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भारतसरकारGovernment of India
रेलमंत्रालय Ministry of Railways
रेलवेबोर्ड (Railway Board)

International Year of Cooperatives 2025
Cooperatives Build a Better World

No. 2024/RS(G)/779/11 **Date: 11.09.2025**

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

Sub: Indian Railway Standard (IRS) Conditions of Contract, 2025

Railway Board has approved revised Indian Railway Standard (IRS) Conditions of Contract, applicable to contracts related to procurement of goods by Railway units. This version, i.e., IRS Conditions of Contract, 2025, supersedes the previous IRS Conditions of Contract (September 2022), circulated vide Railway Board letter no. 2022/RS(G)/779/13 (E 3402809) dated 21.09.2022. IRS Conditions of Contract, 2025 are attached herewith as Annexure-A.

2.0 IRS Conditions of Contract, 2022 included provisions applicable both prior to and after contract formulation (Example: para 2502 pertaining to "Code of Integrity"). In the present version (IRS Conditions of Contract, 2025), an effort has been made to exclude provisions pertaining to the procurement process prior to contract formulation. Certain such provisions, including special conditions for running contracts, have been compiled and enclosed herewith as Annexure-B for guidance of Railway units. Suitable conditions in tender documents may be incorporated by Railway units on these aspects, if considered necessary. IRS Conditions of Contract, 2025 contain only those provisions that are applicable after contract formulation.

3.0 It is specifically highlighted that the tender conditions pertaining to following matters are not incorporated in the IRS Conditions of Contract, 2025:

(a) Import/ Global Tender related specific conditions.
(b) Specific conditions related to procurement of Machinery and Plant (M&P).
(c) Conditions related to Joint Ventures (JV)/ Consortiums.
(d) Goods and Services Tax (GST) during tender evaluation.
(e) Price Variation Clause (PVC).

11/9/25

11/09/25

(f) Public Procurement (Preference to Make in India) Order, 2017 including the clause for damages.

Railway units need to include appropriate provisions for the above in the tender documents.

4.0 It is further specifically highlighted that the 'Dispute Resolution Clause' is not incorporated in the IRS Conditions of Contract, 2025. The revised tender conditions related to dispute resolution shall be issued separately.

5.0 This is issued with the concurrence of Finance Directorate of Railway Board and approval of Railway Board (MTRS).

DA: As above

11/09/2025

(Ajay Kumar)
Dy. Director Railway Stores (G)
Railway Board
Email ddrsg1@rb.railnet.gov.in
Tel. No. 011 23047529

No. 2024/RS(G)/779/11 **Date: 11.09.2025**

1. PFAs, All Indian Railways & Production Units.
2. The ADAI (Railways), New Delhi.
3. The Directors of Audit, All Indian Railways.

11/9/25

For Member Finance,
Railway Board

LIST FOR DISTRIBUTION

Directors of all CTIs,
CMDs /MDs of all Railway PSUs/ autonomous bodies/ societies,
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Sr. Prof. (Material Management), NAIR, Vadodara, ED (Stores), RDSO, Lucknow
Chief Commissioner, Railway Safety, Lucknow
Zonal Railway Training Institute, Sukadia Circle, Udaipur

Copy to:

The Genl. Secy., AIRF, Room No. 248, & NFIR Room No. 256-C, Rail Bhavan
The Secy. Genl., IRPOF, Room No. 268, FROA, Room No. 256-D & AIRPOA, Room No. 256-D Rail Bhavan.
PSOs/Sr. PPSs/PPSs/ PSs to:
MR, MoSR(S), MoSR(R)
CRB&CEO, M(TRS), M(Infra), M(O&BD), M(F), Secretary/RB, DG (RHS), DG (RPF), DG (HR), DG(Safety)
EDPG/MR, EDPG/MoSR(R), JDPG/MoSR(S)
All AMs, PEDs & Executive Directors of Railway Board.

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ANNEXURE-A

INDIAN RAILWAYS STANDARD CONDITIONS OF CONTRACT, 2025

TABLE OF CONTENTS

Clause	Title
1	**General**
1.1	Tenets of Interpretation
1.2	Definitions
2	**Contract**
2.1	Contract Documents and their Precedence
2.2	Scope of Supply
2.3	Modifications/ Amendments to Contract
2.4	Authority of the person signing on behalf of the Contractor
2.5	Address of the Contractor for sending communications on behalf of the Purchaser
2.6	Delivery of Goods: Place of Delivery of Goods
2.7	Laws governing the Contract
3	**Award of the Contract**
3.1	Examination of Drawing, Specifications and Patterns
3.2	Mistakes in Drawing
3.3	Quotation of rates by Contractors
3.4	Security Deposit
4	**Responsibility of the Contractor for Executing the Contract**
4.1	Risk in the Goods
4.2	Consignee's Right of Rejection
4.3	Sub-letting and Assignment
4.4	Changes in Constitution of the Contractor

Clause	Title
4.5	Assistance to the Contractor
4.6	Charges for Work Necessary for Completion of the Contract
4.7	Use of Raw Materials secured with Government Assistance
4.8	Risk of Loss or Damage to Government or Purchaser's Property
4.9	Confidentiality, Secrecy and Intellectual Property Rights (IPR)
4.10	Indemnity for breach of Intellectual Property Rights (IPR)
4.11	Packing
4.12	Freight
5	**Samples**
5.1	Advance Sample
5.2	Loan of Sample
6	**Inspection**
6.1	Pre-dispatch Inspection of Goods
6.2	Marking of Goods
6.3	Facilities for test and Examination
6.4	Cost of Tests
6.5	Delivery of Goods for Test
6.6	Liability of Costs for Special or Independent Tests
6.7	Method of Testing
6.8	Goods Expended in Test
6.9	Powers of Inspecting Officer
6.10	Inspection towards the End of Delivery Period
7	**Delivery**
7.1	Notification of Delivery

Clause	Title
7.2	Progress Reports
7.3	Delivery, Inspection and Acceptance of Goods
7.4	Time is the essence of the Contract
7.5	Extension of Time for Delivery
7.6	Consequences of Rejection
8	**System of Payment**
9	**Withholding and lien in respect of sums claimed**
10	**Warranty/ Guarantee**
11	**Removal of Rejected Goods**
12	**Breach of Contract by Contractor and Purchaser's rights thereof**
13	**Termination of Contract**
14	**Rights of Purchaser on defaults by Contractor**
15	**Limitation of Liabilities**
16	**Force Majeure**
17	**Book Examination Clause**
18	**Payment of Taxes and Duties**
19	**Deleted**
20	**Code of Integrity: Misdemeanours and Penalties**

1. General:

1.1Tenets of Interpretation:

Unless where the context requires otherwise, throughout the Contract:

(a) The heading of these conditions shall not affect the interpretation or construction thereof.

(b) Words in the singular include the plural and vice-versa.

(c) Words importing the masculine gender shall be taken to include other genders.

(d) Words importing person shall include any company or association or body of individuals, whether incorporated or not.

(e) Any reference to any legislation, Government Policies or Orders shall be deemed to include all amendments to such instruments.

(f) Terms and expression not herein defined shall have the meanings assigned to them in the Indian Sale of Goods Act,1930 (as amended), or the Indian Contract Act, 1872 (as amended) or the General Clauses Act, 1897 (as amended) as the case may be.

(g) Severability: If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Contract.

1.2 Definitions:

Unless the context requires otherwise, the following definitions shall apply in the Contract: (The main preferred term is within the inverted comma. Alternative equivalent terms used in certain contexts, if any, are listed in the brackets. Text within brackets is not considered for sort-order of terms)

(a) "Acceptance of Tender" means the letter of memorandum communicating to the Contractor the acceptance of his tender and includes an advance acceptance or letter of acceptance (LOA) of his tender.

(b) "Agent" is a person employed to act for another or represent another (called the "Principal") in dealings with a third person. In the context of public procurement, an Agent is a representative participating in the Tender Process or Execution of a Contract for and on behalf of his Principal.

(c) "Authorized e-procurement portal" is the web-based portal, being used by the Parties for exchanging online documents during the course of the formation of Contract and thereafter till its completion.

(d) "Consignee" means:

(i) Where the Goods are required by the Contract to be dispatched by rail, road, air or steamer, the person specified in the Contract to whom they are to be delivered at the destination;

(ii) Where the Goods are required by the Contract to be delivered to a person

as an interim Consignee for the purpose of dispatch to another person, such other persons; or

(iii) In any other case, the person to whom the Goods are required by the Contract to be delivered in the manner therein specified.

(e) "Contract" ('Purchase Order' or 'Supply Order' or 'Rate Contract' or 'Running Contract' or 'Letter of Acceptance') means a formal legal agreement in writing for supply of Goods, the subject matter of Procurement, entered into between the Purchaser and the Contractor on mutually acceptable terms and conditions and which are in compliance with all the relevant provisions of the laws of India; 'Contract' includes the invitation to tender, instructions to tenderers, tender, acceptance of tender, Standard Conditions of Contract, Special Conditions of Contract, particulars and the other conditions specified in the acceptance of tender. Contract includes a repeat order which has been accepted or acted upon by the Contractor.

(f) "Contractor" ('Supplier' or 'Firm' or 'Vendor' or 'Manufacturer' or 'Successful Bidder') means the person with whom the Contract is entered into for supply and shall be deemed to include the Contractor's successors (approved by the Purchaser), agents, Sub-Contractor, representatives, heirs, executors and administrators as the case may be unless excluded by the terms of the Contract.

(g) "Dispute" includes all or any of the commercial disputes arising out of this Contract, as defined in The Commercial Courts Act, 2015.

(h) "Drawing" means the drawing or drawings stipulated in or annexed to the Specifications or the Tender Document or Contract.

(i) "Goods" ('Stores' or Item(s) or 'Material(s)' in certain context) includes all articles, material, commodity, livestock, medicines, furniture, fixtures, raw material, consumables, spare parts, instruments, machinery, equipment, industrial plant, vehicles, aircrafts, ships, railway rolling stock, assemblies, sub-assemblies, accessories, Modules or a set of Modules, Knocked Down Unit (KDU), a group of machines comprising an integrated production process or such other categories of Goods or intangible products like technology transfer, licenses, Computer Software (with licence), Information Technology Systems, patents or other intellectual properties (but excludes books, publications, periodicals, etc., for a library), procured or otherwise acquired by a Purchaser. The term "Goods" also includes works and services which are incidental or consequential to the supply of such Goods, such as transportation, insurance, installation, commissioning, training, and maintenance.

(j) "Government" means the Central Government or a State Government, as the case may be.

(k) "Inspecting Officer" means the person or organisation specified in the Contract for the purpose of Inspection of Goods under the Contract and includes his authorised representative.

(l) "Inspection" means activities such as measuring, examining, testing, analysing, gauging one or more characteristics of the Goods and comparing the same with the specified requirement to determine conformity.

(m) "Intellectual Property Rights" (IPR) refers to the owner's rights against unauthorised possession/ exploitation by others of its tangible or intangible intellectual property. It includes rights to Patents, Copyrights, Trademarks, Industrial Designs, and Geographical Indications (GI).

(n) "Material" means anything used in the manufacture or fabrication of the Goods.

(o) "Particulars" include-

(i) Specifications;

(ii) Drawings;

(iii) Pattern bearing the seal and signature of the Inspecting Officer (hereinafter called the sealed pattern) which shall also include a certified copy thereof sealed by the Purchaser for the guidance of the Inspecting Officer;

(iv) Sample sealed by the Purchaser for guidance of the Inspecting Officer (hereinafter called the certified sample) which shall include a certified copy thereof sealed by the Purchaser for the guidance of the Inspecting Officer;

(v) Trade pattern, that is to say, a pattern, Goods conforming to which are obtainable in the open market and which denotes a standard of the Indian Standard Institute or other standardising authority or a general standard of the industry;

(vi) 'Proprietary mark' or 'brand' means the mark or brand of a product which is owned by an industrial firm;

(vii) Any other details governing the construction, manufacture or supply of Goods as may be prescribed by the Contract.

(p) "Parties". The parties to the Contract are the Contractor and the Purchaser, as defined in Clauses 1.2(f) and 1.2(r) herein respectively.

(q) "Purchase Officer" means the officer signing the acceptance of tender and includes any officer who has authority to execute the relevant Contract on behalf of the Purchaser.

(r) "Purchaser" means the President of India in the case of Goods ordered for the Indian Government Railways and includes his successors and assignees.

(s) "Scheduled Commercial Bank" means a bank listed in the Second Schedule of the Reserve Bank of India Act, 1934.

(t) "Security Deposit" ('Performance Security' or 'Performance Bond' or 'Performance Bank Guarantee' or other specified financial instruments) means a monetary guarantee to be furnished by the successful Bidder or Contractor in the form prescribed for the due performance of the Contract.

(u) "Signed" means ink signed or digitally signed with a valid Digital Signature Certificate as per IT Act 2000 (as amended). It also includes stamped, except in the case of an acceptance of tender or amendment thereof.

(v) "Site" means the place or location specified in the Contract at which any work (such as installation, commissioning etc.) is required to be executed by the Contractor under the Contract or any other place approved by the Purchaser for the purpose.

(w) "Sub-Contractor" means any person from whom the Contractor may source any material or fittings or incidental works or services (including deployment of contractual labour, if any) for the performance of the Contract. The term "Sub-Contract" shall indicate obligations of such a Sub-Contractor towards the Contractor.

(x) "Test" means such test as is prescribed by the particulars governing the construction, manufacture or supply of Goods as may be prescribed by the Contract or considered necessary by the Inspecting Officer- whether performed or made by the Inspecting Officer or any agency acting under the direction of the Inspecting Officer. In case prove out of design before supply, including oscillation tests if required, is within the scope of supply of Contract, such activities are also included in "Test".

(y) "Unit" and "Quantity" means the unit and quantity specified in the Contract.

(z) "Warranty Security Deposit" means a monetary guarantee to be furnished by the contractor, if mandated in the contract, to ensure his performance of warranty obligations as per the Contract. The warranty security deposit can be prescribed to be in any acceptable form as for Security Deposit. This guarantee can be invoked by the Purchaser if the Contractor fails to fulfil contractual obligations during the warranty period.

(aa) "Writing" or "Written" includes matter either in whole or in part, in manuscript, type-written, lithographed, cyclostyled, photographed or printed under or over signature or seal or digitally signed document in electronic form, as the case may be.

(bb) "Year" shall mean calendar year (unless reference to financial year is clear from the context). "Week" shall mean a period of 7 days, "Month", a period of 30 days.

2. Contract:

2.1 Contract Documents and their Precedence:

The following conditions and documents in indicated order of precedence (higher to lower) shall be considered an integral part of the Contract, irrespective of whether these are not appended/ referred to in it. Any generic reference to 'Contract' shall imply reference to all these documents as well:

(a) Valid and authorized Amendments issued to the Contract;

(b) Contract Document (Purchase Order) and the Letter of Acceptance (LOA);

(c) Tender Documents;

(d) Special Tender conditions;

(e) Technical Specifications as given in tender documents;

(f) Drawings;

(g) IRS Conditions of Contract;

(h) General Tender Conditions/ Instructions to tenderers; and

(i) Contractor's bid.

2.2 Scope of Supply:

(a) This Contract is for the supply of the Goods of the description, specifications and drawings and in the quantities outlined in the Contract on the date or dates specified therein.

(b) Unless otherwise specified, the Goods shall be entirely brand new and of the best quality and workmanship to the satisfaction of the Inspecting Officer. The Goods shall further be in all respects acceptable to the Inspecting Officer.

(c) If so stipulated, the Contractor shall be required to perform specified incidental Works/ Services (e.g., Installation, Commissioning, Operator's Training etc. in case of Supply of Capital Goods/ Machinery & Plant) as an integral part of the Goods in the Contract.

2.3 Modifications/ Amendments to Contract:

(a) Purchaser may amend the Contract, on written request (including request made through authorized e-procurement portal) from the Contractor or otherwise, by making alterations and modifications within the scope of the Contract, by a written order.

(b) Any request for variation or amendment of the Contract shall not be binding on the Purchaser unless and until the same is duly endorsed on the Contract incorporated in a formal instrument or in exchange of letters and signed by the Purchaser.

(c) The communication by Purchaser may be through authorized e-procurement portal, if the said portal provides for the functionalities to make desired communication between the Parties.

2.4 Authority of person signing on behalf of the Contractor:

(a) A person signing the tender or any other document in respect of the Contract on behalf of the Contractor, without disclosing his authority to do so, shall be deemed to warrant that he has authority to bind the Contractor.

(b) If it is discovered at any time that the person, so signing has no authority to do so, the Purchaser may, without prejudice to any other right or remedy, terminate the Contract and hold such person and/ or the Contractor liable to the Purchaser for all costs and damages arising from such remedies, including

termination of the Contract.

(c) The provisions of Clause 13 and Clause 20 shall also apply while evaluating the liability of the person at default.

2.5 Address of the Contractor for sending communications on behalf of the Purchaser:

(a) For all purposes of the Contract, including any dispute resolution thereunder, the address and e-mail of the Contractor mentioned in the tender shall be the address and e-mail to which all communications addressed to the Contractor shall be sent, unless the Contractor has notified change by a separate letter containing no other communication and sent by registered post acknowledgement due to the Purchaser or through mode of communication permitted for modification/ amendment of the Contract.

(b) The Contractor shall be solely responsible for the consequence of an omission to notify a change of address in the manner aforesaid.

(c) Any communication or notice on behalf of the Purchaser in relation to the Contract may be issued to the Contractor by the Purchase Officer and all such communications and notices may be served on the Contractor either by registered post with acknowledgement due or by speed post or under certificate of posting or by ordinary post or by hand delivery or through online mode at the option of such officer.

(d) The communication by Purchaser through online mode may be made either through email or authorized e-procurement portal of the Purchaser, if the said portal provides for the functionalities to make desired communication between the Parties.

2.6 Delivery of Goods: Place of Delivery of Goods

The delivery of the Goods shall be deemed to take place on delivery of the Goods, in accordance with the terms and conditions of the Contract, to:

(a) The Consignee at his premises, or

(b) Where so provided, the interim Consignee at his premises; or

(c) A person named in the Contract for transmission to the Consignee; or

(d) The consignee at the destination station in case of contract stipulating for delivery of goods at destination station.

2.7 Laws governing the Contract:

(a) This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of India for the time being in force.

(b) Irrespective of the place of delivery, or the place of performance or the place of payments under the Contract, the Contract shall be deemed to have been made at the place from which the acceptance of tender has been issued.

(c) Jurisdiction of courts —The Courts of the place from where the acceptance of

tender has been issued shall alone have jurisdiction to decide any dispute arising out of or in respect of the Contract.

(d) The marking of the Goods must comply with the requirements of the laws relating to merchandise marks for the time being in force in India.

(e) The Contractor's status shall be that of an independent Contractor and Primary Employer of staff deployed during the Contract by him or his Sub- Contractors or other associates. The Contractor, his employees, agents and Sub-Contractors performing under this Contract are not employees or agents of Purchaser or Government or their agencies/ enterprises, simply by execution of this Contract including services delivered under this Contract.

(f) **Obligations of the Contractor under Labour Codes and Rules:**

(i) The Contractor shall comply with the provisions of the Labour Codes, including: Code on Wages, 2019, Industrial Relations Code, 2020, Code on Social Security, 2020, Occupational Safety, Health and Working Conditions Code, 2020 and the rules made thereunder, as amended from time to time. The Contractor shall also indemnify the Purchaser against any claims arising under the aforementioned Labour Codes and the Rules made thereunder.

(ii) The Contractor shall obtain a valid licence under the aforesaid Labour codes and the Rules as modified from time-to-time before the commencement of the Contract and continue to have a valid licence until the completion of the Contract. Any failure to fulfil this requirement, the Purchaser shall treat it as a breach of Contract for default as per the Contract and avail any or all remedies thereunder.

(iii) In respect of all labour directly or indirectly employed in the Contract for the performance of the Contractor's part of the Contract, the Contractor shall comply with or cause to comply with the provisions of the aforesaid Labour codes and the Rules wherever applicable. The Contractor shall be solely responsible for submitting all the necessary returns under these Codes and the Rules.

(iv) The Contractor shall pay the wages as per the Code on Wages, 2019 (as amended) to their workers not below the rate of minimum wages, as notified by the State Government or Central Government, whichever is higher, through the bank transfer. Notwithstanding the Contract's provisions to the contrary, the Contractor shall cause to be paid the wages to labour directly or indirectly engaged on the Contract, including any engaged by his Sub-Contractors in connection with the said Contract as if he had immediately employed the labour. The Purchaser shall, without any commitments or being obliged to do, may at its discretion, monitor that such payments are being made.

(v) In every case in which, by virtue of the provisions of the aforesaid Labour codes and the Rules, the Purchaser is obliged to pay any amount of wages to a workman employed by the contractor or his Sub-Contractor in execution of

the contract or to incur any expenditure in providing welfare and health amenities required to be provided under the aforesaid Labour codes and the Rules or to incur any expenditure on account of the contingent liability of the Purchaser, in case of the contractor's failure to fulfil his statutory obligations under the aforesaid Labour codes and the Rules, the Purchaser shall recover from the contractor, the amount of wages so paid or the amount of expenditure so incurred and without prejudice to the rights of the Purchaser under the aforesaid Labour codes and the Rules, the Purchaser shall be at liberty to recover such amount or part thereof by deducting it from the security deposit and/ or from any sum due by the Purchaser to the contractor whether under the contract or otherwise. The Purchaser shall not be bound to contest any claim made against it under the aforesaid Labour codes and the Rules except on the contractor's written request and upon giving the Purchaser complete security for all costs, Purchaser might become liable in contesting such claim. The decision of the Purchaser regarding the amount actually recoverable from the contractor as stated above shall be final and binding on the contractor.

3. Award of the Contract

3.1 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.

3.2 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.

3.3 Quotation of rates by Contractors:

(a) The price quoted by the Contractor shall not be higher than the controlled price fixed by law for the Goods, if any. Where there is no controlled price, it shall not exceed the prices or contravene the norms for fixation of prices laid down by Government, if any. Where the Government has not fixed any such prices or norms, the price quoted shall not exceed the price appearing in any agreement relating to price regulation by any industry in consultation with the Government, if any. In any case, the price quoted shall not be higher than the Maximum Retail Price (MRP) of the item.

(b) If the price quoted is higher than the controlled price in the sub-clause (a) above, the Contractor shall specifically mention this fact in his tender giving reasons for quoting higher price(s). If he fails to do so or makes any mis- statement, it shall be lawful for the Purchaser:

(i) to revise the price at any stage so as to bring it in conformity with the Sub-clause (a) above or

(ii) to terminate the Contract and apply provisions as per Clause 13.

3.4 Security Deposit:

(a) The Contractor must maintain the Security Deposit of the required amount in a specified format during the currency of the Contract. In the event of any amendment affecting the Contract value and/ or delivery period is issued to the Contract, the Contractor shall furnish suitably amended value and/ or validity of the Security Deposit in terms of the amended Contract within fourteen days of the issue of the amendment.

(b) If the Contractor during the currency of the Contract fails to maintain the requisite Security Deposit, it shall be lawful for the Purchaser at his discretion:

(i) to request the Contractor to submit the requisite amount within fourteen days; or

(ii) to recover the requisite amount from the pending bills of the Contractor against this Contract or any other Contract and adjust such recovered amount towards Security Deposit of this Contract; or

(iii) to treat it as a breach of Contract, terminate the Contract and avail any or all Contractual remedies available to the Purchaser thereof.

Note: For clarification of any doubt, the provision of sub-clause (ii) above applies only in case where additional amount is required to be deposited to maintain the requisite Security Deposit, as per the terms of Contract, and not for requirement of Security Deposit for entering into a new contract. Failure of the Successful Bidder to submit Security Deposit for entering into a contract, having been called upon to do so, shall be dealt as per tender conditions.

(c) 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.

(d) Subject to above, the Purchaser shall release the Security Deposit, without any interest, to the Contractor upon the completion of all Contractual obligations relating to supply of Goods.

(e) Notwithstanding the above, the Purchaser shall be entitled to call for Warranty Security Deposit (in any form of financial instruments as permitted for Security Deposit) from the Contractor for due performance of warranty obligations under the Contract. In such an event, where Purchaser calls for Warranty Security Deposit, it shall be lawful for the Purchaser not to release/ refund the Security Deposit till the obligation of submitting Warranty Security Deposit in acceptable form is completed by the Contractor, or to encash the financial instrument for Security Deposit and adjust the amount so received towards Warranty Security Deposit. All conditions relating to Security Deposit including non-liability of payment of interest and conditions for forfeiture shall also apply for Warranty Security Deposit. Security Deposit shall be released/ refunded on receipt of acceptable Warranty Security Deposit.

(f) 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 Security Deposit or Warranty Security Deposit or amounts payable to the Contractor under the Contract.

4. Responsibility of the Contractor for Executing the Contract:

4.1 Risk in the Goods:

(a) The Contractor shall perform the Contract in all respects in accordance with the terms and conditions thereof. The Goods and every constituent part thereof, whether in the possession or control of the Contractor, his agents or servants or a carrier, or in the joint possession of the Contractor, his agents or servants and the Purchaser, his agents or servants, shall remain in every respect at the risk of the Contractor, until their actual delivery to the Consignee at the stipulated place or destination or, where so provided in the acceptance of tender, until their delivery to a person specified in the Contract as interim Consignee for the purpose of dispatch to the Consignee.

(b) The Contractor shall be responsible for all loss, destruction, damage or deterioration of or to the Goods from any cause whatsoever while the Goods after approval by the Inspecting Officer are awaiting dispatch or delivery or are in the course of transit from the Contractor to the Consignee or Interim Consignee, as the case may be.

(c) The Contractor shall alone be entitled and responsible to make claims against a Railway Administration or other carrier in respect of non-delivery, short delivery, mis-delivery, loss, destruction, damage or deterioration of the Goods entrusted to such carrier by the Contractor for transmission to the Consignee or the Interim Consignee as the case may be.

4.2 Consignee's Right of Rejection:

(a) Notwithstanding any approval which the Inspecting Officer may have given in respect of the Goods or any materials or other particulars or the work or workmanship involved in the performance of the Contract (whether with or without any test carried out by the Contractor or the Inspecting Officer or under the direction of the Inspecting Officer) and notwithstanding delivery of the Goods where so provided to the interim Consignee, it shall be lawful for the Consignee, on behalf of the Purchaser, to reject the Goods or any part, portion or consignment thereof within a reasonable time after actual delivery thereof to him at the place or destination specified in the Contract if such Goods or part, portion or consignment thereof is not in all respects in conformity with the terms and conditions of the Contract whether on account of any loss, deterioration or damage before dispatch or delivery or during transit or otherwise howsoever.

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

Note: Consignee shall issue a rejection advice within 90 days from the date of actual receipt of the Goods, which may or may not have been pre-inspected at Contractor's premises, and all related documents from the Contractor, which are required to be verified by the Consignee upon receipt, as per the Contract, prior to the acceptance of the materials. The 90-day timeframe specified above is solely for the initial acceptance of the materials by the Consignee and without prejudice to the right of the Purchaser or Consignee, on Purchaser's behalf, to reject the material as per Warranty/ Guarantee Clause (Clause 10) within the period specified therein.

(c) The provisions contained in Clause 11 relating to the removal of Goods rejected by the Inspecting Officer shall mutatis mutandis apply to Goods rejected by the Consignee as herein provided.

(d) Where under a Contract, the price payable is fixed on F.O.R. station of dispatch or Ex-Works basis, the Contractor shall, if the Goods are rejected at destination by the Consignee, be liable, in addition to his other liabilities, to reimburse to the Purchaser the freight paid by the Purchaser.

4.3 Sub-letting and Assignment:

(a) The Contractor shall not, save with the previous consent in writing of the Purchaser, sub-let, transfer or assign the Contract or any part thereof or interest therein or benefit or advantage thereof in any manner whatsoever.

(b) Sub-Contracting does not amount to Sub-letting or Assignment or Transfer.

(c) If the Contractor sub-lets or assigns or transfers the Contract or any part thereof without such permission, the Purchaser shall be entitled, and it shall be lawful on his part, to treat it as a breach of Contract and avail any or all remedies there under. The decision of the Purchaser in this regard shall be final and binding on the Contractor.

4.4 Changes in Constitution of the Contractor:

Where the Contractor is a partnership firm, the following restrictions shall apply to changes in the constitution during the execution of the Contract:

(a) A new partner shall not be introduced in the firm except with the prior consent in writing of the Purchaser, which shall be granted only upon execution of a written undertaking by the new partner to perform the Contract and accept all liabilities incurred by the firm under the Contract before the date of such undertaking.

(b) On the death or retirement of any partner of the Contractor firm before the complete performance of the Contract, the Purchaser may, at his option, terminate the Contract and in such case the Contractor shall have no claim whatsoever for any compensation against the Purchaser.

(c) If the Contract is not determined as provided in Sub-clause (b) above notwithstanding the retirement of a partner from the firm he shall continue to be liable under the Contract for acts of the firm until a copy of the public notice given by him under Section 32 of the Partnership Act,1932 has been sent by him to the Purchaser by registered post acknowledgement due.

(d) The decision of the Purchaser as to any matter or thing concerning or arising out of this sub-clause or on any question whether the Contractor or any partner of the Contractor firm has committed a breach of any of the conditions in this sub- clause contained shall be final and binding on the Contractor.

4.5 Assistance to the Contractor:

(a) The Contractor shall be solely responsible to procure any material or obtain any import or other licence or permit required for the fulfilment of the Contract and the grant by the Purchaser or any other authority of a quota certificate or permit required under any law for distribution or acquisition of iron and steel or any other commodity or any other form of assistance in the procurement of the material aforesaid or any attempt to render assistance in the matter aforesaid, shall not be construed as a representation on the part of the Purchaser that the material covered by such licence or permit or quota certificate is available or constitute any promise, undertaking or assurance on the part of the Purchaser regarding the procurement of the same or effect any variation in the rights and liabilities of the parties under the Contract.

(b) However, if by reason of any such assistance as aforesaid, the Contractor obtains any materials at less than their market price or the cost of production of the

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

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

4.6 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 or drawings.

4.7 Use of Raw Materials secured with Government Assistance:

(a) **Accountability of Government-Assisted Raw Materials**:

(i) Where any raw material is procured for the execution of a Contract with the assistance of the Government rendered in the form of permit, or licence or quota certificate/ essentiality certificate or release order issued by or on behalf of or under the authority of the Government or by an officer empowered in that behalf, or

(ii) Where the raw material is issued to the Contractor from Government stock, or

(iii) Where advance payments are made to the Contractor to enable him to purchase the raw material, or

(iv) Where raw material is arranged by the Government,

the Contractor—

(i) Shall hold such material as trustee for the Government,

(ii) Shall use such material economically and solely for the purpose of the Contract,

(iii) Shall not dispose of the same without the previous permission in writing of the Purchaser, and

(iv) Shall render due account of such material and return to the Government at such place as the Purchaser may direct all surplus or unserviceable material that may be left after the completion of the Contract or its termination for any reason whatsoever.

On returning such material, the Contractor shall be entitled to such price therefor as the Purchaser may fix, having regard to the condition of such material.

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

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

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

4.8 Risk of Loss or Damage to Government or Purchaser's Property:

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

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

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

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

4.9 Confidentiality, Secrecy and Intellectual Property Rights (IPR):

(a) <u>Confidentiality:</u>

All documents, drawings, samples, data, associated correspondence or other information furnished by or on behalf of the Purchaser to the Contractor, in

connection with the Contract, whether such information has been furnished before, during or following completion or termination of the Contract, are confidential and shall remain the property of the Purchaser and shall not, without the prior written consent of Purchaser neither be divulged by the Contractor to any third party, nor be used by him for any purpose other than the design, procurement, or other services and work required for the performance of this Contract. If advised by the Purchaser, all copies of all such information in original shall be returned on completion of the Contractor's performance and obligations under this Contract.

(b) Secrecy:

If the Contract declares the subject matter of this Contract as coming under the Official Secrets Act, 1923 or if the Contract is marked as "Secret", the Contractor shall take all reasonable steps necessary to ensure that all persons employed in any connection with the Contract, have acknowledged their responsibilities and penalties for violations under the Official Secrets Act and any regulations framed thereunder.

(c) Intellectual Property Rights:

All deliverables, outputs, plans, drawings, specifications, designs, reports and other documents and software submitted by the Contractor under this Contract shall become and remain the property of the Purchaser and subject to laws of copyright and must not be shared with third parties or reproduced, whether in whole or part, without the Purchaser's prior written consent. The Contractor shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Purchaser, together with a detailed inventory thereof. The Contractor may retain a copy of such documents and software but shall not use it for any commercial purpose.

(d) Obligations of the Contractor:

(i) Without the Purchaser's prior written consent, the Contractor shall not use the information mentioned above except for the sole purpose of performing this Contract.

(ii) The Contractor shall treat and mark all information as confidential (or Secret, as the case may) and shall not, without the written consent of the Purchaser, divulge to any person other than the person(s) employed by the Contractor in the performance of the Contract. Further, any such disclosure to any such employed person shall be made in confidence and only so far as necessary for such performance for this Contract.

(iii) Notwithstanding the above, the Contractor may furnish to its holding company or its Sub Contractor(s) such documents, data, and other information it receives from the Purchaser to the extent required for performing the Contract. In this event, the Contractor shall obtain from such holding company/ Sub-Contractor(s) an undertaking of confidentiality (or secrecy — as the case may be) similar to that imposed on the Contractor under the

above clauses.

(iv) The obligation of the Contractor under sub-clauses above, however, shall not apply to information that:

(1) the Contractor needs to share with the institution(s) participating in the financing of the Contract;

(2) now or hereafter is or enters the public domain through no fault of Contractor;

(3) can be proven to have been possessed by the Contractor at the time of disclosure and which was not previously obtained, directly or indirectly, from the Purchaser; or

(4) otherwise lawfully becomes available to the Contractor from a third party that has no obligation of confidentiality.

(e) The above provisions shall not in any way modify any undertaking of confidentiality (or Secrecy — as the case maybe) given by the Contractor before the date of the Contract in respect of the Contract/ the Tender Document or any part thereof.

(f) The provisions of this clause shall survive the completion or termination of the Contract for any reason.

4.10 Indemnity for breach of Intellectual Property Rights (IPR):

(a) The Contractor shall at all times indemnify and hold harmless, free of costs, the Purchaser and its employees and officers from and against all suits, actions or administrative proceedings, claims, demands, losses, damages, costs and expenses of any nature, including attorney's fees and expenses, which may arise in respect of the Goods provided by the Contractor under this Contract, as a result of any infringement or alleged infringement of any patent, utility model, registered design, copyright or other Intellectual Property Rights (IPR) or trademarks, registered or otherwise existing on the date of the Contract arising out of or in connection with:

(i) any design, data, drawing, specification, or other documents or Goods provided or designed by the Contractor for or on behalf of the Purchaser.

(ii) The sale by the Purchaser in any country of the products produced by the Goods supplied by the Contractor, and

(iii) The installation of the Goods by the Contractor or the use of the Goods by the Purchaser.

(b) Such indemnity shall not cover any use of the Goods or any part thereof or any products produced thereby:

(i) other than for the purpose indicated by or to be reasonably inferred from the Contract

(ii) in association or combination with any other equipment, plant, or materials

not supplied by the Contractor.

(c) If any proceedings are brought, or any claim is made against the Purchaser arising out of the matters referred above, the Purchaser shall notify the Contractor of the same and the Contractor shall, at his own expense, either settle any such dispute or conduct any litigation that may arise therefrom.

(d) If the Contractor fails to notify the Purchaser within twenty-eight (28) days after receiving such notice that he intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on his behalf at the risk and cost to the Contractor.

(e) At the Contractor's request, the Purchaser shall afford all available assistance to the Contractor in conducting such proceedings or claim and shall be reimbursed by the Contractor for all reasonable expenses incurred in so doing.

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

4.11 Packing:

(a) The Contractor shall pack at his own cost the Goods sufficiently and properly for transit by rail/road, air and/or sea as provided in the Contract so as to ensure their being free from loss or damage or adverse impact on quality on arrival at their destination.

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

(c) If the Contract provides that the containers shall be returnable, they must be marked 'returnable' and they will be returned to the Contractor as per terms of the Contract.

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

(e) Each bale or package delivered under the Contract shall be marked by the Contractor at his own expense. Such marking shall be distinct (all previous irrelevant marking being carefully obliterated) and shall clearly indicate the

description and quantity of the Goods, the name and address of the Consignee, the gross weight of the package and the name of the Contractor with a distinctive number or mark sufficient for the purpose of identification. All markings shall be carried out with such material as may be found satisfactory by the Inspecting Officer as regards quickness of drying, fastness and indelibility.

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

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

4.12 Freight:

If as per Contract conditions, freight is to be borne by the Purchaser at actual, the goods shall be booked by the most economical route or most economical tariff available at the time of dispatch as the case may be. Failure to do so will render the Contractor liable for any avoidable expenditure caused to the Purchaser.

5. Samples:

5.1 Advance Sample:

(a) Where an advance sample is required to be approved under the terms of the Contract, the Contractor shall submit the sample free of cost to the Inspecting Officer within the time specified in the Contract.

(b) If the Contractor is unable to do so, he must apply immediately to the Office issuing the Contract for extension of time stating the reasons for the delay. If the Purchaser is satisfied that a reasonable ground for an extension of time exists, he may allow such additional time as he considers to be justified (and his decision shall be final) with or without alteration in the delivery period stipulated in the Contract and on such conditions as he deems fit.

(c) In the event of the failure of the Contractor to deliver the advance sample by the date specified in the Contract or any other date to which the time may be extended as aforesaid by the Purchaser or of the rejection of the sample, the Purchaser shall be entitled to terminate the Contract and take further action as per the provisions of Clause 13.

(d) Unless otherwise provided in the Contract, all samples required for test shall be supplied by the Contractor free of cost. Where sample, which is supplied free, is rejected after examination and test, the Contractor shall arrange for collection of the same or whatever remains of the sample, after examination and test within three months of the date of such rejection.

(e) Where under the Contract, the Contractor is required to submit an advance

sample, any expenses incurred by the Contractor on or in connection with the production of Goods in bulk, before the sample has been approved unconditionally, shall be borne by the Contractor and he shall not claim any compensation in the event of such sample being found unacceptable by the Inspecting Officer.

(f) Where the Contract does not require any advance sample to be approved, the Contractor may before proceed with bulk manufacture or delivery of the Goods, if he so desires, submit to the Inspecting Officer for inspection a sample of the Goods in which case a quantity not less than one percent (1%) of the total quantity to be supplied unless otherwise authorized by the Inspecting Officer shall be submitted. The Contractor shall not, however, be entitled to be shown any consideration or give any extension of time or claim to be exonerated from completing the delivery within the stipulated period only on the ground of delay in the approval of any such sample.

(g) If under the Contract, the supplies are governed by a sealed pattern, the Contractor shall be bound to examine such pattern before preparing a sample or manufacturing the Goods in bulk as the case may be.

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

(i) Marking: Samples submitted shall be clearly labelled with the Contractor's name and address and the Contract number.

(j) The rejection of the sample by the Inspecting Authority or Inspecting Officer or Consignee shall be final and binding on the Contractor.

5.2 Loan of Sample:

(a) If a certified sample is lent to the Contractor, it will bear a label containing inter alia variations known to the Inspecting Officer between the said sample and the Goods desired. If the Contractor finds any further variation between the certified sample and the particulars of specifications mentioned in the Contract he shall at once refer the matter to the Inspecting Officer and the Contractors shall also give intimation of such discrepancy to the Purchase Officer. The Contractor shall follow the instructions of the Inspecting Officer as to what sample of particulars should guide the production of Goods and the decision of the Inspecting Officer in the matter shall be final and binding on the Contractor.

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

6. Inspection:

6.1 Pre-dispatch Inspection of Goods:

(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) Notification of Result of Inspection: Unless otherwise provided in the specification of schedule, the examination of the Goods will be made as soon as practicable after the same have been submitted for inspection and the result of the examination will be notified to the Contractor.

(d) Inspection Notes: On the Goods being found acceptable by the Inspecting Officer he shall furnish the Contractor with necessary copies of Inspection Notes duly completed, for being attached to the Contractor's bill in support thereof.

(e) In case the Contract is concluded with traders/ agents for the items, which are peculiar to the railways, traders/ agents should indicate the source of supply (manufacturer) and the inspection for such items should be carried out at manufacturer's premises rather than the premises of a trader/ agent, to ensure genuineness and quality of Goods. Such Goods, unless otherwise specified in the Contract, shall be dispatched to the Consignee directly from the manufacturer's premises, without routing through the premises of such traders/ agents.

6.2 Marking of Goods:

(a) 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.

(b) The Inspecting Officer shall also have power to mark the rejected Goods with a rejection mark so that they may be easily identified, if re-submitted for inspection.

6.3 Facilities for test and Examination:

(a) 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.

(b) 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.

6.4 Cost of Tests:

(a) 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.

(b) 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.

6.5 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.

6.6 Liability of Costs for Special or Independent Tests:

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.

6.7 Method of Testing:

(a) 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.

(b) The Contractor shall not be entitled to object on any ground whatsoever to the method of testing adopted by the Inspecting Officer.

6.8 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.

6.9 Powers of Inspecting Officer:

The Inspecting Officer shall have the power: —

(a) 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.

(b) to reject any Goods submitted as not being in accordance with the particulars.

(c) to reject the whole of the instalment 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.

(d) the Inspecting Officer's decision as regards the rejection shall be final and binding on the Contractor.

6.10 Inspection towards the End of Delivery Period:

(a) If the Contract requires pre-dispatch inspection of the ordered Goods, the Contractor shall present the Goods for inspection well in advance of the end of delivery period to ensure completion of the inspection and delivery as per the Contract, within that period.

(b) The situation, where the Goods (part or whole of Contract quantity) is tendered for inspection towards the end of the delivery period resulting in inspection and delivery not being completed as per Contract conditions, shall be treated as a breach of the Contract. The Purchaser shall be entitled to take action as per provisions of Clause 13 or may, on written request of the Contractor, take action as per Clause 7.5.

(c) The Contractor shall not dispatch the Goods till such time as an extension in terms of sub-clause(b) above is granted by the Purchaser and accepted by the Contractor.

(d) Notwithstanding the above, if the Goods are dispatched by the Contractor before an extension letter as aforesaid is issued by the Purchaser it shall solely be at the risk and expense of the Contractor. The Purchaser shall be entitled to take action as per provisions of Clause 13 or may, on written request of the Contractor, take action as per Clause 7.5.

7. Delivery:

7.1 Notification of Delivery:

(a) Notification of delivery or dispatch in regard to each and every instalment shall be made to the Consignee, Indenter (if so mentioned in the Contract) and to the Purchaser immediately on dispatch or delivery.

(b) The Contractor shall further supply to the Consignee, or the interim Consignee,

as the case may be, a packing account quoting the Contract number and date of dispatch of the Goods. All packages, containers, bundles and loose materials part of each and every instalment shall be fully described in the packing account and full details of the contents of the packages and quantity of materials shall be given to enable the Consignee to check the Goods on arrival at destination.

(c) The Railway Receipt/ Consignment Note or Bill of Lading, if any, shall be forwarded to the Consignee by registered post immediately on the dispatch of Goods. The Contractor shall bear and reimburse to the Purchaser demurrage charges, if any, paid by reason of delay on the part of the Contractor in forwarding the Railway Receipt, Consignment Note or Bill of Lading.

7.2 Progress Reports:

(a) The Contractor shall from time-to-time, render such reports concerning the progress of the Contract and/ or supply of the Goods in such form as may be required by the Purchaser.

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

(c) Progressing of deliveries: The Contractor shall allow reasonable facilities and free access to his works and records to the Inspecting 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.

7.3 Delivery, Inspection and Acceptance of Goods:

(a) The Contractor shall, as may be required by the Purchaser, deliver the Goods as per the conditions of 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.

(b) 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.

(c) Notwithstanding any inspection and approval by the Inspecting Officer on the premises of Contractor or manufacturer, as the case may be, property in the Goods shall not pass on to the Purchaser until the Goods have been received, inspected and accepted by the Consignee.

(d) No Goods shall be deliverable to the Consignee on Sundays and public holidays or beyond normal office hours without the written permission of the Consignee.

(e) 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.

7.4 Time is 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 so specified or extended.

7.5 Extension of Time for Delivery:

(a) If the Contractor fails to deliver the Goods as per the stipulated deadlines in the Contract, for any cause which the Purchaser may admit as reasonable ground for extension of time for delivery, the Purchaser shall allow such additional time as he considers to be justified by the circumstance of the case, and shall forgo the whole or such part, as he may consider reasonable, of his claim for such loss or damage due to delay in effecting delivery. Any failure or delay on the part of Sub-Contractor, though their employment may have been sanctioned by the Purchaser, shall not be admitted as a reasonable ground for any extension of time or for exempting the Contractor from liability for any such loss or damage as aforesaid. The decision of the Purchaser in this regard shall be final and binding on the Contractor.

(b) If extension of time for delivery period is allowed, as above, by the Purchaser with damages, the amendment giving such an extension shall be subject to the following conditions:

(i) Levy Liquidated Damages (LD), recover from the Contractor as agreed liquidated damages and not by way of penalty a sum equivalent to ½ (half) % 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 percent) of value of delayed supplies irrespective of delays, unless otherwise provided specifically in the Contract. The parties to this Contract willingly agree that this amount of damages is an agreed pre- estimate of damages caused to the Purchaser because of delay in supply of Goods by the Contractor. The Purchaser shall not be called upon by the Contractor to prove any damage/ loss in order to claim the damages due to delay in supply of Goods, if the damages so claimed by the Purchaser are as per this Clause. The Liquidated Damages shall be calculated on the gross value of supply (inclusive of GST) as provided for in the Contract.

(ii) Denial Clause (DC) as under:

(1) No increases in price on account of any statutory increase in or fresh imposition of GST, customs duty or on account of any other taxes/ duty/ cess/ levy, leviable in respect of the Goods and incidental Works/ Services stipulated in the said Contract which takes place after the original delivery date, shall be admissible on such

of the said Goods, as are delivered after the said date; and

(2) Notwithstanding any stipulation in the Contract for an increase in price on any other ground, including price variation clause or foreign exchange rate variation, or any other variation clause, no such increase after the original delivery date shall be admissible on such Goods delivered after the said date.

(3) Nevertheless, the Purchaser shall be entitled to the benefit of any decrease in price on account of reduction in or remission of GST, customs duty or on account of any other Tax or duty or any other ground as stipulated in the price variation clause or foreign exchange rate variation or any other variation clause which takes place after the expiry of the original delivery date.

7.6 Consequences 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:

(a) 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

(b) terminate the Contract for the rejected quantity and take further action as per the provision of Clause 13.

(c) 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 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.

8. System of Payment:

8.1 Unless otherwise agreed upon between the parties, payment for delivery of the Goods will be made on submission of bills in the prescribed manner through online billing mode on authorised e-procurement portal of the Purchaser, in accordance with the instructions given in the Contract, by a cheque or demand draft or through online mode (through 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.

8.2 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) For dispatch by road or dispatch 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. The balance 5% payment shall be made after receipt and acceptance of the material by the Consignee at his end.

(b) For dispatch by rail on "FOR station of dispatch" basis, 95% payments for the Goods or each consignment thereof will be made to the Contractor against proof of inspection and dispatch. The original railway receipt should be sent to the Accounts Officer responsible for payment along with 95% bill advising the particulars of dispatch to the Consignee. The Accounts Officer after passing the 95% bill should pass on the original railway receipt to the Consignee for taking delivery of the consignment. It should, however, be ensured that there is no delay in the Accounts Office transmitting the original railway receipt to the Consignee. The balance 5% payment shall be made after receipt and acceptance of the material by the Consignee at his end.

8.3 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% 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% and 5% payment is not applicable to claims amounting to ₹25,000/- or below.

8.4 Application for 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. The Purchaser is entitled to, and it shall be lawful for him to reject such claims.

9. Withholding and lien in respect of sums claimed:

9.1 Whenever any claim or claims for payment of a sum of money arises out of or under the Contract against the Contractor, the Purchaser shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the security, if any, deposited by the Contractor and for the purpose aforesaid, the Purchaser shall be entitled to withhold the said cash security deposit or the security, if any, furnished as the case may be and also have a lien over the same pending finalisation or adjudication of any such claim. In the event of the security being insufficient to cover the claimed amount or amounts or if no security has been taken from the Contractor, the Purchaser shall be entitled to withhold and have lien to retain to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at any time thereafter may become payable to the Contractor under the same Contract or any other

Contract with the Purchaser or the Government pending finalisation or adjudication of any such claim.

It is an agreed term of the Contract that the sum of money or moneys so withheld or retained under the lien referred to above, by the Purchaser will be kept withheld or retained as such by the Purchaser till the claim arising out of or under the Contract is determined by any of the dispute resolution mechanism as indicated in the Contract or by the competent court as prescribed under Clause 2.7(c), as the case may be, and that the Contractor will have no claim for interest or damages whatsoever on any account in respect of such withholding or retention under the lien referred to supra and duly notified as such to the Contractor.

9.2 For the purpose of Clause 9.1, where the Contractor is a partnership firm or a limited company, the Purchaser shall be entitled to withhold and also have a lien to retain towards such claimed amount or amounts in whole or in part from any sum found payable to any partner/ limited company, as the case may be, whether in his individual capacity or otherwise.

9.3 Lien in respect of Claims arising from other Contracts:

(a) Any sum of money due and payable to the Contractor (including the security deposit returnable to him) under the Contract may be withheld or retained by way of lien by the Purchaser or Government against any claim of the Purchaser or Government in respect of payment of a sum of money arising out of or under any other Contract made by the Contractor with the Purchaser or Government.

(b) It is an agreed term of the Contract that the sum of money so withheld or retained under this clause by the Purchaser or Government will be kept withheld or retained as such by the Purchaser or Government till his claim arising out of the same Contract or any other Contract is either mutually settled or determined through dispute resolution mechanism as indicated in the Contract or by the competent court as prescribed under Clause 2.7(c), as the case may be, and that the Contractor shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the Contractor.

10. Warranty/ Guarantee:

(a) The Contractor hereby covenants that it is a condition of the Contract that all Goods furnished to the Purchaser under this Contract shall be of the highest grade, free of all defects and faults and of the best materials, quality, manufacture and workmanship throughout and consistent with the established and generally accepted standards for materials of the type ordered and in full conformity with the Contract specification, drawing or sample, if any and shall, if operable, operate properly.

(b) The Contractor also guarantees that the said Goods would continue to conform to the description and quality as aforesaid, for a period of 30 months after their delivery and this warranty shall survive notwithstanding the fact that the Goods may have been inspected, accepted and payment therefore made by

the Purchaser. If a longer/ shorter period of warranty/ guarantee is specified in the Particulars or any other Contract documents, same shall be applicable instead of period specified in this clause.

(c) If during the aforesaid period, the said Goods be discovered not to conform to the description and quality aforesaid or have deteriorated, otherwise than by fair wear and tear, the decision of the Purchaser in that behalf being final and conclusive, the Purchaser will be entitled to reject the said Goods or such portions thereof as may be discovered not to conform to the said description and quality (by way of issue of "Warranty Rejection Advice"). On such rejection, the Goods will be at the Contractor's risk.

Upon receipt of such rejection notice, the Contractor shall, within 60 days, expeditiously repair or replace, at the option of the Purchaser, the defective Goods or parts thereof, free of cost, at the ultimate destination. Alternatively, the Contractor can also be called upon for deposition of equivalent amount of rejected Goods within the aforesaid period.

In case of any rectification of a defect or replacement of any defective Goods during the warranty period, the warranty for the rectified/ replaced Goods shall remain till the original warranty period plus the time from the warranty rejection advice to acceptance of Goods by Consignee after replacement/ rectification.

If the Contractor, having been notified, fails to rectify/ replace the defect(s) within 60 days (or within any other period, if stipulated in the Contract), it shall amount to Breach of Contract for warranty.

(d) The Contractor shall be allowed to collect the rejected Goods only after deposition of payments already made by the Purchaser to the Contractor, if any, in respect of such Goods or after recovery of equivalent amount by the Purchaser from the pending bills of the Contractor or against replacement quantity supplied by the Contractor. Rejected Goods should be suitably defaced before handing over to the Contractor to avoid its re-use. The rejected Goods may be taken over by the Contractor or his agents for disposal in such manner as he may deem fit within a period of 60 days from the date of such rejection, by way of issue of "Warranty Rejection Advice". 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 relating to the 'rejection of goods' and 'failure' and 'termination' and Clauses 4.2, 6.1, 7.6 and 13 shall apply.

(e) Purchaser is entitled to provide for an authorized portal (as an extension of authorised e-procurement portal or otherwise) for management of warranty obligations, including monetary recoveries when due, under the Contract and also provide for detailed procedure for working of such a portal. Working procedure (as amended from time to time) of such a portal shall be binding upon the contractor and shall not be rendered ineffective merely on the ground that the same have not been specifically mentioned in the Contract documents.

(f) Purchaser is entitled to effect due recoveries against warranty rejection advice from the Warranty Security Deposit, if the recoveries from pending bills of the Contractor is not possible.

11. Removal of Rejected Goods:

(a) 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 herein after stipulated, within 21 days of the date of issue of intimation of such rejection, except in case of Warranty Rejection Advice, where the period shall be 60 days. 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 sub-clause (b) below, save that such retention shall not in any circumstances be deemed to be acceptance of the Goods or waiver of rejection thereon.

(b) 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 Clause 7.6(c) besides other dues as mentioned above and action can be taken by the Purchaser as per Clause 9, if Contractor fails to pay the amount due to him.

12. Breach of Contract by Contractor and Purchaser's rights thereof:

Breach of Contract by the Contractor refers to such situations where the Contractor fails to comply with conditions of the Contract. It discharges the Purchaser to proceed further with the performance of his Contractual obligations

and entitles him to a right of action for damages or termination of Contract and to enforce the remedies for such breach as provided in the Contract. A breach of Contract may, however, be waived, with or without damages.

SN	Cause of Breach of Contract	Purchaser's rights
1.	**Delay in Performance of the Contract:** If the Contractor causes delay in supply of part or whole of the Goods and fails to deliver the Goods within the period stipulated in the Contract, duly complying the conditions of Contract, it constitutes a breach of Contract for delay in performance of the contract, as time is the essence of the Contract.	The breach of Contract is only for the quantities of Goods, in supply of which the Contractor has caused delay. Therefore, the Purchaser's rights in case of breach are available only to the extent of the breach, in this case. Purchaser may waive this breach, with or without damages, in terms of Clause 7.5. Purchaser, at its sole discretion, may decide to waive the breach of Contract, with or without damages, for a part or parts of the Contract and decide, at its sole discretion, not to waive breach of Contract for the balance part or parts of the Contract and decide to terminate such balance part or parts of the Contract. Purchaser, in case decides at its sole discretion, not to waive this breach, for any part of the supply of Goods, may terminate the Contract. Conditions for termination of the Contract are detailed below.
2	**Default in Performance of the Contract:** If the Contractor fails to deliver any or all the Goods within the period stipulated in the Contract or within any extension thereof granted by the Purchaser or fails to perform any other Contractual obligations (except warranty), it shall amount to a Breach of Contract.	Purchaser may terminate the Contract.

SN	Cause of Breach of Contract	Purchaser's rights
3.	**Repudiation of the Contract:** If the Contractor refuses to perform the Contract or repudiates it even before the expiry of Delivery Period, the Purchaser may treat such repudiation as a Breach of Contract	Purchaser may terminate the Contract.
4.	**Default in attending Warranty failure:** If the Contractor, having been notified, fails to rectify/ replace the defect(s) within 60 days (or within any other period, if stipulated in the Contract), it shall amount to a Breach of Contract	Purchaser shall be entitled to take action as per Clause 10.
5.	**Default in maintaining requisite SD:** If the Contractor during the currency of the Contract fails to maintain the requisite Security Deposit, it shall amount to a Breach of Contract	Purchaser is entitled to take action as per Clause 3.4.
6.	If the prices charged in the Contract are discovered to be higher than any controlled or regulated price, the Purchaser may treat it as a Breach of Contract.	Purchaser is entitled to take action as per Clause 3.3.
7.	**Insolvency:** If the Contractor being an individual or if a firm, any partner thereof, shall at any time, be adjudged insolvent or shall have a receiving order or order for administration of his estate made against him or shall take any proceeding for composition under any Insolvency Act for the time being in force or make any conveyance or assignment of his effects or enter into any assignment or composition with his creditors or suspend payment or if the firm be dissolved under the Partnership Act, the Purchaser may consider it as a Breach of Contract.	Purchaser may terminate the Contract.

SN	Cause of Breach of Contract	Purchaser's rights
8.	**Liquidation:** if the Contractor being a company is wound up voluntarily or by the order of a Court or a Receiver, Liquidator or Manager on behalf of the Debenture—holders is appointed or circumstances shall have arisen which entitle the Court or Debenture—holders to appoint a Receiver, Liquidator or Manager, the Purchaser may consider it as a Breach of Contract.	Purchaser may terminate the Contract.
9.	Any violation of the provisions of the Contract under Clause 4.9 or Clause 4.10 by the Contractor may be considered by the Purchaser as a Breach of Contract.	Purchaser is entitled to take action as per Clause 4.9 and Clause 4.10.
10	(a) Failure of the Contractor to obtain a valid licence under the extant Labour Codes and Rules before the commencement of the Contract. (b) Failure of the Contractor to continue to have such valid licence until the completion of the Contract.	Purchaser is entitled to take action as per Clause 2.7(f)(ii).
11	Contractor sub-lets or assigns or transfers the Contract or any part thereof without the previous consent in writing of the Purchaser.	Purchaser is entitled to take action as per Clause 4.3(c).

13. Termination of Contract:

(a) Upon the Contractor committing a breach of Contract and the Purchaser, having so decided, may to terminate the contract, in whole or in part, with following actions:

(i) Forfeit the Security Deposit in whole, even if the Contractor defaults in complying with part of the obligations under this Contract.

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

(b) Purchaser's right to terminate the Contract, in whole or in part, without any

compensation to the Contractor, shall not:

(i) pre-judice or affect the rights and remedies which have accrued and/ or shall accrue to the Purchaser after such termination.

(ii) affect the performance of the Contract to the extent not terminated unless otherwise instructed by the Purchaser,

(iii) extinguish warranty obligations of the Contractor for the Goods already supplied, if any.

14. Rights of Purchaser on defaults by Contractor

Notwithstanding the rights of the Purchaser under the Contract, especially those mentioned in Clause 12 and Clause 13 above, additionally, the Purchaser shall be entitled to take recourse to any or all of the following actions:

(a) Temporarily withhold payments due to the Contractor under this Contract, till recoveries due to invocation of other Contractual remedies are complete.

(b) Record adverse performance of the Contractor for taking appropriate administrative action, including debarment.

(c) Undertake Dispute Resolution and/ or litigation for the transgression of the law, tort, and loss, which are not addressable by the above means.

15. Limitation of Liabilities:

(a) Except in cases of criminal negligence or wilful misconduct, the aggregate liability of the parties, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price (less payments already made in case of Purchaser), provided that this limitation shall not apply to the cost of repairing or replacing defective equipment/ work under Warranty/Guarantee Clause (Clause 10), or to any obligation of the Contractor to indemnify the Purchaser concerning IPR infringement.

(b) Neither Party shall be liable to the other Party, whether in Contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, which the other Party may suffer in connection with the Contract, provided that this exclusion shall not apply to any obligation of the Contractor to pay liquidated damages to the Purchaser.

16. Force Majeure:

(a) On the occurrence of any unforeseen event, beyond the control of either Party, directly interfering with the delivery of Goods 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 his obligations under the Contract if it is the result of an event of Force Majeure.

17. Book Examination Clause:

The Government reserves the right for 'Book Examination' as follows:

(a) The Contractor shall whenever called upon and required to produce or cause to be produced, for examination by any Government Officer duly authorised in that behalf, any cost or other book of account, voucher, receipt, letter, memorandum, paper or writing or any copy of or extract from any such document. The Contractor shall also furnish information relating to the execution of this Contract or relevant for verifying or ascertaining the cost of executing this Contract to such Government Officer in such manner as may be required. The decision of such Government Officer on the question of relevancy of any document, information of return being final and binding on the parties. The obligation imposed by this clause is without prejudice to the Contractor's obligations under any other statute, rules or orders which shall be concurrently binding on the Contractor.

(b) The Contractor shall, if the authorised Government Officer so requires (whether before or after the prices have been finally fixed), afford facilities to the Government Officer concerned to visit the Contractor's premises to examine the processes of production and estimate or ascertaining the cost of performance of Contract. The authorised Government Officer shall have power to examine all the relevant books of Contractor's Sub-Contractor, or any subsidiary or allied firm or company, if any portion of the Contract is entrusted or carried out by such entities.

(c) If on such examination, it is established that the Contracted price is more than the actual cost-plus reasonable margin of profit, the Purchaser shall have the right to reduce the price and determine the amount to a reasonable level.

(d) The Contractor or its agency is bound to allow examination of its books within 60 days from the date the notice is received by the Contractor or its agencies calling for the production of documents under sub-clause (a) above. In the event of the Contractor's or his agency's failure to do so, the Contract price would be reduced and determined according to the best judgment of the Purchaser, which would be final and binding on the Contractor and his agencies.

18. Payment of Taxes and Duties:

(a) The Contractor shall be fully responsible for all taxes, duties, fees, levies etc., incurred up to the point of delivery of the Goods to the Purchaser.

(b) Goods and Services Tax (GST) shall be paid at the rate applicable or as assessed, provided the sale transaction is legally subject to such taxes and is payable according to the terms of the Contract, subject to the following conditions:

(i) Payment of GST to the Contractor shall be made only upon submission of a GST-compliant bill/ invoice by the Contractor. It shall be the entire and sole responsibility of the Contractor to ensure that the invoice must include the correct and appropriate HSN code and applicable GST rate.

(ii) The delivery must be recorded in the name, location, and GSTIN of the Consignee, and the location of the Office of the Purchaser shall have no impact on invoicing.

(iii) Purchaser shall not pay a higher GST rate, if leviable, due to any misclassification of HSN number or incorrect GST rate incorporated in the Contract due to Contractor's fault. If the Contractor invoices Goods with a GST rate or HSN number differing from those specified in the Contract, payment shall be made as per invoiced GST rate or the GST rate incorporated in the Contract, whichever is lower. In case GST rate invoiced is higher than the one incorporated in Contract, the Contractor shall be required to adjust his basic price to the extent required by the higher GST rate as per invoice to match the all-inclusive price mentioned in the Contract.

(c) **Statutory Variation Clause:**
Unless otherwise stated in the Contract, statutory variation (fresh imposition and/ or variation) in applicable GST rate or other taxes and duties mentioned in the Contract shall be borne by the Purchaser, for statutory variations occurring after the date of submission of the tender, as per the conditions of the Contract, including amendments if any. However, GST rate amendments shall be considered for the quoted HSN code only, against documentary evidence, provided such an increase in GST rates is after the tender submission date and shall not be applicable for any misquotation of the HSN number or GST rate by the Contractor. The Purchaser is not liable for any claim from the Contractor on account of fresh imposition and/ or increase (including statutory increase) of GST, customs duty, or other duties on raw materials and/ or components used directly in the manufacture of the Contracted Goods taking place during the pendency of the Contract- unless such liability is expressly agreed to in terms of the Contract.

19. Deleted.

20. Code of Integrity: Misdemeanours and Penalties:

20.1 Parties to the Contract shall not indulge in following prohibited practices, either directly or indirectly, at any stage during the execution of Contract:

(a) "Corrupt practice"- making offer, solicitation or acceptance of a bribe, reward or

gift or any material benefit, in exchange for an unfair advantage or an inducement or reward for performing or refraining from performing any act related to execution of the Contract, or any other Contract with the Purchaser or the Government. This also applies to actions intended to show favour or disfavour towards any person in relation to the Contract.

Additionally, if the Contractor, or anyone employed or acting on his behalf (with or without the Contractor's knowledge), breaches this condition or commits any offense under Chapter XII of the Bharatiya Nyaya Sanhita, 2023 (as amended) or the Prevention of Corruption Act, 1988 (as amended), or any other law enacted for the prevention of corruption by public servants, the Purchaser shall have the right to terminate the Contract, as well as any other Contracts with the Contractor, and take further actions as outlined below.

(b) "Fraudulent practice"- Any act of omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained or an obligation avoided during execution of the Contract.

(c) "Coercive practice" — any act of inflicting harm or threatening to harm persons or their property to affect the execution of a Contract.

(d) "Undue Advantage" - improper use of information obtained by the Contractor from the Purchaser with an intent to gain an unfair advantage in execution of the Contract or for personal gain.

(e) "Obstructive Practice" — Any action that materially impede Purchaser investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/ or by coercive practices mentioned above, to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Purchaser's rights of audit or access to information.

20.2 Obligations for Proactive Disclosures in case of Conflict of Interest:

"Conflict of Interest"- Any personal, financial, or business relationship between the Contractor and any personnel of the Purchaser who are involved, either directly or indirectly, in the execution of the Contract.

Contractor is obliged under the Code of Integrity to suo-motu proactively declare any conflict of interest (coming under the definition mentioned above - pre-existing or as and as soon as these arise at any stage) in execution of the Contract. Failure to do so shall amount to a violation of Code of Integrity.

20.3 Misdemeanours:

The following actions shall be regarded as misdemeanours—if a Contractor, either directly or indirectly, engages in such behaviour at any stage during the execution of the Contract:

(a) Violates the Code of Integrity;

(b) Convicted of an offence under the Prevention of Corruption Act, 1988 (as amended) or under the erstwhile Indian Penal Code, 1860 (as amended) or under the Bharatiya Nyaya Sanhita, 2023 (as amended) or any other law for the time being in force for causing any loss of life or property or causing a threat to public health as part of the execution of a public procurement Contract;

(c) Employs a government servant who has been dismissed or removed due to corruption;

(d) Employs a non-official convicted of an offense involving corruption or abetment of such an offense, in a position where they could corrupt government servants;

(e) Employs a government officer within one year of his retirement who has had business dealings with the Contractor in an official capacity before retirement.

(f) Is determined by the Government to have doubtful loyalty to the country or national security consideration.

20.4 Penalties for Misdemeanours:

Without prejudice to and in addition to the rights of the Purchaser to other remedies as per the Contract, if the Purchaser concludes that a Contractor directly or through an agent has committed a misdemeanour in executing a Contract, the Purchaser shall be entitled, and it shall be lawful on his part to take appropriate measures, including the following:

(a) Termination of the Contract, utilizing all remedies prescribed therein;

(b) Forfeiture or Encashment of any Security Deposit associated with the Contract and

(c) Recovery of any payments made by the Purchaser, including advance payments, along with interest at the prevailing Repo Rate (declared from time to time by RBI) prevailing on the date of such termination of the Contract.

(d) In addition to the above penalties, the Purchaser shall be entitled and it shall be lawful for him to:

(1) File information against such bidder/ Contractor or any of its successors, with the Competition Commission of India for further processing, in case of anti-competitive practices;

(2) Initiate proceedings in a court of law against Contractor or any of its successors, under the Prevention of Corruption Act, 1988 (as amended) or under the Bharatiya Nyaya Sanhita, 2023 (as amended) or any other law for transgression not addressable by other remedies listed in this sub-clause.

(3) Remove Contractor or any of its successors from the list of registered/approved suppliers for a period not exceeding two years. Suppliers removed from the list of registered/approved vendors or their

related entities may be allowed to apply afresh for registration only after the expiry of the period of removal.

(4) Debar the Contractor from participation in future to Purchaser's procurements without prejudice to legal rights and remedies. Debarment shall automatically extend to all the allied firms of the debarred firm.

20.5 Any dispute or difference in respect of the interpretation, effect, application, or recoverable amount under the aforementioned clauses by the Purchaser from the Contractor shall be decided by the Purchaser, whose decision there on shall be final and binding on the Contractor.

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Annexure-B

Provisions related to procurement process prior to contract formulation as contained in IRS Conditions of Contract, 2022 and removed from IRS Conditions of Contract, 2025. Railway units to include suitable provisions in their tender documents.

(1) Security Deposit:

(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. *(Para 0501 of IRS Conditions of Contract, 2022).*

(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. *(Para 0502 of IRS Conditions of Contract, 2022).*

(c) No interest shall be payable upon the Bid Security. *(Portion of para 0503 of IRS Conditions of Contract, 2022).*

(2) Code of Integrity: *(Portion of para 2502 of IRS Conditions of Contract, 2022).*

Purchaser as well as bidders shall not indulge in following prohibited practices, either directly or indirectly, at any stage during the tender process:

(a) "Corrupt practice"- making offer, solicitation or acceptance of a bribe, reward or gift or any material benefit, in exchange for an unfair advantage in the tender process or to otherwise influence the tender process. *(Para 2502(a) of IRS Conditions of Contract, 2022).*

(b) "Fraudulent practice": any omission or misrepresentation that may mislead or attempt to mislead so that financial or other benefits may be obtained, or an obligation avoided. Such practices include a false declaration or false information for participation in a tender process or to secure a contract. *(Portion of para 2502(b) of IRS Conditions of Contract, 2022).*

(c) "Anti-competitive practice": any collusion, bid-rigging or anti-competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the Purchaser, that may impair the transparency, fairness, and the progress of the tender process or to establish bid prices at artificial, non-competitive levels; *(Para 2502(c) of IRS Conditions of Contract, 2022).*

(d) "Coercive practice": any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the tender process;

(e) "Conflict of interest" (COI): any personal, financial or business relationship between the bidder and any personnel of the purchaser who are directly or

indirectly related to the tender process, which can affect the decision of the purchaser directly or indirectly.

(f) "Undue Advantage": improper use of information obtained by the bidder from the purchaser with an intent to gain an unfair advantage in the tender process or for personal gain. This also includes if the bidder (or his allied firm) provided services for the need assessment/ procurement planning of the tender process in which he is participating.

(3) Obligations for proactive disclosures:

(a) Purchaser as well as bidders are obliged under this Code of Integrity to suo-motu proactively declare any conflict of interest (coming under the definition mentioned above - pre-existing or as and as soon as these arise at any stage) in any Tender Process. Failure to do so shall amount to a violation of this code of integrity. *(Portion of para 2503(a) of IRS Conditions of Contract, 2022).*

(b) Any bidder must declare, whether asked or not in a bid-document, any previous transgressions of such code of integrity during the last three years or of being under any category of debarment by the Central Government or by the Ministry/ Department of the Procuring Organisation from participation in Tender Processes. Failure to do so shall amount to a violation of this code of integrity. *(Para 2503(b) of IRS Conditions of Contract, 2022).*

(4) Misdemeanours: *(Portion of para 2504 of IRS Conditions of Contract, 2022).*

The following shall be regarded as misdemeanours—If a bidder, either directly or indirectly, at any stage during the tender process, commits any of the following misdemeanours:

(a) Violates the Code of Integrity;

(b) Convicted of an offence under the Prevention of Corruption Act, 1988 (as amended) or under the erstwhile Indian Penal Code, 1860 (as amended) or under the Bharatiya Nyaya Sanhita, 2023 (as amended) or any other law for the time being in force for causing any loss of life or property or causing a threat to public health as part of the execution of a public procurement Contract;

(c) Employs a government servant who has been dismissed or removed on account of corruption;

(d) Employs a non-official convicted of an offence involving corruption or abetment of such an offence, in a position where they could corrupt government servants;

(e) Employs a government officer within one year of his retirement who has had business dealings with him in an official capacity before retirement;

(f) Is determined by the Government of India to have doubtful loyalty to the country or national security consideration;

(g) Any other misdemeanour such as failure to abide by 'Bid securing declaration'.

(5) Penalties for misdemeanours: *(Portion of para 2505 and para 2506 of IRS Conditions of Contract, 2022).*

Without prejudice to and in addition to the rights of the Purchaser to other remedies as per the Tender-documents, if the Purchaser concludes that a (prospective) bidder directly or through an agent has committed a misdemeanour in competing for the tender, the Purchaser shall be entitled, and it shall be lawful on his part to take appropriate measures, including the following, if his bids are under consideration in any procurement:

(a) Enforcement of Bid Securing Declaration in lieu of forfeiture or encashment of Bid Security;

(b) calling off of any pre-contract negotiations and;

(c) rejection and exclusion of Bidder from the Tender Process.

(d) In addition to the above penalties, the Purchaser shall be entitled and it shall be lawful on his part to:

(i) File information against Bidder or any of its successors, with the Competition Commission of India for further processing, in case of anti-competitive practices;

(ii) Initiate proceedings in a court of law against Bidder or any of its successors, under the Prevention of Corruption Act, 1988 (as amended) or under the Bharatiya Nyaya Sanhita, 2023 (as amended) or any other law for transgression not addressable by other remedies listed in this sub-clause.

(iii) Remove Bidder or any of its successors from the list of registered/ approved suppliers for a period not exceeding two years. Suppliers removed from the list of registered/ approved vendors or their related entities may be allowed to apply afresh for registration after the expiry of the period of removal.

(iv) Debar a bidder from participation in future to purchaser's procurements without prejudice to legal rights and remedies. Debarment shall automatically extend to all the allied firms of the debarred firm.

(v) The Ministry/ Department may debar a bidder or any of its successors from participating in any Tender Process undertaken by Purchaser for a period not exceeding two years commencing from the date of debarment for misdemeanours listed above. The Ministry/ Department shall maintain such a list which shall also be displayed on their website.

(vi) Central Government (Department of Expenditure (DoE), Ministry of Finance) may debar a bidder or any of its successors from participating in any Tender Process undertaken for a period not exceeding two years commencing from the date of debarment for misdemeanours listed above. DoE shall maintain such a list which shall be displayed on Central Public Procurement Portal (CPPP).

(vii) Any dispute or difference in respect of either the interpretation effect or application or the above condition or of the amount recoverable thereunder, shall be decided by the Purchaser, whose decision there on shall be final and binding. *(Para 2507 of IRS Conditions of Contract, 2022).*

(6) <u>Special Conditions for Running Contract:</u> *(para 3500 to para 4100 of IRS Conditions of Contract, 2022)*

Following (special) conditions wherever they differ from the invitation to tender and instruction to tenderers override the latter. In addition to Standard Conditions of Contract, the following special conditions shall apply to Running Contract: -

(a) <u>Purpose of Contract and Parties to the Contract:</u> *(para 3600 of IRS Conditions of Contract, 2022)*

(i) The parties to the contract, which shall be deemed to be a "Running Contract" and which is intended for the supply of the goods of the descriptions and approximately in the quantities setforth in the contract during the period specified therein, shall be the Contractor of the one part and the authorities named in the contract hereinafter called the Purchaser (which expression shall, where the context so admits or

implies, be deemed to include his successors and assigns) of the other part. The quantities shown in the said Contract, are only approximate, and cannot be guaranteed.

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

(iii) Any variation of this contract shall not be binding on the Purchaser unless or until same is endorsed on the contract or incorporated in a formal instrument in exchange of letters and signed by the parties.

(b) <u>Delivery:</u> *(para 3700 of IRS Conditions of Contract, 2022)*

The Contractor shall as may be required by the Purchaser either deliver free or FOR or CIF at the place or places specified in the contract such quantities of the goods detailed in the said contract as may be ordered direct from the Contractor from time-to-time by the Purchaser or by the Direct Demanding Officer. The Contractor shall deliver or despatch the full quantity of the goods so ordered within the period specified in the said contract.

(c) <u>Increase or Decrease of Quantities:</u> *(para 3800 of IRS Conditions of Contract, 2022)*

The purchaser shall be entitled to vary the approximate total quantities of each description of goods shown in the said contract up to 30 percent, in one or more instalments, any time within the last date of delivery period (including extended delivery period) by giving a reasonable notice in writing of such variation.

(d) <u>Maintenance and Replacement of Stocks:</u> *(para 3900 of IRS Conditions of Contract, 2022)*

(i) To meet casual demands, the Contractor shall maintain at all time in stock (until 70 per cent of the requirements have been drawn), at the place(s) specified in the contract, the quantity/ quantities mentioned therein. All demands should be complied with immediately they are received by the Contractor or within the period, if any, stipulated in individual orders. As soon as the Contractor is called upon to effect supplies, he shall take action to replenish the guaranteed stocks until such time as 70 percent of the total approximate requirement has been drawn and such replenishment shall be completed with the period specified in the contract, after the receipt by the Contractor of casual demands. Due notice will be given to the Contractor by the Direct Demanding Officers or by the Purchaser, if any additional quantities over and above 70 per cent of the total approximate requirements are required and Contractor shall then arrange stocks accordingly.

(ii) The period for replenishment of stocks will be allowed only if the material is not in stock. If the material is in stock, this Provision will be inoperative even though the guaranteed stock quantity may have been supplied against the contract.

(iii) As an alternative to Sub-Clauses (i) and (ii) above, at the option of the Purchaser, or Direct Demanding Officer, he may order more than one instalment of deliveries at a time by stipulating instalment wise start date and completion date of supply. Delivery period of all the instalments except the first one shall be deemed tentative/ provisional till the start date of the corresponding instalment unless otherwise expressly communicated in main contract or any subsequent communication by the purchaser to the contractor. Purchaser without prejudice to other provisions under the contract, reserves the right to make deferment in the aforementioned tentative/ provisional delivery period of any instalment, constituting the elements of start date and completion date of supply for that instalment. Unless mutually agreed by Parties, the maximum period of deferment for any instalment will be limited to six months.

(e) <u>Reporting Progress of Contract:</u> *(para 4000 of IRS Conditions of Contract, 2022)*

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

(f) Special conditions where they differ from Standard Conditions override the latter. *(para 4100 of IRS Conditions of Contract, 2022)*

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