ADDITIONAL PURCHASE CONDITIONS (APC)

1.0 The following Additional Purchase Conditions shall be read in conjunction with General Purchase Conditions. If there are any provisions in these Additional Purchase Conditions, which are at variance with the provisions of General Purchase Conditions, the provisions in these Additional Purchase Conditions shall take precedence.

2.0 INTRODUCTION

As part of expansion project of the owner/client viz Bhilai Steel Plant, in its approach note for corporate plan 2011-12, indicated that the production potential of BSP would be 7.0 MTPY of crude steel, subject to implementation of strategies to overcome the present constraints and providing certain additional facilities. Present facilities in OHP to receive, unload & store raw material in OHP is insufficient mostly due to logistical problems in placement of rakes in yard, weighment, placement of rakes in tippler & collection of empty wagons, transportation of raw material to the yard etc. This is causing a lot of wagon detention and thereby heavy demurrages are paid to the Railway authority. Additionally logistics for stockpiling in the manner desired and reclamation also posed bottlenecks. To overcome this problem, a scheme with one additional Wagon Tippler with all related facilities including conveyor system, interconnection of existing & proposed unloading stream, two additional beds for stockpile in the existing OHP with one Stacker, one Reclaimer, yard conveyors etc. have been envisaged

3.0 SCOPE OF WORK INCLUDED IN THE CONTRACT

The brief scope of work included in this tender shall include (but not limited to) Design, Engineering, manufacture, shop fabrication, assembly, testing & inspection at manufacturer’s works, packing, dispatch, transportation, delivery to site, required fabrication & assembly at site, completion of facilities, performance guarantee testing, final painting and handing over to Bhilai Steel Plant (SAIL) / EPI and Supervision of Installation, Testing & Commissioning at site of PADDLE FEEDER AND ASSOCIATED WORKS at Bhilai Steel Plant (SAIL), Chattisgarh

4.0 QUALIFICATION OF TENDERERS

To be eligible for this tender the bidders should fulfil the requirements for eligibility as mentioned in the Notice Inviting Tender (NIT) and should submit detailed data and credentials set out in Cl 25.0 of ITT [Suppliers] (Vol-I) of the Tender. The Tenderers are required to fulfill all the eligibility criteria as stipulated in NIT and elsewhere in the Tender documents. The price bid of tenderers who fulfill the eligibility criteria as per evaluation of EPI shall only be opened. The decision of EPI in this regard shall be final & binding on the tenderers.

5.0 DISQUALIFICATION

In addition to clause no. 14 of Instructions To Tenderers (Suppliers), the tenderers may note that they are liable to be disqualified and not considered for the opening of Price Bid if;
a) Representation in the forms, statements and attachments submitted in the pre-qualification document are proved to be incorrect, false and misleading.

b) They have record of poor performance during the past 10 years such as abandoning the work, rescinding of contract for which the reasons are attributable to the non-performance of the contractor, inordinate delay in completion, consistent history of litigation/arbitration awarded against the contractor or any of its constituents or financial failures due to bankruptcy etc. in their on going/past projects.

c) They have submitted incompletely filled in formats without attaching certified supporting documents and credentials to establish their eligibility to participate in the Tender.

d) If the tenderers attempt to influence any member of the selection committee.

EPI reserves its right to take appropriate action including disqualification of tenderer(s) as may be deemed fit and proper by EPI at any time without giving any notice to the contractor in this regard. The decision of EPI in the matter of disqualification shall be final and binding on the Tenderers.

6.0 EPI reserves the right to independently verify the performance of the bidder from the Existing owners/users/owners’ Consultants. In case any installation of the manufacturer is found to be performing unsatisfactorily, EPI reserves the right to reject the tender and price bid of such bidder shall not be opened, even if the bidder is meeting the technical and other qualifying requirements.

In such circumstances the bidder shall have no claim on EPI of whatsoever nature.

7.0 PAYMENT TERMS

The Clause No.4. of GPC shall be replaced as under:

The bidder shall reimburse the Employer all costs, charges, damages or expenses which the Employer may have paid or incurred, if and to the extent to which the bidder is liable under this Contract to pay within thirty (30) days upon written request of the Engineer, failing which such costs, charges, damages or expenses shall be deducted by the Employer from any money due or becoming due by the Employer to the bidder under this Contract or any other Contract failing which such amounts shall be considered as debt from the Contractor to the Employer and shall be recoverable accordingly.

Any Indian Income Tax which Employer may be required to deduct by law or statute, shall be deducted at the source and the same shall be paid to Income Tax Authorities on account of the bidder. Employer shall provide the bidder a certificate for such deduction of Tax. The bidder shall indicate their Permanent Account Number with the relevant Income Tax Authority to Employer. Bidders shall maintain books of account and shall get the account audited as per Section 44DA of Income Tax Act.

If the bidder is exempted from the deduction/recovery of Income Tax, no such recovery shall be made by Employer. Contractor shall furnish valid exemption Certificate issued by Income Tax Department to this effect.

Following breakup of payment shall be followed:
i) 2.5% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released on submission of basic engineering drawings and the basic engineering data (to be finalized during technical discussion) and submission and approval of general layout drawings to EPI/MECON/BSP.

ii) 2.5% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released after getting clearance for manufacturing from EPI/MECON/BSP.

iii) 75% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released towards progressive payments as per approved billing schedule to be submitted by successful vendor for EPI’s approval after completing supply of equipment to site and getting MRC (Material Received Certificate) from EPI site office and 100% of the taxes and duties on submission of documentary evidence.

iv) 75% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released on completion of supervision of Erection. Testing & commissioning of the equipment in all respect.

v) 2.5% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released after getting preliminary acceptance certificate from MECON/BSP.

vi) 2.5% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released after getting commissioning certificate from MECON/BSP.

vii) 5% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released after getting performance guarantee certificate from MECON/BSP.

viii) Balance 5% of the total order value specified in Price Schedule excluding taxes, duties (except service tax) shall be released after getting Final acceptance certificate from MECON/BSP.

8.0 BID EVALUATION

The following additional criteria will be used in the evaluation in the manner stated and to the extent indicated herein;

i) The taxes & duties, which are to be borne and paid by the Employer, shall be considered on the quoted price for imported supplies & services for the purpose of price evaluation as follows:
   - Basic custom duty (BCD) @ 5.0% on Assessable value (FOB price + Ocean freight + Marine insurance + Landing charges)
   - Additional Custom Duty (ACD) including Education cess @ 14.42% on (Assessable value + BCD)
   - Education cess @3% on BCD & ACD
- Additional Duty of Custom (ADC) 4% on (Assessable value + BCD + CVD + education cess)
- Income tax including surcharge& Education cess to be on grossed up value as per the double taxation avoidance agreement or 10.5575% as per Income Tax Act, whichever is lower.
- Service tax including ED cess on the value of services.

Note: (Landing Charges are 1% of (FOB price + Ocean freight + Marine insurance)

ii) The contract price shall not include Entry Tax. Entry Tax of 1% shall be loaded to both indigenous as well as imported supply, which shall be paid and borne by the Employer. The bidders may indicate the portion of supply, on which entry tax is not required to be paid by the Employer below the Summary Price Schedule and while evaluating the offer further entry tax will not be loaded on above declared goods.

However, while raising invoice for such goods, the invoice should contain the following:

a) Tax payer Identification Number under C.G. VAT Act.

b) In case of supplies manufactured within Bhilai Municipal Local Area, then “Goods Sold are Local Goods” is to be endorsed.

c) In case of Entry Tax paid supplies, “Material is Entry Tax Prepaid” is to be endorsed.

iii) The price evaluation will be done on the basis of “Net of CENVAT and VAT Input Tax Credit”. The CENVAT will constitute the CVD including Education cess thereon, ADC, service tax component as per (Para-i) above and the amount of CENVAT credit and VAT input tax credit on indigenous supplies & services as quoted by the Bidder.

Chhattisgarh Value Added Tax (CGVAT) is applicable on purchase and sale of goods made within the State of Chhattisgarh. The contractor is to provide the VAT invoices for reimbursement of the VAT amount and to enable the Employer to avail the VAT Input Tax Credit thereon.

The applicable VAT input tax credit available to BSP is indicated below:

<table>
<thead>
<tr>
<th>VAT Rate as per CGVAT Act (%)</th>
<th>VAT input tax credit available to BSP (%)</th>
<th>CG VAT Amount (Rs.)</th>
<th>CG VAT Input tax Credit (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0.53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>2.11</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12.5</td>
<td>10.61</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>NIL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The bidders are to indicate the CG VAT input tax credit to be passed on to BSP in the price bid for the evaluation of their offers. The VAT input tax credit committed by the contractor will be reconciled and necessary adjustment effected.
9.0 VARIATION IN TAXES, DUTIES, LEVIES AND IMPOSITION OF NEW TAXES ETC.

i) If a new tax, duty or levy is imposed under statute or law in India after the date seven (7) days prior to the last date of submission of tender and the contractor becomes liable there under to pay and actually pays the said new tax, duty or levy for bonafide use on the works contracted, the same shall be reimbursed to the contractor against documentary evidence of proof of payment, provided that the amount thus claimed is not paid/payable under price variation provision of the Contract.

iv) The payment/reimbursement of statutory variations in the rates of tax and/or of new tax, duty or levy imposed under statute or law in India as per para (i), (ii) & (iii) above, would be restricted only to direct transaction between the EPI and the Contractor.

10.0 For Dispatch of materials to Site, the vendor shall mark consignee as “Bhilai Steel Plant, SAIL A/c EPIL, Bilai” and follow dispatch instruction to be given by EPI.

11.0 COMPLETION PERIOD

Completion of the total work as mentioned in the NIT & tender documents shall be 12 months from the date of issue of LOI / Purchase Order excluding supervision of installation, testing & commissioning.

Completion schedule to be followed for this tender should be as given below.

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Period from the date of Start</th>
<th>Description of work to be completed during the period specified under column no. 2 (Milestone)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>From the date of start up to the end of 1st month</td>
<td>Submission of Design &amp; Detailed / shop drawings and approval by BSP/MECON/EPI.</td>
</tr>
<tr>
<td>2</td>
<td>From the start of 2nd month upto the end of 12th month</td>
<td>Supply of all equipment including accessories to site after inspection of complete material &amp; equipment by BSP/MECON/EPI.</td>
</tr>
<tr>
<td>3</td>
<td>Provision of 45 days spreaded in 4(Four) visit to be kept by vendor.</td>
<td>Supervision of Installation, Testing &amp; Commissioning.</td>
</tr>
</tbody>
</table>

12.0 The bidder shall comply with legal orders & directions of law of local bodies. The bidder shall give to the Municipality, Police, Local Bodies and concerned Governmental authorities all necessary notices relating to works that may be required under the law and obtain all requisite licenses / permissions. Nothing extra shall be paid by EPI on this account.

13.0 GUARANTEE

The bidder shall guarantee that the materials and workmanship of the apparatus installed by him, under these specifications shall be new and first class in every respect. He will make good any defect, which may develop within 12 months from
the date of commissioning of the installation or 18 months from the date of last lot of supply at site whichever is earlier, without any extra cost to EPI/BSP.

14.0 PERMITS AND INSPECTIONS

The bidder shall obtain all necessary permits from local bodies, provincial or central authorities and shall make arrangement for inspection and tests etc. as required at his own cost.

15.0 LICENCES

The bidder shall arrange for obtaining the license for the operation and approval of drawings for the equipments etc. as required from the local Government/authorities at his own cost & nothing extra shall be payable.

16.0 The work shall be carried out in accordance with the drawings approved by the EPI/BSP/MECON. Before the commencement of any item of work, the bidder shall correlate all the relevant drawings/documents/specification issued for the work and satisfy himself that the information available there from is complete and unambiguous. The discrepancy, if any, shall be brought to the notice of Engineer-In-Charge before the execution of work. The bidder alone shall be responsible for any loss or damage occurring by the commencement of work on the basis of any erroneous and/or incomplete information. Nothing extra shall be paid on this account.

17.0 The bidder shall give performance tests of the entire installation(s) as per specifications and drawings before the work is finally accepted and nothing extra whatsoever shall be payable to the bidder for these performance tests.

18.0 Bill of Quantities shall be read in conjunction with NIT, Instructions to Tenderers (Suppliers), General Purchase conditions, Additional Purchase conditions, Technical specifications, Drawing, Schedules, and Annexure & Addendum etc. to tender Document.

19.0 After completion of installation, testing and commissioning of all the equipment as per tender specifications, the bidder shall, however, provide proper training to the Owner’s employees/representatives for maintenance and operation of the equipment without any additional cost.

20.0 The bidder has to arrange for inspection of equipment and shall submit internal inspection certificate/document and nothing extra shall be paid.

21.0 Care shall be taken in handling of material to avoid damage. Any damages made to equipment during transit shall be made good by the bidder.

22.0 TEST CERTIFICATE

All manufacturer’s certificates of test showing that the materials have been tested in accordance with the requirements of the relevant standard specification and the copy of the test certificate as well as standard shall be supplied free of cost to EPI for onward submission to BSP/MECON.
23.0 INITIAL INSPECTION AT MANUFACTURER’S WORK:

The bidder shall furnish such facilities as will be necessary for inspection of the material before dispatch at his or his associate’s works and also for witnessing such tests as per technical specifications, as are done at the works if so required by BSP/MECON/EPI. The bidder shall give minimum two weeks notice regarding the dates proposed for inspections. The Tenderer shall submit list of test on components of equipments, which shall be carried out at manufacturer's premises.

24.0 INSPECTION DURING INSTALLATION AND FINAL INSPECTION:

The bidder shall arrange for checking and testing the installation as per technical specifications. All instruments and materials required for testing shall be the responsibility of the contractor. The final inspection of the installation and testing of equipment may be carried out EPI/MECON/BSP. The taking over of equipment after trial run shall be subject to removal of defects, if any, pointed out during the inspection.

25.0 SITE ENGINEER (For Supervision of Installation, Testing & Commissioning):

a) Experienced supervisor to be posted during supervision of installation, testing and commissioning.

b) Party has to depute their engineers for checking of arrangement of various foundations, levels, pockets etc. during civil construction.

26.0 It will be the sole responsibility of bidder to obtain all statutory approvals and completion clearance from the all relevant statutory bodies and for all other services as included in the scope of contract etc. from the concerned department as required within the stipulated time frame. Liaison work on behalf of EPI with the local bodies will also have to be done by the bidder. Nothing extra shall be payable to bidder on this account. No claim whatsoever in this regard shall be entertained.

27.0 LIQUIDATED DAMAGES DUE TO DELAY IN “COMPLETION OF THE FACILITIES”:

The Clause No.13. of GPC shall be replaced as under:

If the Contractor fails to attain completion of the facilities within the time of completion or any extension thereof, due to reasons not attributable to the Employer shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor’s account or by encashment of Contractor’s Bank Guarantees at the rate of 0.5% of the Contract Price plus escalation, if any, excluding taxes & duties per complete week of delay upto a maximum of 5% of the contract price plus escalation, if any, excluding taxes & duties.

However, the payment of liquidated damages shall not in any way relieve the contractor from any of its obligations to complete the facilities or from any other obligations and liabilities of the contractor under the contract.
28.0 SUPERVISION OF INSTALLATION, TESTING & COMMISSIONING

Rate quoted by bidder should include charges for supervision of installation erection, testing & commissioning at site for a total period of 45 (forty Five) days spreaded in 4(Four) visits. Party should also indicate per day rate for additional period if required by EPI over and above 45 days.

29.0 CONCILIATION AND ARBITRATION

Before resorting to arbitration as per the clause given below, the parties if they so agree may explore the possibility of conciliation as per the provisions of Part-III of the Arbitration and Conciliation Act.1996. When such conciliation has failed, the parties shall adopt the following procedure for arbitration: -

29.1 Except where otherwise provided for in the contract, any disputes and differences relating to the meaning of the specifications, designs, drawings and materials used in the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the Sole Arbitration of the Chairman and Managing Director (CMD) of Engineering Projects (India) Limited (EPI), or any other person discharging the functions of CMD of EPI and if CMD or such person discharge the function of EPI is unable to act, to the Sole Arbitration of some other person appointed by the CMD of EPI or such person discharging the functions of CMD of EPI. There will be no objection if the arbitrator so appointed is an employee of Engineering Projects (I) Ltd. However, such an employee shall not have directly dealt with the said contract or the works there under on behalf of EPI. Such Arbitrator shall be appointed within 30 days of the receipt of letter of invocation of arbitration duly satisfying the requirements of this clause.

29.2 If the arbitrator so appointed resigns his appointment, is unable or unwilling to act due to any reason whatsoever, or dies, the Chairman & Managing Director aforesaid or in his absence the person discharging the duties of the CMD of EPI may appoint a new arbitrator in accordance with these terms and conditions of the contract, to act in his place and the new arbitrator so appointed may proceed from the stage at which it was left by his predecessor.

29.3 It is a term of the contract that the party invoking the arbitration shall specify the dispute/differences or questions to be referred to the arbitrator under this clause together with the amounts claimed in respect of each dispute.

29.4 The arbitrator may proceed with the arbitration ex-parte, if either party, in spite of a notice from the arbitrator, fails to take part in the proceeding.

29.5 The work under the contract shall continue, if required, during the arbitration proceedings.

29.6 The arbitrator shall make speaking Award and give reasons for his decisions in respect of each dispute/claim along with the sums awarded separately on each individual item of dispute or difference or claims. The Arbitrator shall make separate award on each reference made to him.
29.7 The award of the arbitrator shall be final, conclusive and binding on both the parties.

29.8 Subject to the aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 or any statutory modifications or re-enactment thereof and the Rules made there under and for the time being in force shall apply to the arbitration proceedings and Arbitrator shall publish his Award Accordingly.

**Note:** Notwithstanding anything contained here in above, this clause shall not be applicable where the dispute is between EPI and another Public Sector Enterprise or Govt. Department for which a separate Arbitration Clause is provided vide Clause No. A given below: -

A. **ARBITRATION BETWEEN PUBLIC SECTOR ENTERPRISES INTERSE / GOVERNMENT DEPARTMENTS.**

1. In the event of any dispute or difference relating Interpretation and application of the provisions of the contract, such dispute or difference shall be referred by either party to the arbitration as per the instructions (Office Memorandum/Circulars) issued by Govt. of India from time to time with regard to arbitration between one Govt. Deptt and another, one Govt. Deptt. and a Public Sector Enterprise and Public Sector Enterprises inter se.

2. Subject to any amendment that may be carried out by the Government of India from time to time the procedure to be followed in arbitration shall be as is contained D.O. No. DPE/4(10)/2001-PMA-GL1 dated 22/01/2004 of Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises or any modification issued in this regard.