



Procurement of EMU's

Documentation for e-procedures

Present documentation is executed on the basis of “Special Rule on Procurement of Goods and Services by JSC Georgian Railway, the companies established/to be established with share participation of JSC Georgian Railway and the companies established/to be established with share participation of such companies” approved by #665 Decree of Georgian Government dated December 30 2015

Tbilisi
2016

Tender documentation

1. Total price of the unit of procurement : the price for one passenger seat not exceeding 101 500 GEL (excluding VAT);
2. The total contract value not exceeding 162 400 000 GEL excluding VAT;

Purchase Object:

Enclosure №1

Name of procurement object and characteristic	Number of passenger seats in one EMU	Price of one passenger seat in EMU considering financing terms ¹ , excluding VAT	Total price of all passenger seats in one EMU, considering financing terms, excluding VAT	Price of one passenger seat in EMU, not considering financing terms and excluding VAT	Total price of all passenger seats in one EMU, not considering financing terms and excluding VAT	Period of fulfilling obligations	Delivery place	Country of origin/Producer
Procurement of EMU ² (Minimum number of passenger seats in one EMU - 400)								
Total price of four EMUs, not considering financing terms and excluding VAT								

¹ The price has to be presented according the calculation methodology presented in Enclosure №8, considering indicative financing terms.

² Together with spare parts and equipment in compliance with paragraph 3 of Specific requirements.

Specific Requirements:

1. System parameters for EMU's: track gauge – 1520 mm; nominal voltage 3 kV DC;
2. Main technical requirements:
 - Technical conditions and characteristics has to be in compliance with technical requirements provided in Enclosure №9;
 - EMU's delivered in compliance with requirements set out in Enclosure №9 must be new and should not be used in operations. Besides, terms and conditions for storage should not have been breached;
3. Supplier takes obligation, that together with two EMU's to be supplied at the first stage, will supply the following:
 - Spare parts: for the needs of scheduled technical maintenance and all other purposes (including accident repairs) as per experience of the bidder necessary parts to be replaced within a first 5 (five) years of planned operational service of 2 (two) EMU's; -see Enclosure №9b.
 - Specialized equipment: for the needs of carrying out technical maintenance (excluding capital repairs) works in Tbilisi Locomotive Depot of the Buyer, within first 10 (ten) years of planned operational service for 2 (two) EMU's; -see Enclosure №9b.
4. Each supplied EMU has to come with all required technical and operational documentation translated into Russian;
5. Delivery rule and order: interim inspection act is made up at the producer's factory, through the participation of representative of JSC Georgian Railway. The acceptance of goods will be made after successful test runs and all other necessary testings, which will be conducted in accordance with the program agreed upon by and between the purchaser and supplier. The test runs will be conducted with participation of producer's representative, on the tracks of JSC Georgian Railway, at the expense of supplier.
6. Obligations in respect of Guarantee:
 - The guarantee period for EMU's and equipments has to be not less than 24 calendar months.
 - During the guarantee period, under provision that operational norms are not breached by the supplier, the proper functioning and operability of EMU's has to be ensured;
 - The effective day is the execution date of Acceptance Act on EMU's;
 - during the guarantee period, in the event of damage of EMU caused by the producer's fault, the reclamation act is to be made up by and between the representatives of both parties within 24 hours;
 - The losses that purchaser suffers (including unearned revenues) due to the defects indicated in the reclamation act as a consequence of EMU's stopping operations shall be reimbursed by the supplier;

During the guarantee period, in the event of defects caused by supplier's fault, the guarantee period shall be extended by the time required for elimination of such defects.
7. Training of personnel by the supplier: the purchaser's personnel shall go through the practical and methodological training program for

operating the EMU's, conducting technical maintenance and repairs. After successful completion of training program each participant has to receive a certificate. Training shall be held in Georgian language (Russian language is permitted). All the training related expenses shall be covered by the supplier;

8. 85% of the total value of goods deliverable at the first stage has to be financed by loan (according to the financing proposal submitted by supplier), satisfying following requirements:
- the loan, except for 85% of total value of goods deliverable at first stage has to include the costs related to loan insurance;
 - the annual effective rate for loan should not exceed 6.00%;
 - the loan term – not less than 7 years;
 - the bank credit ranking should not be less than “A” category
 - fixed interest rate;
 - Currency of the loan – USD.

3. Bid price and delivery terms:

- The bid price shall be determined in national currency, including all taxes, except VAT, established by Georgian legislation. The bid price must be indicated in unified electronic system (hereinafter – System) excluding VAT, in accordance to the calculation methodology provided in Enclosure №8 and considering indicative terms of financing proposal;
- Expenses that are not included in the bid price will not be reimbursed
- The procurement contract will consider the bid price including VAT, if for the date of signing the contract the bidder is VAT payer according to Georgian legislation, and will not consider financing terms;
- The contract with winning bidder will be executed in USD, based on the official exchange rate announced by National Bank of Georgia on the due day of bid acceptance and the payments will be made in national currency (in case of resident entities) according to the official exchange rate announced by National Bank of Georgia on the day of signing the Acceptance Act;
- The price indicated in the relevant field of the System is considered as the bid price;
- The total price of the procurement object stipulated under contract cannot exceed the final overall price identified through the System by winning bidder of the e-procedure;
- If the bidder makes mechanical error like indication of wrong sum or product, nonconformance of either wordings and numbers, such errors can be corrected without adjustment procedure, with provision of lowest price per unit prevailing principle and if that price does not exceed the indicated one in the relevant field;

- Goods must be delivered under DDP terms. Non-resident supplier has to deliver goods under the DAP terms. Herewith, VAT and customs' clearance taxes which arise while proceeding customs' clearance procedures under import regime, are covered by purchasing organization. The mentioned Customs' clearance tax (except for the VAT amount) including brokerage fee (if any) is deducted from the amounts payable to the supplier when making payments;

4. Stages, place and delivery term of procurement object:

4.1 The delivery and acceptance will be carried out in two stages, but not later than within 12 calendar months from the date of signing the contract, according to the following conditions:

- At the first stage, two units of EMU's has to be supplied within 70 calendar days from the purchaser's written request;
- At the second stage, the other two units of EMU's have to be supplied upon the written request of the purchaser which should be sent by the purchaser not later than 4 calendar months before the expiry date of the contact. Herewith, not sending such written request does not create obligations envisaged by the second stage for parties.

4.2 ~~The acceptance of EMU's by the purchaser will be carried out by stages, total quantity (two units) of delivered EMU's corresponding at each stage;~~ The acceptance of EMU's by the purchaser will be carried out by stages, total quantity (two units) of delivered EMU's corresponding at each stage, if EMU's are supplied without spare parts and specialized equipment (according to the paragraph 3 of Specific Requirements) intermatiate acceptamce will be carried out between the parties and the penalty in the amount of 0.1% of outstanding obligation value (excluding VAT) for each overdue date shall be imposed on the supplier, the imposition of penalty will be stopped when the accrued amount reaches 5% of the outstanding obligation value (without VAT) or at the day when acceptamce act is carried out.

4.3 Place of delivery: Tbilisi locomotive depot 22a Zestaphoni Str., Tbilisi, Georgia;

5. Terms of payment:

5.1 Payment of 15% of the total contract value will be made in two stages. At each stage, with independent from each other delivery provision according to paragraph 4.2, 15% of the total contract value of two EMU's will be transferred within 20 banking days from the date of Acceptance Act in the form of consignment. The advance payment in the amount of 15% of the total contract value for two EMU's is permitted.

The remaining 85% of the total contract value will be financed in the form of loan. At each stage, with independent from each other delivery provision according to paragraph 4.2, 85% of the contract value for two units of EMU's will be paid according to the financing proposal submitted by the bidder.

5.2 In case of advance payment the supplier must submit Bank Guarantee Letter in USD for the full amount of advance payment, from resident banking institution only, the effective period of which has to exceed by 50 days the due date of delivery of goods envisaged by the contract (for non-resident entities it is allowed to have Bank Guarantee issued by foreign bank, however such guarantee has to be confirmed by a banking institution operating in Georgia) (according to Enclosure №7, in compliance with essential terms);

6. Other requirements:

6.1 The bidder has right to submit only one proposal;

6.2 All documents and/or information provided by the bidder uploaded in electronic system must be signed and stamped (in case having stamp) by authorized person (Power of Attorney has to be uploaded if required);

6.3 Regarding the goods to be purchased and determined in the documents where the specific commercial trademark model, source of origin or producer (if any) “similar,” “analogous,” or “equivalent” is meant;

6.4 The bid is valid until following statuses are awarded: electronic procedure of purchase has cancelled, contract awarded or contract not awarded;

6.5 Any correspondence / notification between purchasing organization and supplier is sent through the relevant module of the System and correspondence / notification without using System is not mandatory. The correspondence / notification is considered as received from the moment of uploading it in the system;

6.6 Tender proposal and all documents related to electronic procedure must be submitted in Georgian language; submission of documents or information in English is permitted, however in that case, they shall be accompanied by Russian translation, except for the financing proposal and the documentation required in Enclosure №8;

6.7 In case if the financing institution indicated in the financing proposal, provided by the winning bidder, will not grant the loan to the purchaser in compliance with the requirements provided in the same financial proposal, purchaser preserves the right to unconditionally terminate the contract executed with the winning bidder.

7. Data to be uploaded by bidder in unified electronic system:

7.1 Payment order confirming payment of participation fee in the amount of 450 GEL which shall be paid to the following bank account:
JSC Bank “Republic” Central Branch, SWIFT: REPLGE22, IBAN:GE72 BR00 00010494921495; or equivalent in USD or Euros to the following bank account:

For USD:

For USD:

INTERMEDIARY BANK – SOCIETE GENERALE, N.Y., USA;

SWIFT: SOGE US 33

BENEFICIARY BANK – JSC Bank “Republic” Head Office and Central Branch

2 Gr. Abashidze, 0179, Tbilisi, Georgia

Phone: (995 32) 90-90(90), from mobile: * 90 90

Fax: (995 32) 92-55-44 www.republic.ge Email: info@republic.ge ,
quality@republic.ge

Correspondent Acc. 00195464, **SWIFT:** REPL GE 22

BENEFICIARY – Beneficiary’s name: GEORGIAN RAILWAY JSC

Beneficiary’s IBAN NO: GE72 BR00 0001 0494 9214 95

INTERMEDIARY: DEUTSCHE BANK A.G.

D-6236, FRANKFURT/ESCHBORN

SWIFT: DEUTDEFF. **BLZ:** 50070010

Correspondent Account : 9499096

BENEFICIARY –“JSC “TBC Bank” Head Office and Marjanishvili Branch

Nº7 Marjanishvili, Tbilisi, Georgia, www.tbcbank.ge

Phone: (995 32) 27-27-27, Fax: (995 32) 772-774

SWIFT: TBCBGE22. **BEN “S** Account Nº 112070112

EUR

IBAN: GE11TB1100000112070112 **BENEFICIARY:**

„Georgian Railway“ JSC

- 7.2 Bank Guarantee (from Bank or Insurance company) of the bid in the amount of 5% (8 120 000 (eight million one hundred and twenty thousand) GEL) of estimated value of the contract, however, if the mentioned bank guarantee is presented in foreign currency, the guarantee amount has to be presented in foreign currency calculated on the basis of official exchange rate announced by National Bank of Georgia on the day of announcing electronic procedure of purchase. The validity of bank guarantee has to be at least 120 calendar days from the day of starting the acceptance of bids (according to Enclosure Nº3, in compliance with essential terms);
- 7.3 The price list in accordance with Enclosure Nº1, special requirements must be met (paragraph 2);
- 7.4 Bidder’s requisites in accordance with Enclosure Nº2;
- 7.5 Guarantee letter issued by the producer on behalf of the bidder, which guarantees supply of EMU’s envisaged in the present tender documentation;
- 7.6 Technical specifications in accordance with Enclosure Nº9, confirmed (signed and stamped) by the producer;
- 7.7 Certificate of Quality Management System (ISO 9001:2008 standard) issued in the name of producer, which has to be valid for the finishing day of accepting bids;
- 7.8 Documentation confirming that producer had sold at least 20 (twenty) EMU’s for last 2 (two) years: contract, and acts of acceptance;
- 7.9 According to paragraph 3 of special requirements: description (system, component, each part and etc.), quantity and unit price (excluding VAT) of each position of spare parts, special equipment and tools for 2 (two) EMU’s to be supplied by the producer

(according to Enclosure №9b).

7.10 Financial proposal in accordance with Enclosure №8

7.11 Proposal issued by a Bank in accordance with section 8 of special requirements.

8. Documents to be submitted in originals (by hand) to the purchasing organization:

8.1 The bidder having the lowest price is obliged to submit 5% guarantee for the bidding proposal of electronic procedure of purchase (paragraph 7.2) to the purchasing organization (address: Tbilisi, 15, King Tamar Avenue, Agency of Purchases, room #3085) in no later than 7 (seven) days after the acceptance of bidding proposal of electronic procedure of purchases is over;

8.2 The corrected price list, financial proposal in accordance with Enclosure №8 and document envisaged in section 7.9 in USD, in accordance with the written requirement uploaded in the System by the purchaser;

8.3 Bank Guarantee of the contract (performance guarantee) in accordance with the written requirement uploaded in the System by the purchaser;

Note: In case the bidder does not submit the original copies of the documents on time, Committee will disqualify the bidder.

9. Documentation confirming qualification data of the bidder, which shall be presented in accordance with written request uploaded in the system by the purchaser:

9.1 Excerpt from the registry of entrepreneurial and non-entrepreneurial (non-commercial) legal entities;

9.2 Notice issued by Tbilisi City Court or Kutaisi City Court confirming that there is no pending insolvency case against the bidder;

- This document shall be issued after the starting date of accepting bids in present purchase electronic procedures; non-resident bidders shall submit documents confirming qualification data issued no later than 30 days prior to the date of accepting bids, issued by the relevant public authorities in their states;

Note: In case the bidder fails to submit documents confirming qualification data from the administrative agencies and/or submitted documents contains error/flaws and/or there is pending insolvency case against bidder, the Committee disqualifies bidder.

10. Bank Guarantee for contract (Performance Guarantee):

10.1 In case of winning, the winning bidder shall, before signing the contract, submit unconditional and irrevocable bank guarantee (in

USD) in the amount of 5% of contract value, issued only by the resident bank of Georgia, the validity period of which has to exceed by 50 days the deadline set by the contract for fulfilling the obligations, (for non-resident bidders, guarantee issued by foreign bank is permitted, however such guarantee must be confirmed by the resident bank of Georgia (Enclosure №4);

11. Information for the participants of electronic procedure:

- 11.1 For taking part in electronic procedure of purchase the bidder can submit proposal from the commencement date of accepting proposal before the deadline for bid submission;
- 11.2 Interested person has to provide his consent to the text of affidavit for taking part in electronic procedure of purchase and afterwards pay the fee (50 GEL) for participating in electronic purchases electronically (through System, in accordance with Georgian legislation);
- 11.3 After carrying out the activities foreseen under above mentioned paragraphs 11.1 and 11.2, bidder is obliged to upload (only through System) documents to be uploaded under paragraph 7 of this documentation;
- 11.4 After uploading documents foreseen under paragraph three of this Article the bidder has to indicate the price of proposal in relevant field of System which shall not be more than supposed value of purchasing object or shall be at least one lot lower than supposed value of purchasing object;
- 11.5 The rule and conditions of executing electronic procedure of purchase Enclosure №5 “Special Rule on Procurement of Goods and Services by JSC Georgian Railway, the companies established/to be established with share participation of JSC Georgian Railway and the companies established/to be established with share participation of such companies”.

Contact person:

Senior specialist: Giorgi Lomidze, tel.: (995 32) 219-98-27; +995 597223333 E-mail: Giorgi.Lomidze@railway.ge

Senior specialist: Levan Fulariani, tel.: (995 32) 219-89-08

Senior specialist: Kakha Berdzenishvili, tel.: (995 32) 219-97-75

Senior specialist: Elguja Goderdzishvili, tel.: (995 32) 219-91-04

Senior specialist: Elena Muradova, tel.: (995 32) 219-91-73

Enclosure №2

1	Legal form and name of the bidder	
2	Full name of person-in-chief	
3	Legal and/or actual address of the bidder	
4	Identification code	
5	Bidder's contact telephone number	
6	E-mail address	
7	Bank requisites: SWIFT, account number and so on	
8	Preferable payment form (paragraph 5)	

** This Annex must be signed by authorized person.*

Guarantee for proposed bid in electronic procedure

Having being considered that _____

(Person for whom the Guarantee Letter is issued)

(Hereinafter “Bidder”) is ready for submitting its proposal _____ for taking part in the electronic procedure announced for purchase by commission _____

(Name of purchasing organization)

(Title of goods)

We _____ (hereinafter “Bank”)

(Bank name)

Confirm, that

We take obligation towards JSC “Georgian Railway” (hereinafter “Purchaser”) according to which

(Name of purchasing organization)

We will timely provide full payment to the purchaser _____

(Amount in numbers, words, indicating currency)

In following cases:

1. If the bidder, before expiration of the validity period of his proposal, refuses to participate in electronic procedures;
2. In case of winning, the bidder refuses to sign the contract about purchase with purchaser on the basis of “Special Rule on Procurement of Goods and Services by JSC Georgian Railway, the companies established/to be established with share participation of JSC Georgian Railway and the companies established/to be established with share participation of such companies”;
3. If the bidder is disqualified during procedure of purchase due to committing dishonest action;
4. If the bidder does not submit performance guarantee within the time period indicated by the purchaser (from only bank institutions).

Guarantee remains in force before _____ *

(Date)

****Guarantee validity period shall be no less than 120 days after the day when bidding proposals started to be accepted in electronic procedure***

Bank ensures the payment of guarantee amount as soon as receives written request from purchaser, without presenting any kind of evidences from purchaser provided that in purchaser's requirement it will be indicated for which above mentioned case (cases) this amount is due and purchaser's requirement on paying guarantee amount is submitted to the Bank until expiration the guarantee validity period.

(Signature)

(Full name, position)

Confirmed by Bank's seal _____ 2016

Enclosure №4

**Guarantee for Performance of Contract
(Bank Guarantee)**

Sample

To: _____

(Purchaser)

Taking into consideration that _____

(Supplier)

Hereinafter "Supplier" _____ in accordance with the bidding proposal submitted in electronic procedure

(name)

Took obligation to present bank guarantee in the form of guarantee for fulfilling obligations for the amount indicated in the contract, we, guarantor agree to issue the above mentioned bank guarantee on behalf of Principal (supplier).

Hereby, we confirm that we are guarantors and are liable for total amount _____ in USD on behalf of Principal (supplier) towards you

(Amount in digits and words)

And we undertake to pay, upon your first written request, this amount to you if the principal breaches the conditions of the contract.

The request for compensating guarantee amount should be submitted by beneficiary in written form certified with signature and seal where the amount requested should be indicated and explained specifically which terms of contract have been infringed by Principal between Principal and Beneficiary.

Due to the mentioned any request or claim should be presented before the deadline of Bank Guarantee
_____ (bank title/branch, address)

Bank Guarantee is automatically cancelled

- Expiration of bank guarantee
- Due to the guarantee if Beneficiary waives its rights in written and when re-paying the guarantee.

Signature and seal of guarantors

***The validity period of present guarantee should be more than the deadline of fulfilling obligations foreseen under the contract in 50 days.**

“Special Rule on Procurement of Goods and Services by JSC Georgian Railway, the companies established/to be established with share participation of JSC Georgian Railway and the companies established with share participation of such companies

Article 1. General Terms

1. “Special Rule on Procurement of Goods and Services by JSC Georgian Railway, the companies established/to be established with share participation of JSC Georgian Railway and the companies established with share participation of such companies” determines the special rules of procurement of goods and services listed in annex to this regulation (hereinafter – the **Regulation**).

2. This Regulation aims at:

- a) ensuring incurrence of expenses from the financial resources designated for procurement in a rational manner ;
- b) Ensuring fair and non-discriminative approach towards participants of procurement procedures;
- c) Ensuring publicity of procurement procedures.

3. On the basis of decision of the Board of Directors of JSC Georgian Railway, JSC Georgian Railway and the Companies established with its share participation, for the procurement purposes may use procurement procedures of World Bank, United Nations, European Bank for Reconstruction and Development, Asian Development Bank, German Reconstruction Credit Bank and European Investment Bank or other international organizations, if any.

4. Procurements that are not governed by this Regulation are regulated in accordance with Law of Georgia on “State Procurement” and applicable by-laws.

5. Georgian Railway JSC, the companies established/to be established with share participation of JSC Georgian Railway and companies established/to be established with share participation of such companies are entitled to take part in consolidated tender in accordance and within the limits envisaged by terms and conditions of Georgian laws and applicable consolidated tender documentation.

Article 2. Definition of terms

Terms used in this Regulation have following meanings:

- a) Purchaser – JSC Georgian Railway, companies established/to be established with more than 50% share participation of JSC Georgian Railway and companies established/to be established with more than 50% share participation of such companies;
- b) Procurement – procurement of goods and services listed in annex to this Regulation with financial resources of the Purchaser (the annex comprises of 6 parts, which separately determine the list of goods and services the power for purchase of which may be procured by JSC Georgian Railway, companies established/to be established with more than 50% share participation of JSC Georgian Railway and companies established/to be established with more than 50% share participation of such companies in accordance with the procedures and terms of this Regulation;
- c) Direct contract award – procurement mean, which may be exercised in the cases foreseen under Article 5 of this Regulation;
- d) Urgent necessity – situation which causes real danger to the operation of the Purchaser and which cannot be determined in advance and/or which are not caused by the Purchaser’s action or which may cause significant damage to the interests of the Purchaser and its property;
- e) United electronic system of procurement – united electronic system of state procurement envisaged by Georgian legislation (hereinafter – the System);
- f) Electronic Procurement Procedure – mean of procurement of goods and services foreseen by annex to this Regulation, execution of which shall have to be carried out in accordance with rules and terms envisaged by this Regulation (for the purposes of securities of proposals and contracts envisaged by this Regulation the term – Tender may be used);
- g) Participation Fee– the fee determined by Article 14 of this Regulation which is payable to the Purchaser’s account;

- h) Bidder – a person, who has paid the Participation Fee for the purposes of participation in Electronic Procurement Procedure;
- i) Supplier – a person, with whom the Purchaser, as a result of participation in Electronic Procurement Procedure has entered into a procurement contract;
- j) Bid for decreasing proposal price – amount indicated in the Purchaser’s statement, in the amount from 0.4% up to 2% of the presumable price of a procurement object (hereinafter – the Bid);
- k) Proposal – technical documentation submitted by the Bidder in accordance with this Regulation, through the System and the price reflected by the Bidder in respective field of the System;
- l) Technical Documentation – information about the Bidder and the Procurement object uploaded by the Bidder in the System, as per requirements of the Purchaser in the frame of relevant statement and documentation;
- m) Electronic Bidding – a procedure constituent to electronic procurement determined by law of Georgia on State Procurement, in the frame of which through the System, the Bidder may decrease the submitted proposal price for the purposes of winning in the Electronic Procurement Procedure ;
- n) Documents certifying qualification– documents determined by the Purchaser in the documentation, to be obtained from administrative agencies and the courts and submitted by the Bidder, in case of Electronic Procedure. If the price is equal or less than 200 000 GEL (excluding VAT), then the documents certifying qualification are not required. In special cases, such documents may still be requested, with respective justification included in the documentation, as regards to quantity – it should be as minimal as possible considering the characteristics of specific procurement;
- o) Proposal Security – the proposal guarantee mechanism in the amount of 5 (five) percent of presumable cost of the procurement object to be submitted by the Bidder to the Purchaser (hereinafter – the Guarantee);

- p) Electronic Procedure of Procurement has ended with negative result – the Electronic Procurement Procedure is considered finished with negative result, when the Minutes of relevant Meeting of Committee, which evidences that one or several Bidders with the lowest proposal price were disqualified, is uploaded in the System by authorized representative of the Purchaser;
- q) Electronic Procurement Procedure is failed – electronic procurement procedure is considered as failed when no one took part in the electronic procurement procedure;
- r) Electronic Procurement Procedure is terminated – the electronic procurement procedures considered terminated if authorized representatives of the Purchaser uploads respective Minutes of Meeting of the Committee;
- s) Contract value of the procurement object –price of contract to be executed with the winning bidder in accordance with this Regulation, which is indicated in relevant field of specific electronic procurement procedure;
- t) Multi-year procurement – procurement which lasts during more than 12 (twelve) calendar months;
- u) Committee – the committee composed of employees of the Purchaser established on the basis of decision of the Purchaser, which is authorized to carry out electronic procedures, in accordance with rules established by this Regulation and Laws of Georgia.

Article 3. Rights and obligations of the Purchaser

1. The Purchaser is authorized to:

- a) To select and enter into contract with supplier (hereinafter the Contract) in accordance with this Regulation
- b) To disqualify the Bidders in accordance with this Regulation;
- c) to terminate the electronic procurement procedure any time prior to execution of the Contract if this becomes necessary due to reasons independent from the Purchaser and/or objective reasons unforeseeable in advance, also due to business interests of the Purchaser;

- d) Control and supervise execution of the Contract by the Supplier;
- e) To terminate the Contract any time if the documents certifying qualification submitted by the Supplier turns out to be false, also in other cases envisaged by laws of Georgia.

2. The Purchaser is obliged to:

- a) To rationally carry out procurements in the frame of the business plan in accordance with the terms determined under this Regulation;
- b) To compensate the Supplier for the goods and services delivered by the Supplier in accordance with the Contract;
- c) In case of termination of electronic procurement procedure to notify all Bidders about such termination not later than within (three) calendar days. The Purchaser is not obliged to submit to the Bidders any evidence or detailed information on the reasons of such decision. In case of termination of the electronic procurement procedure the Purchaser is not obliged to compensate expenses related to their participation in the procurement procedures and/or preparation of the contract.

Article 4. Planning purchases

- 1. The Purchaser carries out procurement in accordance with pre-defined annual plan approved by the Board of Directors of JSC Georgian Railway.
- 2. Multi-year procurement is reflected in respective annual budget plan on an annual basis.
- 3. Procurement is not considered as multi-year procurement in the event if it is funded from current annual budget and the delivery and/or compensation of contract price is made during following year.
- 4. The matter on carrying out of a multiyear procurement needs to be agreed with the Supervision Board of JSC Georgian Railway.

Article 5. Procurement means

1. Procurement of goods and/or services envisaged by the annex to this Regulation is carried out by means of Electronic Procurement Procedures.
2. Procurement through Direct Contract Award may be carried out by the Purchaser:
 - a) in case of urgent necessity on the basis of decision of the Board of Directors of JSC Georgian Railway;
 - b) On the basis of decision of the Board of Directors of JSC Georgian Railway in case if in order to avoid worsening of quality of the procurement object and/or ensuring further operability of the procurement object, it is necessary to procure goods/services from the same supplier or the sub-contractor envisaged under the contract with such supplier r, except for the cases when the presumable price of the procurement object exceeds the price of initially procured object;
 - c) on the basis of decision of the Board of Directors of JSC Georgian Railway if due to the business interests of the company, it is reasonable to carry out procurement and if procurement is related to the field of services.
3. Procurement of services envisaged by positions 8, 9 and 11 of goods and services to be procured by LLC “Trans Caucasus Terminals” as per annex to this Regulation may be carried out on the basis of decision of director of JSC Trans Caucasus Terminals”, while, the contract shall be executed on the basis of results of the market research, with the Bidder having lowest price.
4. The electronic procurement procedure is carried out by the Purchaser’s manager and/or the Committee.

Article 6. Committee

1. The electronic procurement procedure is carried out by the Committee established by the Purchaser’s manager and comprising of not less than 3 members.

2. The Committee is chaired by the Purchaser's manager or one of the members of Committee appointed by him.
3. On the basis of decision made by the Committee, specialists of relevant field may be invited as experts and consultants of the committee.
4. Committee adopts decision with majority of the committee members. Member of the committee who disagrees with the decision taken by the committee, is entitled to express his idea in written form which has to be attached to the decision of the Committee. In case of equal split of votes, the vote of chairman of the Committee is decisive.
5. Any decision taken by the Committee should be reflected in the Minutes of relevant Meeting of the Committee. The decision is considered taken after all members attending the meeting sign the minutes. All executed minutes of meetings shall be uploaded in the System. It is possible to change Minutes already uploaded in the System only by annulling already uploaded minutes and uploading amended minutes in the System.
6. Any correspondence / notification between the Purchaser and Supplier is sent through respective module of the System and it is not mandatory to send correspondence / notification outside the System . The correspondence / notification are considered delivered at the moment of uploading in the System.

Article 7. Office of the Committee

1. For the purposes of technical and organizational support of the Committee's activities, on the basis of the order of manager of the Purchaser, Office of the Committee is established and comprised of employees of the Purchaser (hereinafter – Office) which is managed by the Chairman of the Committee .
2. Function of the Office is to resolve organizational matters related to statements of Electronic Procurement Procedures, documentation and procurement procedures.
3. The Office is entitled to provide the Bidders with information and explanations regarding electronic procurement procedures.
4. The Office is obliged to bind any document and the informational materials related to specific electronic procurement

procedure in one case and ensure its storage during 3 years from the date of execution of the contract, in case of multi-year procurement – during one year after the date of expiry of the contract validity term.

Article 8. Statement on Electronic Procurement Procedures

1. Statement on Electronic Procurement Procedure (hereinafter the Statement) is filled in and uploaded in the System. The start and expiry of the term of submission of proposals is calculated from the date when the Statement is uploaded in the System.

2. The term for getting acquainted with the Statement and documentation should not be less than 15 calendar days from the moment when the Statement and documentation was uploaded in the System. In not less than during 2 days expiration of the above term the Bidders are entitled to submit proposals through the System, by means of electronic bidding decrease the proposal price considering the Bid.

3. Following information should be indicated in the Statement:

- a) Number of the Statement;
- b) Name of the Purchaser;
- c) Date of announcement, indicating exact time;
- d) Exact date for start and end of accepting proposal, indicating exact time;
- e) Presumable cost of procurement object;
- f) Note, that proposal should be submitted considering the value-added tax (hereinafter – VAT) or without it;
- g) Number or volume of the Procurement object;
- h) Term of supply or delivery of the procurement object;
- i) Amount of bid.

4. On the basis of relevant indication in the Statement, the price of proposal is presented by the bidders with or without VAT.
5. The Statement has a field for additional information which may be used by the authorized representative of the Purchaser for the purposes of additional description of the procurement object.
6. For the purposes of announcement of the Statement in the System it is required to upload it in the System.
7. On the basis of decision of the Purchaser, the Statement and documentation may be uploaded in Russian language as well. If approximate price of goods or services to be procured exceed 500 000 GEL excluding VAT, it is mandatory to upload documents in Russian language.

Article 9. Placement of Electronic Procurement Procedures documentation in the System and amendments to such documentation

1. The documentation for electronic procurement procedure should contain the following:
 - a) Qualification requirements applicable to the Bidders;
 - b) Quantity of goods, volume of serviced to be procured, terms, place and form of delivery of goods or services;
 - c) Full description of technical and qualitative indicators of procurement object, including relevant technical specifications, plans, drawings and sketches (if any);
 - d) Methods to be used for calculation of the price of proposal, indicating whether it includes other expenses except for the price of goods or service (shipment, insurance, taxes and other);
 - e) Identity and contact information of member of the Office, entitled to provide information and explanation regarding Electronic Procurement Procedures;
 - f) Indication on submission of sample of procurement object (if any);

2. The Committee is entitled to make modifications to the Statement and documentation before the start of Proposals' submission. It is possible to make modifications in the documentation only by annulling already uploaded documentation and uploading revised documents in the System. It is impossible to change the Procurement object.

Article 10. Submission of proposals

1. For the purposes of taking part in electronic procurement procedure, bidder may present proposal from the moment of start of accepting proposals till its deadline.
2. Before submitting proposal any person has right to get acquainted with the statement and documentation.
3. It is possible to submit proposals only through the system. Bidder's proposal except the material requested under technical documentation should include the guarantee foreseen under this Regulation and document certifying payment of the Participation Fee.
4. After uploading documents foreseen by paragraph 3 of this article bidder should indicate the price of proposal in relevant field of the system, which should not be more than the presumable price of the procurement object and/or should be at least one Bid less than the approximate cost of procurement object. After uploading technical documentation and indicating price of proposal it is impossible to change, add, cancel or erase the technical documentation.
5. If the Statement envisages submission of price of proposal without VAT, bidder should not consider VAT in the price of proposal, despite bidder is VAT payer or not according to Georgian legislation. In such case selection-evaluation is carried out according to the prices of proposals submitted. The purchaser is obliged to consider the amount of VAT in the price of proposal if by the time of submission of the proposal the Bidder is a VAT payer in accordance with requirements of Georgian legislation.
6. Rules and terms of electronic bidding are determined as per applicable legislation.

Article 11. Technical and qualification requirements towards bidder and rule for describing the procurement object

1. In each specific case Purchaser is authorized to determine requirements which should be met by procurement object, technical documentation of bidders and documents certifying qualification.
2. Technical requirements may be related to professional qualification, financial resources, experience and reputation, technical equipment and other issues related to bidders.
3. Obligation on presenting the sample procurement object is determined by purchaser in the documentation. The non submission of the sample by bidder or its non-compliance with requirements envisaged in the Statement and/or documentation or technical documentation submitted through the System will cause disqualification, on the basis of subparagraph “a” of paragraph 2 of Article 13 of this Regulation, except for the case when such non-compliance is caused by dishonest action of the bidder. The sample of procurement object submitted by the bidder is not subject to further specification. The sample of procurement object is returned to the bidder within reasonable timeframe except for the cases when the sample is easily spoilable things and/or due to its nature it is impossible to return.
4. The requirements for presenting qualification documents may be determined in relation with the legal side / condition of bidders (registration data, righteous restrictions and other).
5. It is not allowed to include following in the description of procurement object:
 - a) Specific commercial mark, patent, model, source or origin or manufacturer should be indicated except the cases when there is no other way of exact description of the procurement object. In such cases, when describing procurement object following words, such as: “similar,” “equivalent,” “analogous” and others should be used;
 - b) Such characteristics and terminologies which are dubious and allow various interpretations.

Article 12. Selection / evaluation

1. The evaluation of bidders by the Committee takes place according to the documents certifying qualification and technical documents uploaded in the System (if any), in sequence envisaged by this paragraph.
2. The assessment of the price of bidder's proposal takes place after the electronic bidding. The purchaser at the first stage of selection determines the compliance of document certifying the payment of the Participation Fee uploaded by the bidder having lowest price and guarantee with the technical documentation and in its turn the bidder is obliged to provide the submission of original copy of the guarantee in the period determined by technical documentation.
3. If 2 or more bidders indicated equal price in the System the priority is given to the bidder being the first in indicating the mentioned price of the proposal.
4. Committee should discuss whether the documentation submitted by the lowest priced bidder is compliant with the technical documentation uploaded in the system. In case if the documents uploaded in the system by bidder is not compliant with the requirements indicated in the documents and Statement, on the basis of decision taken by the Committee the bidder is disqualified except for the cases foreseen under paragraph 5 of this article.
5. The Committee does not disqualify bidder if technical documentation uploaded in the System does not include such data and/or envisages such discrepancies the submission and/or specification of which shall not cause essential changes and/or increase of proposal price, also mechanic errors were made by bidder like: indication of incorrect sum or product, verbal and digital irrelevance, which may be corrected without specification, considering the principle of the item price priority.
6. In cases foreseen by paragraph 5 of this article, the purchaser addresses the bidder with request to specify technical documentation submitted by the bidder and defines a reasonable timeframe for such specification, but not more than 3 working days. If in the mentioned period the bidder fails to specify the documentation the Committee disqualifies the bidder. In case if entire technical documents are uploaded in the form of electronic document having errors (which is not readable), purchaser has right to address the bidder requesting specification of technical documentation, except for the cases when only part of technical documentation has errors and the submission and/or specification of such parts will not cause essential change and/or non increase of proposal price. Specification of technical documentation may be requested

prior to request for submission of documentation evidencing qualification. 7. In case if technical documents uploaded in the System by lowest priced bidder is compliant with requirements indicated in the Statement and documentation, the Committee addresses the bidder with request to submit documents certifying qualification and defines reasonable timeframe for such submission but not more than 5 working days.

8. In case if technical documents and qualification data uploaded in the System by bidder having lowest price are compliant with requirements indicated in the Statement and documentations, then the request for calculation table and/or pricelist should be made together with the requirement for submitting guarantee for executing contract and invitation for signing contract.

9. Specified technical documentation and Copies of documents certifying qualification shall be submitted to the Purchaser through the.

10. If the technical documentation submitted by the bidder having lowest price is not compliant with the Statement and/or documentation or in case of non-submission of documents certifying qualification and/or those ones having errors, the Committee is obliged to disqualify the bidder. In such cases the purchaser is entitled to address the next bidder having lowest price with the request mentioned in paragraph 7 of this Article if technical documentation uploaded in system by this bidder is compliant with the requirements indicated in the statement and documentation. If the proposal price of the bidder having the lowest price due to changed market conditions exceeds the market value of this procurement object, the Committee is entitled to terminate the electronic procurement procedure.

Article 13. Disqualification

1. The Committee disqualifies the Supplier and/or bidder in accordance with paragraph 2 of this article. The Minutes regarding bidder's disqualification should be uploaded in System.

2. The Supplier and/or bidder are subject to disqualification in the following cases:

a) If technical documents submitted by the bidder in consideration with paragraphs 5 and 6 of Article 12 of this regulation are irrelevant to the Statement and/or documentation;

b) Qualification data are compliant with requirements determined under documentation on carrying out electronic

procurement procedure;

c) If bidder waives the proposal;

d) If technical documentation is not specified within the timeframe determined in accordance with paragraph 6 of Article 12 of this Regulation;

e) If bidder does not submit original copy of guarantee or submits later in accordance with paragraph 2 of Article 12 of this Regulation;

f) For the purposes of obtaining right to enter into the contract commits dishonest action;

g) If awarded bidder does not submit guarantee for security of performance of the contract and/or pricelist / calculation table, refuses to enter into the contract and/or otherwise waives signing the contract.

3. If bidder for the deadline of proposal does not have document certifying the payment of participation fee uploaded in accordance with requirements of technical documentation and the guarantee, the bidder's proposal shall not be evaluated and the Committee may address the next bidder having lowest price.

Article 14. Guarantee submitted in electronic procedure of purchase and commission for participation

1. Bidder is obliged to submit guarantee compliant requirements determined by this Regulation. Guarantee may be issued by a bank as well as an insurance institution.

2. The amount of guarantee is 5 (five) % of approximate cost for procurement object.

3. Guarantee is subject to return in case if the supplier executes the contract or electronic procurement procedure is ended with negative result or is terminated, in not later than 5 (five) days from the date of request by the supplier/bidder.

4. The Guarantee shall not be returned to the bidder if:

- a) After being awarded the Contract, the bidder refuses to execute it or through any other action waives his right to enter into contract with purchaser;
 - b) In case of contract awarding, the bidder does not submit guarantee for contract execution;
 - c) The bidder is disqualified due to commitment of dishonest action during electronic procurement procedure;
 - d) The Bidder refuses its proposal.
5. Amount of Participation Fee is 450 GEL.
6. The Participation Fee is subject to return only in case if the purchaser on the basis of sub-paragraph “c” of the first paragraph of Article 3 of this Regulation adopts decision on termination of electronic procurement procedure.

Article 15. Execution of the contract as a result of electronic procurement procedures and uploading in the system

1. In accordance with this Regulation, on the basis of terms and documentation envisaged by the proposal of the winning Bidder, respective contract is executed between the bidder and the purchaser, which needs to be uploaded in the System². The cost for purchase object envisaged by the contract should not be more than the final price determined by awarded bidder in the System.
3. In case of disqualifying awarded bidder or execution of the contract, the Committee is entitled to evaluate the bidding proposal of the next bidder having best price or terminate electronic procurement procedure, in accordance with this Regulation.
4. It is mandatory to request guarantee mechanism if:
 - a) Advance payment is envisaged by the contract. In such case it is necessary to use guarantee mechanism for the amount not less than the advance payment amount;
 - b) Total contract price amounts to or exceeds 200 000 GE. On the basis of decision of the Board of Directors of JSC Georgian Railway it is possible to exempt potential supplier from the obligation to submit a guarantee for contract execution due to its business reputation and quality and acknowledgement of goods/services provided by the bidder.

5. Guarantee for execution of contract in case of direct contract award may be submitted to the purchaser after execution of the contract, but in case of electronic procurement procedures such guarantee must be submitted prior to execution of the contract6. Rules for reviewing the contract with the supplier is determined under Georgian legislation.

7. In case of procurements carried out in accordance with this Regulation, the Purchaser is not obliged to submit reports on plans, factual payments and contract performance in accordance with Law of Georgia on State Procurement.

This Agreement is made on ----- 2016

On the one hand JSC Georgian Railway represented by its Director _____, address: Tbilisi, 15, King Tamar Ave. (hereinafter – Purchaser) and on the other hand _____ represented by is Director _____ address _____ - (hereinafter – Supplier) agree on the following:

In 2016 _____ the acceptance of proposals about purchasing --- in electronic tender procedure (GEO _____) was announced and finished _____ as a result of which the supplier's bidding proposal was awarded according to which supplier undertakes to provide purchaser with the goods in compliance with the characteristics provided in Attachment ---- and in the amount according to these characteristics

According to paragraph --- Sub-clause _____ of technical documentation, the contract is to be made in USD dollars in accordance with the official exchange rate between GEL and USD set by National Bank of Georgia on the day of electronic procedure commerce

The total price of the contract excluding VAT amounts to _____ USD, and including VAT _____ USD (hereinafter – Contract Price).

This contract confirms the following:

1. Terms and expressions mentioned in this contract have same meanings as are expressed in contract terms and conditions
2. Documents listed below constitute this contract and represent its integral part, namely:
 - a) This contract;
 - b) _____ presented by supplier;
 - c) The contract performance bank guarantee issued by JSC _____ Bank on _____ year
 - d) Extract from consolidated electronic system of LEPL Agency of State Purchases;
 - e) On the duration of electronic procedure commerce e) annex on the administration of contract;
 - f) Extract from National Bank of Georgia on official exchange rate of foreign currencies towards GEL
 - g) General conditions of contract;
 - h) Specific conditions of contract;

-
3. Supplier undertakes to fulfill its obligations pursuant to the contract conditions.
 4. Purchaser undertakes to pay the contract price to the supplier in accordance with the conditions of the contract.

In witness of all the above mentioned parties signed this contract in accordance with Georgian legislation on the day and year indicated herein.

This contract becomes effective upon its signature and is valid until the parties fulfill their obligations undertaken under this contract.

“Purchaser”

JSC Georgian Railway
Tbilisi, 15, King Tamar Ave.
Id/c 202886010
JSC Bank of Georgia
Account GE09BG0000000128695301
SWIFT: BAGAGE22

----- Director

“Supplier”

Address
ID/c -----
JSC _____ BANK
SWIFT
Account #

Tel: -----

Director

General Conditions of contract

The general conditions of contract constitute the integral part of purchasing electronic procedure documents and contract

on purchase of good. They are of typical nature and shall be used without any amendments to the extent that is compatible with specific purchase.

1. Interpretations of terms and expressions

Terms used in the contract have following meanings:

- 1.1 Contract on purchase of goods (hereinafter – Contract) _ contract signed between bidder awarded in electronic procedure and purchasing organization which is signed by the parties, along with all enclosed documents and additionally with entire documentation which are referred to in the contract.
- 1.2 “Contract price” means the total amount which shall be paid by the purchasing organization for due performance of contractual obligations by the supplier if otherwise is not provided in the contract.
- 1.3 “Purchasing organization” (hereinafter – Purchaser) means organization (institution) which carries out the purchase;
- 1.4 “Supplier” means any person/entity who won the tender and carries out the delivery of goods subject to the contract on purchase of goods;
- 1.5 “Day”, “week”, “month” mean calendar day, week, month.

2. Standards

The Goods supplied in the frame of the contract shall meet the standards provided in technical conditions.

3. Copyright

3.1 The settlement of disputes or responsibility arising from the infringement of patent rights in respect of the use of goods or its parts, as well as the use of trademark or product is rested with the supplier.

4. Control for Contract Performance

4.1 Purchaser or its representatives are entitled to carry out technical control and/or test goods in order to ensure that they are in compliance with technical conditions envisaged by contract. There should be indicated in specific terms and/or technical terms of the contract what kind of tests and examinations are necessary for purchaser and also where should they be organized. The purchaser shall inform supplier in written form and in a timely manner of its representatives

designed for these purposes.

4.2 Supplier is obliged to provide purchaser with staff, technical means and other working conditions necessary for conducting control (inspection) with its own resources. In case the purchaser will use its or invited personnel for the purpose of control, the purchaser shall itself ensure the payment of their work.

4.3 Supplier is obliged to rectify/eliminate all the defects revealed as a result of control (inspection), to replace the defective goods and to cover all the expenses related to the cost of test samples damaged as a result of control (inspection).

4.4 None of the paragraphs of this sub-clause shall release the supplier from this contract performance guarantee or any other obligations.

5. Packaging

5.1 Supplier shall ensure such packaging of goods which will protect that from damage or deterioration during the process of shipment to the destination place indicated in pricelist. The package should stand the impact of intense lift-recharge, extreme temperature during recharging, impact of salts and sediments, also keeping under open air.

5.2 The type of packaging, dimensions and weight of each package, marking and enclosed documents shall be in compliance with specific requirements established by purchaser

6. Terms of delivery goods

6.1 Delivery of goods is carried out by supplier in accordance with the schedule of delivery goods. Detailed information on distribution of shipment and rights and obligations related to the mentioned is given in specific conditions of the contract.

6.2 Documents which shall be submitted by supplier in the process of unloading the goods are indicated in specific conditions of contract.

7. Insurance (*in case of using this mechanism*)

7.1 Supplier is obliged to insure the purchase object and/or its parts (separate elements, equipments and other production

means, property and other) in accordance with the requirements provided in specific conditions of the contract.

8. Sequenced service

8.1 Supplier is obliged to provide sequenced service envisaged by specific conditions of the contract to the purchaser which is related to the delivery of goods and/or further exploitation of the purchase object.

8.2 The cost of the sequenced service is included in the contract price.

9. Spare parts

9.1 Purchaser may request the supplier to submit of following information on spare selling or produced parts:

(a) Nomenclature and cost of those spare parts which may be purchased by purchaser from supplier for using them after the guarantee period will expire;

(b) The termination of the production of spare parts by the supplier:

1. Has to notify purchaser in advance of expecting termination of production in order to enable the purchaser to carry out necessary purchases in the required amount;

2. In case of necessity after terminating the production, shall provide plans, drawings ad technical documentation to purchaser for free.

10. Handover of Purchase Object

10.1 The purchase object or its part (stage) shall be deemed to be accepted only after the Handover Act is signed if it is not otherwise provided in specific conditions of the contract.

10.2 The place, terms, stages and rule for accepting purchase object are provided in specific terms of the contract.

10.3 Supplier shall ensure the elimination of any defect or error revealed as a result of acceptance and/or final inspection of purchase object (its part, stage) at its own cost.

10.4 Purchaser is obliged to notify the supplier in a timely manner and in written form of the results of final inspection indicating the reason for disapproval and amount of goods disapproved.

11. Guarantee

11.1 Supplier guarantees that the goods delivered do not reveal any defects in the event of satisfaction of its exploitation

norms.

11.2 The effective term for this guarantee is determined under specific conditions of the contract.

11.3 Supplier is obliged to repair or replace the disapproved goods or its part upon the receipt of the notification without spending any additional expenses from purchaser.

11.4 During the effective term of the guarantee in case of non-fulfillment of the obligations by the supplier purchaser is entitled to take measures for the elimination of defects of the good revealed in the exploitations process to demand the reimbursement of respective expenses from the supplier or deduct this amount from the amount payable to the supplier pursuant to the contract.

12. Payment

12.1 Payment to supplier shall be made in the form and within the date provided in specific conditions of the contract on the basis of supplier's written request

12.2 The documents referred to in specific conditions of contract shall be enclosed to the supplier's written request.

13. Payment currency

13.1 Payment with supplier shall be made in GEL (*if supplier is resident of Georgia*).

13.2 Payment shall be made in payment currency determined in tender documents at the exchange rate set towards GEL.

14. Prices

14.1 Prices indicated in contract for providing sequenced service and delivery of goods by purchaser shall not exceed the prices indicated by supplier when electronic commerce takes place.

14.2 It is permitted to change the prices provided in contract only if it is stipulated under specific conditions of contract.

14.3. Amendment of contract terms and conditions is not possible if it gives rise to the increase of total cost of contract or aggravation of contract conditions for the purchaser, except for the cases provided by Article 398 of Civil Code of Georgia.

14.4 In the presence of conditions stipulated under Article 398 of Civil Code of Georgia the total cost of the original contract shall not be increased by more than 10%

15. Amendments to Contract

15.1 No deviation or amendment shall be made without the mutual written agreement of both parties. 15.2 If due to any unforeseeable reasons the necessity for contract amendments will arise, the initiatory party shall notify the other party in written form of this information. 15.3 Any amendments which gives rise to the increase of contract price or the

aggravation of contract conditions for the purchaser is not permitted, except for the cases stipulated under Article 398 of Civil Code of Georgia.

15.4 Any amendments to the contract shall be made in the form of annex to the contract which will be deemed as an integral part of the contract.

16. Transfer of rights

16.1 Supplier is not entitled to transfer neither in full nor in part its rights and obligations provided in this contract without the prior written consent of the purchaser.

17. Impediment to performance of contract

17.1 If during the process of contract execution parties face any impediments which hinder the contract performance, this party shall immediately send written notification to other party about the fact of impediment its possible duration and causing reasons. The party receiving notification shall notify the other party of its decision made in respect of the mentioned circumstances within the shortest period of time.

17.2 In case if due to the impediment to contract performance parties will agree on the extension of contract performance this decision shall be made in the form of amendment to contract.

18. Contract performance guarantee

18.1 The guarantee provided by the supplier to ensure the performance of contract shall be used for the purpose of compensating any damage incurred by the purchaser due to supplier's contract default. The list of those circumstances which will give rise to the impossibility of returning the bank guarantee to the supplier and due to mentioned circumstances for the purpose of compensating damage caused to the purchaser the rule for using the guarantee amount is determined under specific conditions of the contract.

18.2 After the fulfillment of its obligations by the supplier purchaser is obliged to return the contract performance guarantee to the supplier.

18.3 In case the contract is terminated due to the reasons independent from supplier purchasing organization shall return the contract performance guarantee to the supplier upon the request of such by supplier.

19. Default

19.1 In case of non fulfillment or late performance of the contract by supplier except for unforeseeable circumstances/force majeure fine/sanctions are used, the form, amount, activation terms and payment terms of which are provided in specific conditions of the contract.

19.2 The payment of fine/sanctions does not exempt supplier from the fulfillment of its primary obligations.

20. Termination of contract due to default

20.1 Purchaser is entitled to the entire or partial termination of contract after notifying supplier in written form of default.

(a) If the supplier is unable to supply goods in full or in part within the timeframe envisaged by contract or extended by the purchaser.

(b) If supplier is unable to fulfill any contractual obligations

20.2 The termination of certain conditions of contract does not exempt supplier from the fulfillment of remaining obligations.

20.3 Purchaser is entitled to take decision on termination of contract also:(a) If purchaser is aware of fulfillment of the obligations undertaken by the contract has not been fulfilled due to the independent reasons

(b) In case if supplier went bankrupt;

(c) If he will be aware of that the documents certifying supplier's qualification data are found to be fake

(d) In other circumstances stipulated under Georgian legislation.

20.4 In the circumstances of provided in paragraph 3 of this sub-clause purchaser shall pay the supplier the value of actually delivered goods.

21. Force major

21.1 The contract default by any of the signatory parties does not give rise to fines/sanctions and not returning of the performance guarantee if the default is caused by unforeseeable circumstances.

21.2 For the purposes of this sub-clause "force-major" means the circumstances which are unforeseeable to the parties and beyond their control, which are not related to the errors and negligence of purchaser and / or supplier Such circumstances may be caused by war, natural disasters epidemics, quarantine and establishment of embargo on delivery of goods, decrease of budget assignments and other.

21.3 In the presence of force major circumstances the party signing the contract for which it became impossible to fulfill

the undertaken obligations then shall immediately send written notification to the other party about such circumstances and the reasons causing them. If the party sending notification does not receive written response from the other party, in its own opinion, according to the reasonability and possibilities continues the fulfillment of the undertaken obligations and tries to find such alternative means for fulfilling obligations which will be independent from the impact of force major circumstances.

22. Dispute Resolution

22.1 The purchaser and supplier shall use all reasonable endeavors to settle all disagreements and disputes by means of informal direct negotiations arising out of or related to the contract.

22.2 If during 30 (thirty) days from starting such negotiations purchaser and supplier fail solve the dispute any party for the purpose of solving the dispute may apply to Georgian Courts if otherwise is not provided in specific conditions of contract.

23. Governing law

23.1 Contract is signed and shall be interpreted in accordance with applicable Georgian legislation

23. Language

23.1 Contract shall be made in Georgian In case if the other party to the contract is the representative of foreign country, then the other copy shall be translated in language acceptable to the supplier. When interpreting the Georgian version shall prevail. All written negotiations and other contract-related documents which will be exchanged between the parties shall comply with the mentioned requirements.

25. Notification

25.1 Any notification made by one party to another party in accordance with the contract, shall be sent to the other party in the form of letter, telegram, telex or fax with the further submission of original at the address of the other party as provided in the contract.

25.2 The notification becomes effective on the day of receiving the notification by addressee or on the day determined when the notification becomes effective according to which date will be later.

26. Taxes

26.1 Foreign supplier is responsible for the payment of those taxes, fees and other commissions related to the production of deliverable goods and delivery which are payable in Georgia and outside the country.

26.2 Local supplier is responsible for the payment of taxes, fees and other payables established by Georgian legislation if otherwise is not provided in specific conditions of contract.

Specific conditions of the contract

The specific conditions shall be elaborated by the purchasing organization. General conditions of the contract and the requirements of purchaser according to which the delivery of relevant goods should be carried out. The purpose of specific conditions of the contract is to specify the characteristic requirements of each purchase, as well as supplementing and specifying the general conditions of contract. In case of any discrepancies between specific and general conditions of the contract the specific conditions shall prevail.

1. Signatory Parties

Parties to the contract are the following:

Purchaser _ JSC Georgian Railway represented by its-----, address: Tbilisi, 15, King Tamar Avenue.

Supplier _ -----

2. Control for contract execution

2.1 Control of the execution of contract by the purchaser shall be carried out periodically in accordance with purchaser's requirement.

3. Terms and conditions for delivery

3.1 The goods shall be delivered to purchaser with DDP terms.

3.2 The recipient of goods is JSC Georgian Railway.

3.3 Supplier shall deliver goods gradually but not later than within ---- days after the contract is signed at the following address: -----

3.4 The goods should be accompanied by -----

3.6 Supplier shall provide the data regarding the goods discharged, its amount, weight during 24 hours after goods are discharged. The responsibility for reimbursement of all the expenses incurred as a result of receiving mentioned documents by the purchaser later or if the mentioned is not received shall be borne by supplier.

3.7 The contract administrator is: -----

4. Handover of Purchase Object

4.1 Goods shall be deemed to be delivered by supplier and received by the purchaser as a result of signing the Act of Acceptance which shall be signed and certified by duly authorized representatives of purchaser and supplier, according to the actually delivered goods

4.1.1 The person authorized for signing the Act of Acceptance from purchaser's side is _____

4.2. When drawing up the Act of Acceptance supplier shall submit ---- to the purchaser and within 3 (three) working days Tax Invoice.

4.3. Act of Acceptance shall be made in four copies from which three copies are given to Purchaser and one to Supplier.

5. Guarantee

5.1 Supplier guarantees that the goods delivered are in compliance with requirements stipulated under the contract.

5.2 Supplier undertakes to eliminate the defect of goods and the damages revealed in exploitation process at his own expense.

5.3 Purchaser is authorized to present claim regarding quality and quantity, supplier is obliged to satisfy the submitted claim and replace defective goods at his own expense.

6. Payment

6.1. Form of payment: bank transfer, consignment

6.2. Payment currency: in national currency according to the official exchange rate of GEL with USA set by National Bank of Georgia on the day of signing the Acceptance Act.

6.3. The payment shall be made within 20 (twenty) banking days from the day of signing the Acceptance Act between the parties.

6.4. Documents required for payment:

- Act of Acceptance (original);
- Interim Act of Acceptance
- Bill of Lading;
- Tax Invoice;

6.5. In case of purchaser's and/or supplier's request parties before making final payment draw up the Act of Comparison.

7. Performance Guarantee

7.1 For the avoidance of risk arising from supplier's default of contract on purchase of goods and its accompanying service, unconditional contract performance bank guarantee agreed with the purchaser shall be used in the amount of 5% of contract price, which shall be submitted in USD dollars and the effective date of which shall exceed with 50 calendar days the completion date of obligations stipulated under sub-clause 3.3.

7.2 After the supplier fulfills its obligations undertaken under the contract within the time stipulated under sub-clause 3.3 of specific conditions of contract, Purchaser shall return the performance guarantee to the supplier.

7.3 In the event of improper or incomplete fulfillment of the obligations purchaser shall not return the performance guarantee to the supplier and will use unconditionally within the limits of accrued fine.

8. Non-performance

8.1 ~~In case of facing overdue dates for fulfilment of the obligations undertaken under the contract, the penalty in the amount of 0.1% of contract value (excluding VAT)~~ In case of facing overdue dates for fulfilment of the obligations undertaken under the contract, the penalty in the amount of 0.1% of outstanding obligation value (excluding VAT) for each overdue date shall be imposed on the supplier, which is calculated in USD and will be requested (deducted) in Georgian GEL on the day of signing the Acceptance Act or in case of any, according to the official exchange rate set by National Bank of Georgia on the day of terminating the contract, also the imposition of penalty will be stopped when the accrued amount reaches 5% of the total contract value (without VAT).

8.2 ~~In case if the total amount of penalty accrued for due dates exceeds 3% of the contract value, purchaser will be entitled to terminate the contract.~~ In case if the deadline of fulfilling obligations taken under the contract has been exceeded 30 calendar days for each overdue date, purchaser will be entitled to terminate the contract.

8.3 In case of terminating the contract by supplier, the penalty in the amount of 5% of the contract price (excluding VAT) shall be imposed on the supplier. In case if the mentioned penalty will not be paid by supplier from the bank guarantee provided in sub-clause 7.1, then the penalty shall be calculated in USD dollars and requested (deducted) in GEL according to the official exchange rate set by National Bank of Georgia on the day of terminating the contract by supplier.

8.4 The maximum amount of the penalty envisaged within the frame of the contract to be imposed on the supplier amounts to not more than 5% of contract price (excluding VAT)

**Guarantee for advance payment
(Bank Guarantee)**

Sample

We got aware that Principal and Beneficiary signed the contract _____ (contract number and date) (hereinafter – “Contract”) according to which Principal should provide delivery/execution of _____ (object of purchase). The above mentioned contract terms consider the advance payment in amount of _____ % of entire cost of the contract, in case if Principal presents the Bank guarantee to Beneficiary for the amount equivalent to requested advance payment that is _____ (amount in digits and words) USD.

In consideration of all the above mentioned we'd like to notify that in case if Principal does not fulfill the obligations taken according to the contract terms, Guarantor takes unrequested obligation to compensate him on the basis of very first written request.

Any amount or amounts but no more than totally _____ (amount in digits and words) equivalent in GEL in relevance with the official exchange rate of USD/GEL determined by National Bank of Georgia. The amount to be compensated by Guarantor in no case may be less than the amount of advance payment transacted as advance payment in national currency on the bank account given below of Principal on the basus of the present Bank Guarantee by Beneficiary.

The present bank guarantee enters into force on the basis of Beneficiary's assignment _____ (bank name/branch) in the form of advance payment _____ (amount in digits and words) to the account of Principal _____ (account number) equiavent in USD as soon as transacted.

*The validity period for the guarantee is: _____(specific date) year of 2015, relevantly the present guarantee is valid including the mentioned date. Due to the mentioned any ask or claim should be received by Guarantor before Bank guarantee expires at following address: _____(bank title, branch, address)

The requirement for compensation should be presented by Beneficiary in written form certified by signature and seal where the requested amount is indicated in digits and words and also the circumstance due to which the requirement is presented.

The amount of present bank guarantee is automatically decreased in amount of _____ % of the cost of goods/service/works indicated in interim Acceptance-Delivery Acts signed between Principal and Beneficiary the copies of which should be submitted to Guarantor at following address: _____ (bank title/branch, address)

Bank Guarantee is automatically cancelled

- Expiration of bank guarantee
- Due to the guarantee if Beneficiary waives its rights in written and when re-paying the guarantee.

Signature and seal of guarantors

***The validity period of present guarantee should be more than the deadline of fulfilling obligations foreseen under the contract in 50 days.**