

## **Section IV: General Conditions of Contract (GCC)**

### **Part I: General Conditions of Contract applicable to all types of Tenders**

#### **1. Definitions; Interpretation and Abbreviations:**

In the contract, unless otherwise, the context requires:

##### **1.1 Definitions and Interpretation:**

- i) "Contract" means the letter or memorandum communicating to the Contractor the acceptance of this tender and includes "Intimation of Award" of his tender; "Contract" includes and Bid Invitation, Instructions to Tenderers, Tender, Acceptance of Tender, General Conditions of Contract, Schedule of Requirements, particulars and the other conditions specified in the acceptance of tender and includes a repeat order which has been accepted or acted upon by the Contractor and a formal agreement, if executed;
- ii) "Contractor" or "Supplier" means the individual or the firm supplying the goods and services. The term includes his employees, agents, successors, authorized dealers, stockists and distributors. Other homologous terms are: Vendor, Firm, Manufacturer, OEM etc.;
- iii) "Drawing" means the drawing or drawings specified in or annexed to the Specifications;
- iv) "Government" means the Central Government or a State Government as the case may be;
- v) The "Inspecting Officer" means the person, or organisation specified in the contract for the purpose of inspection of stores of work under the contract and includes his / their authorised representative;
- vi) "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;
- vii) The "Purchaser" means SAJC — the organization purchasing goods and services as incorporated in the documents;
- viii) "Signed" includes stamped, except in the case of an acceptance of tender or any amendment thereof;
- ix) "Test" means such test as is prescribed by the particulars or considered necessary by the Inspecting Officer whether performed or made by the Inspecting Officer or any agency acting under the direction of the Inspecting Officer;
- x) The delivery of the stores shall be deemed to take place on delivery of the stores in accordance with the terms of the contract, after approval by the Inspecting Officer if so provided in the contract —
  - a. The consignee at his premises; or
  - b. Where so provided, the interim consignee at his premises; or
  - c. A carrier or other person named in the contract for the purpose of transmission to the consignee; or
  - d. The consignee at the destination station in case of contract stipulating for delivery of stores at destination station.

- xi) "Writing" or "Written" includes matter either in whole or in part, in manuscript, typewritten, lithographed, cyclostyled, photographed or printed under or over signature or seal, as the case may be.
- xii) Words in the singular include the plural and vice-versa.
- xiii) Words importing the masculine gender shall be taken to include the feminine gender and words importing persons shall include any company or association or body of individuals, whether incorporated or not.
- xiv) The heading of these conditions shall not affect the interpretation or construction thereof.
- xv) 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.
- xvi) PARTIES: The parties to the contract are the "Contractor" and the "Purchaser", as defined above;
- xvii) "Tender" means quotation / bid received from a firm / supplier.
- xviii) "Goods" means the articles, material, commodities, livestock, furniture, fixtures, raw material, spares, instruments, machinery, equipment, industrial plant etc. which the supplier is required to supply to SAJC under the contract. Other homologous terms are: Stores, Materials etc.
- xix) "Services" means services allied and incidental to the supply of goods, such as transportation, installation, commissioning, provision of technical assistance, training, after sales service, maintenance service and other such obligations of the supplier covered under the contract.
- xx) "Earnest Money Deposit" (EMD) means monetary guarantee to be furnished by a Tenderer along with its tender.
- xxi) "Performance Security" means monetary guarantee to be furnished by the successful Tenderer for due performance of the contract placed on it. Performance Security is also known as Security Deposit or Performance Bank Guarantee.
- xxii) "Consignee" means the person to whom the goods are required to be delivered as specified in the Contract. If the goods are required to be delivered to a person as an interim consignee for the purpose of dispatch to another person as provided in the Contract then that "another" person is the consignee, also known as ultimate consignee.
- xxiii) "Specification" or "Technical Specification" means the drawing / document/ standard that prescribes the requirement to which product or service has to conform.
- xxiv) "Inspection" means activities such as measuring, examining, testing, analyzing, gauging one or more characteristics of the product or service and comparing the same with the specified requirement to determine conformity.
- xxv) "Day" means calendar day.

## 1.2 **Abbreviations:**

- "AAEC" means "Appreciable Adverse Effect on Competition" as per Competition Act
- "BG" means Bank Guarantee
- "BL or B/L" means Bill of Lading

"CD"	means Custom Duty
"CIF"	means Cost, Insurance and Freight Included
"CMD"	means Chairman and Managing Director
"CPSU"	means Central Public Sector Undertaking
"CST"	means Central Sales Tax
"DDO"	means Direct Demanding Officer in Rate Contracts
"DGS&D"	means Directorate General of Supplies and Disposals
"DP"	means Delivery Period
"ECS"	means Electronic clearing system
"ED"	means Excise Duty
"EMD"	means Earnest money deposit
"EOI"	means Expression of Interest (Tendering System)
"ERV"	means Exchange rate variations
"FAS"	means Free alongside shipment
"FOB"	means Freight on Board
"FOR"	means Free on Rail
"GCC"	means General Conditions of Contract
"GIT"	means General Instructions to Tenderers
"GST"	means Goods and Services Tax which will replace Sales Tax
"H1, H2 etc"	means First Highest, Second Highest Offers etc in Disposal Tenders
"Incoterms"	means International Commercial Terms, 2000 (of ICC)
"L1. L2 etc"	means First or second Lowest Offer etc.
"LC"	means Letter of Credit
"LD or L/D"	means Liquidated Damages
"LSI"	means Large Scale Industry
"NIT"	means Notice Inviting Tenders.
"NSIC"	means National small industries corporation
"PQB"	means Pre qualification bidding
"PSU"	means Public Sector Undertaking
"PVC"	means Price variation clause
"RC"	means Rate contract
"RR or R/R"	means Railway Receipt
"SBD" or "TD"	means Standard Bid Document / Tender Document
"SCC"	means Special Conditions of Contract
"SIT"	means Special Instructions to Tenderers
"SAJC"	means Seth Anandram Jaipuria College, 10 Raja Nabakrishna Street, Kolkata 700 005
"SSI"	means Small Scale Industry
"ST"	means Sales Tax
"VAT"	means Value Added Tax

## **2. Application**

- 2.1. The General Conditions of Contract incorporated in this section shall be applicable for this purchase to the extent the same are not superseded by the Special Conditions of Contract (SCC) prescribed under Section V of this document.
- 2.2. General Conditions of the contract shall not be changed from one tender to other.
- 2.3. **Other Laws and Conditions that will govern the Contract:**  
Besides GCC and SCC following conditions and Laws will also be applicable and would be considered as part of the contract:
  - i. Indian Contracts Act, 1872
  - ii. Sale of Goods Act, 1930
  - iii. Arbitration and Conciliation Act, 1996
  - iv. Competition Act, 2002 as amended by Competition (Amendment Act), 2007
  - v. Contractor's Tender Submissions including Revised Offer during Negotiations if any
  - vi. Conditions in other parts of the Tender Documents
  - vii. Correspondence including counter-offers if any; between the Contactor and SAJC during the Tender Finalization
  - viii. Notification of award and Contract Documents
  - ix. Subsequent Amendments to the Contract

## **3. Use of contract documents and information**

- 3.1. The supplier shall not, without SAJC's prior written consent, disclose the contract or any provision thereof including any specification, drawing, sample or any information furnished by or on behalf of SAJC in connection therewith, to any person other than the person(s) employed by the supplier in the performance of the contract emanating from this tender document. Further, any such disclosure to any such employed person shall be made in confidence and only so far as necessary for the purposes of such performance for this contract.
- 3.2. During the process of procurement of Security or Sensitive Machinery and Items, Tender Documents and the specifications/ drawings of such items would be issued only to Vendors having security clearance within the validity of such clearance and he shall maintain absolute secrecy and strictly control the number of copies and access to the documents and copies thereof, in addition to safeguards mentioned in sub-para above.
- 3.3. Further, the supplier shall not, without SAJC's prior written consent, make use of any document or information mentioned in GCC sub-clause 3.1 above except for the sole purpose of performing this contract.
- 3.4. Except the contract issued to the supplier, each and every other document mentioned in GCC sub-clause 3.1 above shall remain the property of SAJC and, if advised by SAJC, all copies of all such documents shall be returned to SAJC on completion of the supplier's performance and obligations under this contract.

#### **4. Patent Rights**

- 4.1. The supplier shall, at all times, indemnify SAJC, free of cost, against all claims which may arise in respect of goods & services to be provided by the supplier under the contract for infringement of any right protected by patent, registration of designs or trademarks. In the event of any such claim in respect of alleged breach of patent, registered designs, trademarks etc. being made against SAJC, SAJC shall notify the supplier of the same and the supplier shall, at his own expenses take care of the same for settlement without any liability to SAJC.

#### **5. Country of Origin**

- 5.1. All goods and services to be supplied and provided for the contract shall have the origin in India or in the countries with which the Government of India has trade relations.
- 5.2. The word "origin" incorporated in this clause means the place from where the goods are mined, cultivated, grown, manufactured, produced or processed or from where the services are arranged.

#### **6. Performance Bond / Security**

- 6.1. Within twenty-one days after the issue of notification of award by SAJC, the supplier shall furnish performance security to SAJC for an amount equal to ten per cent of the total value of the contract, valid up to sixty days after the date of completion of all contractual obligations by the supplier, including the warranty obligations.
- 6.2. The Performance security shall be denominated in Indian Rupees or in the currency of the contract and shall be in one of the following forms:
- a. Account Payee Demand Draft or Fixed Deposit Receipt drawn on any commercial bank in India, in favour of the same official of SAJC as indicated in the clause 3 of NIT in reference to EMD.
  - b. Bank Guarantee issued by a commercial bank in India, in the prescribed form as provided in section XV of this document.
- 6.3. In the event of any loss due to supplier's failure to fulfill its obligations in terms of the contract, the amount of the performance security shall be payable to SAJC to compensate SAJC for the same.
- 6.4. In the event of any amendment issued to the contract, the supplier shall, within twenty-one days of issue of the amendment, furnish the corresponding amendment to the Performance Security (as necessary), rendering the same valid in all respects in terms of the contract, as amended.
- 6.5. Subject to GCC sub-clause 6.3 above, SAJC will release the performance security without any interest to the supplier on completion of the supplier's all contractual obligations including the warranty obligations.

#### **7. Technical Specifications and Standards**

- 7.1. The Goods & Services to be provided by the supplier under this contract shall conform to the technical specifications and quality control parameters mentioned in 'Technical Specification' and 'Quality Control Requirements' under Sections VII and VIII of this document.

## **8. Packing and Marking**

- 8.1. The packing for the goods to be provided by the supplier should be strong and durable enough to withstand, without limitation, the entire journey during transit including transshipment (if any), rough handling, open storage etc. without any damage, deterioration etc. As and if necessary, the size, weights and volumes of the packing cases shall also take into consideration, the remoteness of the final destination of the goods and availability or otherwise of transport and handling facilities at all points during transit upto final destination as per the contract.
- 8.2. The quality of packing, the manner of marking within & outside the packages and provision of accompanying documentation shall strictly comply with the requirements as provided in Technical Specifications and Quality Control Requirements under Sections V11 and VIII and in SCC under Section V. in case the packing requirements are amended due to issue of any amendment to the contract, the same shall also be taken care of by the supplier accordingly.
- 8.3. **Packing instructions:**  
Unless otherwise mentioned in the Technical Specification and Quality Control Requirements under Sections VII and VIII and in SCC under Section V, the supplier shall make separate packages for each consignee (in case there is more than one consignee mentioned in the contract) and mark each package on three sides with the following with indelible paint of proper quality:
- a) contract number and date
  - b) brief description of goods including quantity
  - c) packing list reference number
  - d) country of origin of goods
  - e) consignee's name and full address and
  - f) supplier's name and address

## **9. Inspection and Quality Control**

- 9.1. SAJC and / or its nominated representative(s) will, without any extra cost to SAJC, inspect and/ or test the ordered goods and the related services to confirm their conformity to the contract specifications and other quality control details incorporated in the contract. SAJC shall inform the supplier in advance, in writing, SAJC's programme for such inspection and, also the identity of the officials to be deputed for this purpose.
- 9.2. The Technical Specification and Quality Control Requirements incorporated in the contract shall specify what inspections and tests are to be carried out and, also, where and how they are to be conducted. If such inspections and tests are conducted in the premises of the supplier or its subcontractor(s), all reasonable facilities and assistance, including access to relevant drawings, design details and production data, shall be furnished by the supplier to SAJC's inspector at no charge to SAJC.
- 9.3. If during such inspections and tests the contracted goods fail to conform to the required specifications and standards, SAJC's inspector may reject them and the supplier shall either replace the rejected goods or make all alterations necessary to meet the specifications and standards, as required, free of cost to SAJC and resubmit the same to SAJC's inspector for conducting the inspections and tests again.

- 9.4. In case the contract stipulates pre-despatch inspection of the ordered goods at suppliers' premises, the supplier shall put up the goods for such inspection to SAJC's inspector well ahead of the contractual delivery period, so that SAJC's inspector is able to complete the inspection within the contractual delivery period.
- 9.5. If the supplier tenders the goods to SAJC's inspector for inspection at the last moment without providing reasonable time to the inspector for completing the inspection within the contractual delivery period, the inspector may carry out the inspection and complete the formality beyond the contractual delivery period at the risk and expense of the supplier. The fact that the goods have been inspected after the contractual delivery period will not have the effect of keeping the contract alive and this will be without any prejudice to the legal rights and remedies available to SAJC under the terms & conditions of the contract.
- 9.6. SAJC's contractual right to inspect, test and, if necessary, reject the goods after the goods' arrival at the final destination shall have no bearing of the fact that the goods have previously been inspected and cleared by SAJC's inspector during pre-despatch inspection mentioned above.
- 9.7. Goods accepted by SAJC and/ or its inspector at initial inspection and in final inspection in terms of the contract shall in no way dilute SAJC's right to reject the same later, if found deficient in terms of the warranty clause of the contract, as incorporated under GCC Clause.

## **10. Terms of Delivery**

- 10.1. Goods shall be delivered by the supplier in accordance with the terms of delivery specified in the contract.

## **11. Transportation of Goods**

- 11.1. The supplier shall not arrange part-shipments and/ or trans-shipment without the express / prior written consent of SAJC.
- 11.2. Instructions for transportation of domestic goods including goods already imported by the supplier under its own arrangement: In case no instruction is provided in this regard in the SCC, the supplier will arrange transportation of the ordered goods as per its own procedure.
- 11.3. Shipping Arrangement for Foreign Contracts: In the case of FOB/FAS contracts, shipping arrangements shall be made by the Ministry of Shipping & Transport (Chartering Wing), Kolkata, INDIA, in accordance with details given in SBD Section XVIII. The Contractor shall give adequate, notice to the Forwarding Agents/Nominees about the readiness of the cargo from time to time and at least six weeks' notice in advance of the required position for finalising the shipping arrangements. In the case of C&F contracts, the Contractor shall arrange shipment in accordance with the requirements of the Ministry of Shipping & Transport, Kolkata, INDIA, indicated in the same SBD section (as applicable).

## **12. Insurance:**

- 12.1 Unless otherwise instructed in the SCC, the supplier shall make arrangements for insuring the goods against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the following manner.
- 12.2 In case of supply of domestic goods on CIF destination basis, the supplier shall be responsible till the entire stores contracted for arrive in good

condition at destination. The transit risk in this respect shall be covered by the Supplier by getting the stores duly insured. The insurance cover shall be obtained by the Supplier in its own name and not in the name of SAJC or its Consignee.

- 12.3 In the case of FOB and C&F offers for import of Goods, insurance shall be arranged by the Purchaser. However, the supplier must give sufficient notice to the Purchaser prior to the date of shipment, so that the Insurance Cover for the shipment can be activated. The Supplier must co-ordinate so as to ensure that the Shipment sails only with Insurance cover in place.
- 12.4 In case of Import of Goods, even in case where the insurance is paid by the Purchaser, and loss or damage shall be made good by the Contractor free of cost, without waiting for the settlement of insurance claim. The payment after settlement of insurance claim shall be reimbursed by the Purchaser to the Contractor. It will be entirely the responsibility of the Contractor to make good loss/damage without waiting for settlement of insurance claim so that machine is commissioned within the time specified in the contract.

### **13. Spare parts**

- 13.1. If specified in the List of Requirements and in the resultant contract, the supplier shall supply / provide any or all of the following materials, information etc. pertaining to spare parts manufactured and/ or supplied by the supplier:
- a) The spare parts as selected by SAJC to be purchased from the supplier, subject to the condition that such purchase of the spare parts shall not relieve the supplier of any contractual obligation including warranty obligations; and
  - b) In case the production of the spare parts is discontinued:
    - i. sufficient advance notice to SAJC before such discontinuation to provide adequate time to SAJC to purchase the required spare parts etc., and
    - ii. immediately following such discontinuation, providing SAJC, free of cost, the designs, drawings, layouts and specifications of the spare parts, as and if requested by SAJC.
- 13.2. Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the goods so that the same are supplied to SAJC promptly on receipt of order from SAJC.

### **14. Incidental services**

- 14.1. Subject to the stipulation, if any, in the SCC (Section-V) and the Technical Specification (Section — VII), the supplier shall be required to perform any or all of the following services:
- a) Providing required jigs and tools for assembly, start-up and maintenance of the goods
  - b) Supplying required number of operation & maintenance manual for the goods
  - c) Installation and commissioning of the goods
  - d) Training of SAJC's operators for operating and maintaining the goods
  - e) Providing after sales service during the tenure of the contract
  - f) Providing maintenance service after expiry of the warranty period of the goods if so incorporated in the contract

- 14.2. Prices to be paid to the supplier by SAJC for any of the required incidental services, if not already included in the contract price during the placement of the contract, shall be settled and decided in advance by SAJC and the supplier. However, such prices shall not exceed the contemporary rates charged by the supplier to other customers for similar services.

### **15. Distribution of Despatch Documents for Clearance/ Receipt of Goods**

- 15.1. The supplier shall send all the relevant despatch documents well in time to SAJC to enable SAJC to clear or receive (as the case may be) the goods in terms of the contract. Unless otherwise specified in the SCC, the usual documents involved and the drill to be followed in general for this purpose are as follows:
- 15.2. For Domestic Goods, including goods already imported by the supplier under its own arrangement Within 24 hours of despatch, the supplier shall notify SAJC, consignee, and others concerned if mentioned in the contract, the complete details of despatch and also supply the following documents to them by registered post / speed post (or as instructed in the contract):
- (a) Supplier's Invoice indicating, inter alia description and specification of the goods, quantity, unit price, total value;
  - (b) Packing list;
  - (c) Insurance certificate;
  - (d) Railway receipt / Consignment note;
  - (e) Manufacturer's guarantee certificate and in-house inspection certificate;
  - (f) Inspection certificate issued by SAJC's inspector
  - (g) Expected date of arrival of goods at destination and
  - (h) Any other document(s), as and if specifically mentioned in the contract.
- 15.3. For Imported Goods, within 3 days of dispatch, the supplier will Notify SAJC, consignee and other concerned if mentioned in the contract, the complete details of dispatch and also supply the following documents to them by Courier (or as instructed in the Contract), besides advance intimation by Fax/ email:
- (a) Clean on Board Airway Bill/Bill of Lading (B/L)
  - (b) Original Invoice
  - (c) Packing List
  - (d) Certificate of Origin from Seller's Chamber of Commerce
  - (e) Certificate of Quality and current manufacture from OEM
  - (f) Dangerous Cargo Certificate, if any.
  - (g) Insurance Policy of 110% if CIF/CIF contract.
  - (h) Performance Bond / Warranty Certificate

### **16. Warranty**

- 16.1 The supplier warrants that the goods supplied under the contract is new, unused and incorporate all recent improvements in design and materials unless prescribed otherwise by SAJC in the contract. The supplier further warrants that the goods supplied under the contract shall have no defect arising from design, materials (except when the design adopted and / or the material used are as per SAJC's specifications) or workmanship or from any

act or omission of the supplier, that may develop under normal use of the supplied goods under the conditions prevailing in India.

- 16.2 This warranty shall remain valid for twelve months after the goods or any portion thereof as the case may be, have been delivered to the final destination and installed and commissioned at the final destination and accepted by SAJC in terms of the contract or for fifteen months from the date of despatch from the supplier's premises for domestic goods (including goods already imported by the supplier under its own arrangement) or for eighteen months after the date of shipment from the port of loading in the source country for imported goods offered from abroad, whichever is earlier, unless specified otherwise in the SCC.
- 16.3. In case of any claim arising out of this warranty, SAJC shall promptly notify the same in writing to the supplier.
- 16.4. Upon receipt of such notice, the supplier shall, with all reasonable speed (or within the period, if specified in the SCC), repair or replace the defective goods or parts thereof, free of cost, at the ultimate destination. The supplier shall take over the replaced parts/ goods after providing their replacements and no claim, whatsoever shall lie on SAJC for such replaced parts/ goods thereafter.
- 16.5. In the event of any rectification of a defect or replacement of any defective goods during the warranty period, the warranty for the rectified/ replaced goods shall be extended to a further period of twelve months from the date such rectified / replaced goods starts functioning to the satisfaction of SAJC.
- 16.6. If the supplier, having been notified, fails to rectify / replace the defect(s) within a reasonable period (or within the period, if specified in the SCC), SAJC may proceed to take such remedial action(s) as deemed fit by SAJC, at the risk and expense of the supplier and without prejudice to other contractual rights and remedies, which SAJC may have against the supplier.

## **17. Assignment**

- 17.1. The Supplier shall not assign, either in whole or in part, its contractual duties, responsibilities and obligations to perform the contract, except with SAJC's prior written permission.

## **18. Sub Contracts**

- 18.1. The Supplier shall notify SAJC in writing of all sub contracts awarded under the contract if not already specified in its tender. Such notification, in its original tender or later, shall not relieve the Supplier from any of its liability or obligation under the terms and conditions of the contract.
- 18.2. Sub contract shall be only for bought out items and sub-assemblies.
- 18.3. Sub contracts shall also comply with the provisions of GCC Clause 5 ("Country of Origin").

## **19. Modification of contract**

- 19.1. Once a contract has been concluded, the terms and conditions thereof will generally not be varied. However if necessary, SAJC may, by a written order given to the supplier at any time during the currency of the contract, amend the contract by making alterations and modifications within the general scope of contract in any one or more of the following:
  - (a) Specifications, drawings, designs etc. where goods to be supplied under the contract are to be specially manufactured for SAJC,

- (b) mode of packing,
  - (c) incidental services to be provided by the supplier
  - (d) mode of despatch,
  - (e) place of delivery, and
  - (f) any other area(s) of the contract, as felt necessary by SAJC depending on the merits of the case.
- 19.2. In the event of any such modification/ alteration causing increase or decrease in the cost of goods and services to be supplied and provided, or in the time required by the supplier to perform any obligation under the contract, an equitable adjustment shall be made in the contract price and/ or contract delivery schedule, as the case may be, and the contract amended accordingly. If the supplier doesn't agree to the adjustment made by SAJC, the supplier shall convey its views to SAJC within twenty one days from the date of the supplier's receipt of SAJC's amendment / modification of the contract.
- 19.3. **Option Clause:** By a suitable provision in the SCC, the Purchaser may reserve the right to increase the ordered quantity by 25% at any time, till final delivery date of the contract, by giving reasonable notice even though the quantity ordered initially has been supplied in full before the last date of Delivery Period.

## **20. Prices**

- 20.1. Prices to be charged by the supplier for supply of goods and provision of services in terms of the contract shall not vary from the corresponding prices quoted by the supplier in its tender or during negotiations, if any, and incorporated in the contract except for any price adjustment authorized in the SCC.

## **21. Taxes and Duties**

- 21.1. Supplier shall be entirely responsible for all taxes, duties, fees, levies etc. incurred until delivery of the contracted goods to SAJC.
- 21.2. Further instruction, if any, shall be as provided in the SCC.

## **22. Terms and Mode of Payment:**

Unless specified otherwise in SCC, the terms of payments would be as follows:

- 22.1. Unless otherwise specified in SCC, usual payment term is 100% on receipt and acceptance of goods by the Purchaser and on production of all required documents by the supplier.
- 22.2. For Domestic Goods: Unless otherwise specified in the SCC, payments to suppliers are usually made by account payee cheque or through ECS only.
- 22.2.1. Where the terms of delivery is FOR dispatching Station, the payment terms, depending on the value and nature of the goods, mode of transportation etc. maybe 60% to 90% (as specified in SIT) on proof of dispatch and other related documents and balance on receipt at site and acceptance by the consignee.
- 22.2.2. Where the terms of delivery is CIF destination / delivery at site/FOR destination, usual payment term is 100% on receipt and acceptance of goods by the consignee and on production of all required documents by the supplier.

- 22.2.3. Where goods to be supplied also need installation and commissioning by the supplier, the payment terms are generally as under:
- (a) For a contract with terms of delivery as FOR dispatching station
    - i. 60% on proof of dispatch along with other specified documents
    - ii. 30% on receipt of the goods at site by the consignee and balance
    - iii. 10% on successful installation and commissioning and acceptance by the user department
  - (b) For a contract with terms of delivery as CIF destination/ Delivery at site/FOR destination
    - i. 90% on receipt and acceptance of goods by the consignee at destination and on production of all required documents by the supplier
    - ii. 10% on successful installation and commissioning and acceptance by the consignee.
- 22.3. For Imported Goods: Unless otherwise specified in SCC, payments are made through an irrevocable Letter of Credit (LC).
- (a) Cases where Installation, Erection and Commissioning (if applicable) are not the responsibility of the Supplier — 100 % net FOB/FAS price is to be paid against invoice, shipping documents, inspection certificate (where applicable), manufacturers' test certificate, etc.
  - (b) Cases where Installation, Erection and Commissioning are the responsibility of the Supplier — 80% to 90% net FOB/FAS price (as specified in the SCC) will be paid against invoice, inspection certificate (where applicable), shipping documents etc. and balance within 21-30 days of successful installation and commissioning at the consignee's premises and acceptance by the consignee.
  - (c) Payment of Agency Commission against FOB/FAS Contract — Entire 100% agency commission is generally paid in Indian Rupees after all other payments have been made to the supplier in terms of the contract.
- 22.4. Unless specified otherwise in the SCC, the following general conditions will apply for payment to the supplier.
- 22.5. The payment shall be made in the currency / currencies authorized in the contract.
- 22.6. The supplier shall send its claim for payment in writing as per Section XIX - "Proforma for Bill for Payments", when contractually due, along with relevant documents etc., duly signed with date, as specified in SCC and in a manner as also specified therein.
- 22.7. While claiming payment, the supplier is also to certify in the bill that the payment being claimed is strictly in terms of the contract and all the obligations on the part of the supplier for claiming that payment has been fulfilled as required under the contract.
- 22.8. The important documents which the supplier is to furnish while claiming payment are:
- a) Original Invoice
  - b) Packing List
  - c) Certificate of country of origin of the goods from seller's Chamber of Commerce.

- d) Certificate of pre-dispatch inspection by SAJC's representative/ nominee
  - e) Manufacturer's test certificate
  - f) Performance/ Warrantee Bond
  - g) Certificate of insurance
  - h) Clean on Bill of lading/ Airway bill/ Rail receipt or any other dispatch document, issued by a government agency (like postal department) or an agency duly authorized by the concerned ministry/ department
  - i) Consignee's Certificate confirming receipt and acceptance of goods
  - j) Dangerous Cargo Certificate, if any, in case of imported goods.
  - k) Any other document specified.
- 22.9. While claiming reimbursement of duties, taxes etc. (like sales tax, excise duty, custom duty) from SAJC, as and if permitted under the contract, the supplier shall also certify that, in case it gets any refund out of such taxes and duties from the concerned authorities at a later date, it (the supplier) shall refund to SAJC, SAJC's share out of such refund received by the supplier. The supplier shall also refund the applicable amount to SAJC immediately on receiving the same from the concerned authorities.
- 22.10. In case where the supplier is not in a position to submit its bill for the balance payment for want of receipted copies of Inspection Note from the consignee and the consignee has not complained about the non-receipt, shortage, or defects in the supplies made, balance amount will be paid by the paying authority without consignee's receipt certificate after three months from the date of the preceding part payment for the goods in question, subject to the following conditions:
- (a) The supplier will make good any defect or deficiency that the consignee (s) may report within six months from the date of despatch of goods.
  - (b) Delay in supplies, if any, has been regularized.
  - (c) The contract price where it is subject to variation has been finalized.
  - (d) The supplier furnishes the following undertakings:  
*"I/ We, \_\_\_\_\_ certify that It We have not received back the Inspection Note duly receipted by the consignee or any communication from SAJC or the consignee about non-receipt, shortage or defects in the goods supplied. I / We agree to make good any defect or deficiency that the consignee may report within three months from the date of receipt of this balance payment or six months from the date of dispatch whichever is later.*

### **23. Delay in the supplier's performance**

- 23.1. The time for and the date specified in the contract or as extended for the delivery of the stores shall be deemed to be the essence of the contract and the supplier shall deliver the goods and perform the services under the contract within the time schedule specified by SAJC in the List of Requirements and as incorporated in the contract.
- 23.2. Subject to the provision under GGG clause 28, any unexcused delay by the supplier in maintaining its contractual obligations towards delivery of goods and performance of services shall render the supplier liable to any or all of the following sanctions besides any administrative action:
- a) imposition of liquidated damages,

- b) forfeiture of its performance security and
  - c) Termination of the contract for default.
- 23.3. If at any time during the currency of the contract, the supplier encounters conditions hindering timely delivery of the goods and performance of services, the supplier shall promptly inform SAJC in writing about the same and its likely duration and make a request to SAJC for extension of the delivery schedule accordingly. On receiving the supplier's communication, SAJC shall examine the situation as soon as possible and, at its discretion, may agree to extend the delivery schedule, with or without liquidated damages for completion of supplier's contractual obligations by issuing an amendment to the contract.
- 23.4. When the period of delivery is extended due to unexcused delay by the supplier, the amendment letter extending the delivery period shall, inter alia contain the following conditions:
- a) SAJC shall recover from the supplier, under the provisions of the clause 24 of the General Conditions of Contract, liquidated damages on the goods and services, which the Supplier has failed to deliver within the delivery period stipulated in the contract
  - b) That no increase in price on account of any ground, whatsoever, including any stipulation in the contract for increase in price on any other ground and, also including statutory increase in or fresh imposition of customs duty, excise duty, sales tax or on account of any other tax or duty which may be levied in respect of the goods and services specified in the contract, which takes place after the date of delivery stipulated in the contract shall be admissible on such of the said goods and services as are delivered and performed after the date of the delivery stipulated in the contract.
  - c) But nevertheless, SAJC shall be entitled to the benefit of any decrease in price on account of reduction in or remission of customs duty, excise duty, sales tax or any other duty or tax or levy or on account of any other grounds, which takes place after the expiry of the date of delivery stipulated in the contract.
- 23.5. The supplier shall not despatch the goods after expiry of the delivery period. The supplier is required to apply to SAJC for extension of delivery period and obtain the same before despatch. In case the supplier despatches the goods without obtaining an extension, it would be doing so at its own risk and no claim for payment for such supply and / or any other expense related to such supply shall lie against SAJC.

## **24. Liquidated damages**

- 24.1. Subject to GCC clause 28, if the supplier fails to deliver any or all of the goods or fails to perform the services within the time frame(s) incorporated in the contract, SAJC shall, without prejudice to other rights and remedies available to SAJC under the contract, deduct from the contract price, as liquidated damages, a sum equivalent to the 0.5% percent (or any other percentage if prescribed in the SCC) of the delivered price of the delayed goods and/ or services for each week of delay or part thereof until actual delivery or performance, subject to a maximum deduction of the 10% (or any other percentage if prescribed in the SCC) of the delayed goods' or services' contract price(s). During the above mentioned delayed period of supply and / or performance, the conditions incorporated under GCC sub-clause 23.4 above shall also apply.

## **25. Custody and Return of SAJC's Materials/ Equipment/ Documents loaned to Contractor**

- 25.1. Whenever stores are required to be issued to the firm/contractor for fabrication or prototypes or sub-assemblies are issued for guidance in fabrication, these would be issued against appropriate Bank Guarantee as specified in SCC. In addition to the Bank Guarantee, appropriate insurance may be asked if specified in the SCC.
- 25.2. All drawings and samples issued to the contractor in connection with the contract must be returned by him. Final payment will be withheld if this is not done, besides any other sanction deemed fit by SAJC.

## **26. Termination for default**

- 26.1. SAJC, without prejudice to any other contractual rights and remedies available to it (SAJC), may, by written notice of default sent to the supplier, terminate the contract in whole or in part, if the supplier fails to deliver any or all of the goods or fails to perform any other contractual obligation(s) within the time period specified in the contract, or within any extension thereof granted by SAJC pursuant to GCC sub-clauses 23.3 and 23.4.
- 26.2. In the event of SAJC terminates the contract in whole or in part, pursuant to GCC sub-clause 26.1 above, SAJC may procure goods and/ or services similar to those cancelled, with such terms and conditions and in such manner as it deems fit at the "Risk and Cost" of the supplier and the supplier shall be liable to SAJC for the extra expenditure, if any, incurred by SAJC for arranging such procurement.
- 26.3. Unless otherwise instructed by SAJC, the supplier shall continue to perform the contract to the extent not terminated.

## **27. Termination for insolvency**

- 27.1. If the supplier becomes bankrupt or otherwise insolvent, SAJC reserves the right to terminate the contract at any time, by serving written notice to the supplier without any compensation, whatsoever, to the supplier, subject to further condition that such termination will not prejudice or affect the rights and remedies which have accrued and / or will accrue thereafter to SAJC.

## **28. Force Majeure**

- 28.1. In the event of any unforeseen event directly interfering with the supply of stores 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 Contractor shall, within a week from the commencement thereof, notify the same in writing to the Purchaser with reasonable evidence thereof. Unless otherwise directed by SAJC in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. If the force majeure condition(s) mentioned above be in force for a period of 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 prior to such termination.

- 28.2. Notwithstanding the provisions contained in GCC clauses 23, 24 and 26, the supplier shall not be liable for imposition of any such sanction so long the delay and/ or failure of the supplier in fulfilling its obligations under the contract is the result of an event of Force Majeure.
- 28.3. In case due to a Force Majeure event SAJC is unable to fulfill its contractual commitment and responsibility, SAJC will notify the supplier accordingly and subsequent actions taken on similar lines described in above subparagraphs.

## **29. Termination for convenience**

- 29.1. SAJC reserves the right to terminate the contract, in whole or In part for its (SAJC's) convenience, by serving written notice on the supplier at any time during the currency of the contract. The notice shall specify that the termination is for the convenience of SAJC. The notice shall also indicate inter-alia, the extent to which the supplier's performance under the contract is terminated, and the date with effect from which such termination will become effective.
- 29.2. The goods and services which are complete and ready in terms of the contract for delivery and performance within thirty days after the supplier's receipt of the notice of termination shall be accepted by SAJC following the contract terms, conditions and prices. For the remaining goods and services, SAJC may decide:
- a. to get any portion of the balance completed and delivered at the contract terms, conditions and prices; and / or
  - b. to cancel the remaining portion of the goods and services and compensate the supplier by paying an agreed amount for the cost incurred by the supplier towards the remaining portion of the goods and services.

## **30. Governing language**

- 30.1. The contract shall be written in Hindi or English language following the provision as contained in GIT clause 2. All correspondence and other documents pertaining to the contract, which the parties exchange, shall also be written accordingly in that language.

## **31. Notices**

- 31.1. Notice, if any, relating to the contract given by one party to the other, shall be sent in writing or by cable or telex or facsimile and confirmed in writing, The procedure will also provide the sender of the notice, the proof of receipt of the notice by the receiver. The addresses of the parties for exchanging such notices will be the addresses as incorporated in the contract.
- 31.2. The effective date of a notice shall be either the date when delivered to the recipient or the effective date specifically mentioned in the notice, whichever is later.

## **32. Code of Ethics**

SAJC as well as Bidders, Suppliers, Contractors, and Consultants under SAJC contracts shall observe the highest standard of ethics during the procurement or execution of such contracts. In pursuit of this policy, for the purposes of this provision, the terms set forth below are defined as follows:

- (a) "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
- (b) "Fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;
- (c) "Collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Purchaser, designed to establish bid prices at artificial, non competitive levels; and
- (d) "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract.
- (e) A particular violation of ethics may span more than one of above mentioned unethical practices.

32.1. The following policies will be adopted in order to maintain the standards of ethics during procurement:

- (a) A proposal for award will be rejected if it is determined that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question.
- (b) A contract will be cancelled if it is determined at any time that SAJC representatives/ officials have directly or indirectly, engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract
- (c) In case any individual staff is found responsible, suitable disciplinary proceedings should be initiated against such staff under the applicable government conduct rules. The existing provisions under the Indian law including the instructions of Central Vigilance Commission should be followed in this regard.
- (d) Firms or individuals shall be banned/ blacklisted after following due process, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a SAJC contract, if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a SAJC contract.

### **33. Resolution of disputes**

33.1. If dispute or difference of any kind shall arise between SAJC and the supplier in connection with or relating to the contract, the parties shall make every effort to resolve the same amicably by mutual consultations. If the parties fail to resolve their dispute or difference by such mutual consultation within twenty one days of its occurrence, then, unless otherwise provided in the SCC, either SAJC or the supplier may seek recourse to settlement of disputes through arbitration as per The Arbitration and conciliation Act 1996 as per following clause.

33.2. Arbitration Clause:- If both parties fail to reach such amicable settlement, then either party (the Purchaser or Seller) may within 21 days of such failure give a written notice to the other party requiring that all matters in dispute or difference be arbitrated upon. Such written notice shall specify the matters which are in difference or of difference of which such written notice has been given and no other matter shall be referred to the arbitration in accordance with the conciliation and arbitration rules of International

Chamber of Commerce {ICC}/United National Commission on International Trade Law (UNCITRL) by three arbitrators appointed in accordance with the procedure set out in clause below. The arbitration proceeding shall be held in Kolkata and shall be conducted in English language. All documentation to be reviewed by the arbitrators and/ or submitted by the parties shall be written or translated into English. Venue of arbitration shall be Kolkata. The arbitrator or arbitrators appointed under this article shall have the power to extend time to make the award with the consent of the parties. Pending reference to arbitration the parties shall make all endeavours to complete the contract/work in all respects and all disputes, if any, will finally be settled in the arbitration.

#### **34. Applicable Law**

- 34.1. The contract shall be interpreted in accordance with the laws of India.
- 34.2. 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 notification of acceptance of the tender has been issued.

#### **35. Secrecy**

- 35.1. The Contractor shall take all reasonable steps necessary to ensure that all persons employed in any work in connection with the contract, have full knowledge of the Official Secrets Act and any regulations framed thereunder.
- 35.2. Any information obtained in the course of the execution of the contract by the Contractor, his servants or agents or any person so employed, as to any matter whatsoever, which would or might be directly or indirectly, of use to any enemy of India, must be treated secret and shall not at any time be communicated to any person.
- 35.3. Any breach of the aforesaid conditions shall entitle the Purchaser to cancel the contract and to purchase or authorise the purchase of the stores at the risk and cost of the Contractor, In the event of such cancellation, the stores or parts manufactured in the execution of the contract shall be taken by the Purchaser at such price as he considers fair and reasonable and the decision of the Purchaser as to such price shall be final and binding on the Contractor.

### **Part II: Additional General Conditions of Contract for specific Types of Tenders in addition/ modification to clauses mentioned above:**

#### **36. Disposal / Sale of Scrap by Tender**

- 36.1 During the currency of contract, no variation in price or rate shall be admissible.

#### **36.2 Payment and Default**

- 36.2.1 Payment may be made in the form of cash or Demand Draft /Pay order issued by any scheduled commercial bank and drawn in favor of the Account mentioned in the NIT.

- 36.2.2 No interest will be paid to the purchaser for the amounts paid or deposited with the SAJC and subsequently found refundable to the purchaser under any of the conditions of the contract.
- 36.2.3 If the purchaser fails to deposit sale value for a sold lot within the allowed period as per relevant clause SAJC may forfeit the security deposit. Requests for an extension of this period, made by the purchaser may be considered by the SAJC and may at its discretion, on the merits of the case, allow further time not excluding 50 days from the date of the contract. Interest shall be leviable on such amount at a rate 2% per annum higher than the PLR of State Bank of India, from the date of expiry of the payment date to actual date of payment (actual date of payment inclusive).
- 36.2.4 The lot or lots in respect of which forfeiture has been made, shall be deemed to have been abandoned by the purchaser to all intents and purposes and may be resold or otherwise disposed of at the discretion of the SAJC without reference to the purchaser concerned and without incurring any liability on part of SAJC whatsoever in respect there under.
- 36.2.5 In case extension is granted by SAJC and due to late payment of sale amount the delivery cannot be completed by the purchaser, in accordance with the relevant clause of Special Conditions of Tender sale, then ground rent shall also be leviable as per relevant clause of Special Conditions of Tender sale.
- 36.2.6 On production of proof of having made payment, nominated authority shall issue a delivery order authorizing the purchaser to take delivery of the Scrap Materials.

### **36.3 Deliveries, Delays and Breach of Contact**

- 36.3.1 The Title of goods or material sold shall not be deemed to have been passed to the Purchaser / Bidder until and unless the full and final payment has been made by the purchaser, in accordance with the contract to the SAJC and the authorized Officer has issued the Delivery Order in favor of the purchaser. The materials sold may be removed from the premises only on production of the cash receipt for the payment and a delivery order from the Officer authorized by the SAJC.
- 36.3.2 Unless specified otherwise in SIT, delivery period for lifting of material shall be within 60 days from the date of finalization of contract agreement.
- 36.3.3 The work of delivery will be supervised by Stock Holder or his authorized representative, representative of accounts Department and Security Staff duly authorized by SAJC for the propose of delivery. Delivery will be allowed during working hours.
- 36.3.4 No delivery of or materials sold shall be given on Sundays, Gazetted holidays and other shall holidays observed by SAJC. The delivery of the goods or material shall be effected from the premises concerned only during its normal working hours. In order to complete the delivery within the working hours all loading must cease half an hour before the normal closing time of the concerned premises. The decision of the SAJC with regard to the working hour shall be final and binding on the purchaser. Purchaser will not be allowed to lift the Scrap Material from more than one location at a time.
- 36.3.5 The purchased stores will be carried away by the purchaser at his risk and no claims against the SAJC will be entertained for shortage in weight which may be discovered after the materials have left the premises

- wherefrom delivery is taken. If required the purchaser shall provide his own bags, cases or other receptacles for the removal of the scrap.
- 36.3.6 The SAJC shall not be responsible for any accident that may occur to purchaser's labors/servants for any reasons whatsoever. The purchaser will himself have to ensure the safety of his workers and shall be liable to pay claims, whatsoever if any. SAJC will not carry any responsibility of such payments. The purchaser will be responsible to supply personal protection equipments to his labour/servant and staff and no additional charges are admissible for the same.
- 36.3.7 The materials sold, shall be removed by the purchaser within the period specified in relevant clause of Special Condition of Sale.
- 36.3.8 If due to any default on the part of the SAJC, the purchaser is unable to remove the materials sold within the specified period, the SAJC may extend the period therefore and in such an event purchaser will be entitled to take delivery of the goods or the materials sold within such extended Delivery period.
- 36.3.9 If contractor fails to lift sold scrap within the specified period, penalty shall be levied at the rate of 0.5% per day of the value of un-removed Scrap. Moreover the material shall remain at the purchaser's risk until removal thereof. Further SAJC will be entitled to charge the ground rent as stated in relevant Para of SCC, for the area in which the materials sold are kept or stored — which would be recovered by the SAJC from the Purchaser before removal of the material and In the event of default in payment thereof, the SAJC at may its discretion shall be entitled to order the re-sale of such materials and forfeit the Security deposit or sale amount or both, paid by the purchaser.
- 36.3.10 If the purchaser makes slow progress with his contract and the SAJC is of opinion that he may fail to fulfill the contract within the time specified in the conditions of sale, it will be lawful for the SAJC to cancel the whole contract or such portion thereof as may not have been completed and the SAJC shall be at liberty to dispose off the goods in any manner at the risk and expense of the purchaser.
- 36.3.11 The purchaser will have to comply with the provisions of the Contract Labour (Regulations and Abolition Act 1970 and Central Rules 1971 and obtain license from the Assistant Labour Commissioner or the competent authorities empowered to issue such license. Any failure on the part of the purchaser in this regard will be at his risk and consequences. He shall comply with Workman's Compensation Act 1923, Payment of Wages Act 1936, and Minimum Wages Act 1948 and all the other related statutory and legal provisions and obligations, The purchaser shall also indemnify the SAJC against any claim / liabilities that may occur to the contractor's labors and servants due to any reasons whatsoever.
- 36.3.12 If the purchaser makes default in complying with any of the condition of the contract, the sale of lot or lots in respect of which such default is made may be cancelled and such lot or lots may be put up again for sale and in such an event if a lower price is offered and accepted for such lot or lots then the purchaser shall be liable to pay the difference in price thereof together with all expenses occasioned by such resale in default to the SAJC provided further that the purchaser in default shall not be entitled to claim any profit which may arise from such resale.