable Warranty Clause for procurement to avoid problems at post contract stage.
 - (iii) While procuring the material, it should be ensured that the applicable Warranty Clause is specified in tender documents clearly and in unambiguous terms.
 - b. Warranty clause if at variance with IRS conditions of contract shall be a specific clause in the tender/PO and shall supersede warranty clause of IRS conditions of contract.

Else it should be mentioned in tender conditions that warranty as per IRS conditions of contract is applicable. Both should never be included in the tender.

- c. A field of Warranty period for the item under procurement may also be indicated on IREPS while floating tender for the same
 - d. Data of warranty period should be captured in digital form in terms of number of months and should get reflected in tender, contract, Inspection Certificate and R/Note in digital form and should be known to the end-user.
 - e. During inspection/receipt of the item, inspecting Agency and material accepting authority shall ensure marking as per purchase order.
- vii. While issuing the stores, "Issue Note" should be linked with warranty period in months, RO number, PO number/date and Depot Code as well, so that supply details and exact warranty period is known to consignee/end user.
 - viii. IMMS and UDM systems should be able to provide the complete supply details i.e. PO No./ Date, Vendor Name, Challan No./Date, warranty period etc. for the consignment to be rejected.
 - ix. Online provision shall be made for entering the complete details of item as per Para 1 (iii) above by the vendor at the time of dispatch and that should be captured on iMMS/UDM while accepting the material.
5. All efforts should be made to link the warranty rejected item with P.O. However, if it is not possible to link the PO, warranty period mentioned in drawing/specification shall be taken into consideration or if not mentioned therein, it shall be as per IRS conditions of Contract. In such cases the warranty period shall be applicable from the end of month next to manufacturing month mentioned on material (assuming that stores are supplied after inspection after 30/45 days from the actual date of manufacture).

5.1 The Warranty settlement in such cases shall be as per para 2(B) above, except following-

- a. As PO details shall not be available, details of PO, R Note, CRN etc may not be included in Warranty Rejection Advice and other communications.
 - b. The value of rejected materials shall be decided on the basis of rate of component as per latest PO available.
 - c. If Inspecting Agency of the rejected store is not known, warranty rejection advice shall not be sent to inspecting agency and para 2(A)(v) shall not be applicable.
 - d. If Inspecting Agency of the rejected store is not known, the inspecting agency for the replacement supplies shall generally be as per the inspection policy followed for normal procurement or as per Para 2 (A-xiii) above.
6. **Authority to adjudicate the disputed warranty cases and authority to decide appeal-**
- i. For all warranty rejection cases, the controlling officer of minimum JAG level of the office issuing "Warranty Rejection Advice" shall be adjudicating the disputed cases. His decision shall be binding on all the parties.

- ii. All the disputes, legal matters, etc. arising out of warranty claim shall be handled directly by the office issuing the “Warranty Rejection Advice”.

7. Handling Epidemic Failures-

Any recurring/large scale rejections from a particular lot will lead to epidemic failure.

- i. Whenever the quantity rejected anytime during the warranty period exceeds 5% of the total supplied lot against a particular contract, it will be considered as Epidemic Failure. However, in case of failures related to items which are extremely critical from safety consideration (like critical components or sub-parts of air brake system, wheel discs, axles, propulsion system etc.), RDSO/PU may pre-define a lower percentage for considering the occurrence of epidemic failure. This condition should be declared in the tender document for procurement of such items.
 - ii. Same steps as mentioned at para 2, as applicable, to be followed. However, instead of rejecting only defected quantity, entire lot should be rejected. Even if some quantity of such lot has been used/fitted, the same may also be identified and called back from service, to the extent possible, by the concerned technical department for issuing warranty rejection.
 - iii. Joint Inspection shall be conducted as per extant provisions.
 - iv. In case warranty rejection is established in joint inspection, the vendor shall replace entire lot (as available, refer point ii above) duly inspected by inspecting agency as per contract on his own expenses.
 - v. Replacement supply should be inspected by the same agency which has previously inspected the supplies.
 - vi. Epidemic failure is essentially considered as very poor quality performance and should be reflected on the performance of vendor/Inspecting agency accordingly.
 - vii. Concerned Inspection /Quality monitoring/Vendor approving agencies should conduct root cause/failure analysis of the failure and QAP of vendor shall have to be re-validated. They should also suggest improvement in inspection methodology/Quality Assurance Plan to avoid failures.
8. In case the vendor disputes the Warranty Rejection as per Warranty Rejection Advice, representation from vendor should be sent through IREPS system to the officer issuing Warranty Rejection Advice within 7 days from the issue of Warranty Rejection Advice. In such case a joint inspection shall be organised by the officer issuing Warranty Rejection Advice for the grounds of warranty rejections mentioned in the Warranty Rejection Advice.
9. In all cases of warranty rejections where items are appearing in the approved vendor list of vendor approving agencies, information about such cases shall also be shared with vendor approving agency as per Para 1 (vi) above for performance monitoring and capability/capacity assessment/delisting/down gradation of the vendor and review of the design/specifications/STR if required. If required, based on merit of the case, Vendor approving agencies may take appropriate decision on suspension of inspection

10. Data of the warranty rejections shall be analysed item-wise and vendor-wise by the Quality monitoring/vendor approving agency to identify the areas for improvements in systems, processes and design/specification.
11. The recovered amount from the vendor should be credited in the same allocation of the end use in which the item was originally procured.
12. Since complete process is being considered for digitisation, procurements (including Railway Board procurements) which are not being done through iMMS, should also be done through iMMS and Contracts issued through iMMS.

NOTE:

For ease of understanding, a sample flow chart for case 2(A) is enclosed. Other cases (Case 2(B) to 2(D)) involve only minor modifications of the same. In case of any difference between this circular paras and flow chart, the circular para shall prevail.

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Railway Board

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**Flowchart for the processes (Case 2(A) of the circular) involved in Warranty policy: For Warranty rejection in Shop/Shed etc where rejected material was issued from its attachedStores Depot or attached User Depot (both Stock and Non-stock items)-
(OTHER CASES INVOLVE ONLY MINOR MODIFICATIONS)**

