

# BRAHMAPUTRA CRACKER AND POLYMER LIMITED

## ..... GENERAL PURCHASE CONDITIONS (GPC)

### 1. SCOPE OF SUPPLY

Single point responsibility of the Seller includes but not limited to manufacture, testing, inspection, packing, forwarding, documentation, inland transportation & supply on FOB/FCA (Seaport/Airport of exit) or CFR/CPT basis. Marine cum Transit Insurance shall be arranged by BCPL.

### 2. PREPARATION OF BID

The bid prepared by the bidder and all correspondence/drawings and documents relating to the bid exchanged between bidder and BCPL shall be written in English language, provided that any printed literature furnished by the bidder may be written in another language so long as it is accompanied by an ENGLISH translation, in which case, for the purpose of interpretation of the bid the ENGLISH translation shall govern. Metric measurement system shall be applied. The tender is non-transferable. Tender shall be acceptable only from the parties to whom the tender documents were issued. The bidder shall bear all costs associated with the preparation and submission of the bid and BCPL will, in no case be responsible or liable for these costs, regardless of conduct or outcome of the bidding process.

### 3. VALIDITY OF OFFER

The offer should remain valid for not less than 2 months from the bid opening date.

### 4. PRICES

i) The prices (in home currency or in US\$/EURO) including FOB charges on FOB (Sea Port/Airport of export) basis quoted by bidder shall be fixed and firm, inclusive of all taxes and duties up to Port of Exit. Revised offer/post-bid modification of offer after the opening date will not be considered. Further, BCPL will not allow any upward revision of prices during the contract period unless specifically stated in the purchase Order.

ii) The Indian Agent Commission, if any, included in quotation shall be shown separately in the form of percentage (%) of FOB prices. The Indian Agent Commission shall be payable directly by BCPL to Indian Agent of bidder in Non-convertible Indian Rupees upon complete execution of order and supplies are received and accepted at site.

iii) Price shall be written in both words and figures. In the event of difference, the price in words shall be valid and binding. Unit prices shall be considered correct in the event of any discrepancy with regard to total price.

iv) The required quantities at the time of placement of order can be changed upto  $\pm 25\%$  of the quantities specified in enquiry.

### 5. PAYMENT TERMS

100% direct payment at sight shall be made against presentation of the required negotiable documents drawn under and in accordance with the terms of the order through normal banking channels.

In case, the Seller intends to receive payment through Letter of Credit, 100% payment shall be made through irrevocable & unconfirmed Letter of Credit against presentation of the shipping documents. All bank charges outside India shall be to Seller's account and in India to BCPL'S account. **If confirmed LC is requested by the Seller, LC confirmation charges will be borne by seller only.**

Any discrepancy in shipping documents/negotiated documents would be the responsibility of the seller.

### 6. DELIVERY AND DELAYS

#### 6.1 Contractual Delivery Period & Date

Contractual Delivery period shall be reckoned from the date of notification of award through FAX/Letter of Intent. Date of Bill of Lading or Master Air Way Bill (in case of air-shipment) shall be considered as delivery date, in case of orders placed on FOB port of exit basis.

#### 6.2 Price Reduction Schedule (PRS) for delay in delivery (on Delayed Part):

In case of delay in delivery beyond delivery date specified in the Purchase Order, Price Reduction Schedule (PRS) shall be applicable @  $\frac{1}{2}\%$  of the total order value per week or part thereof for delay in delivery subject to a maximum of 5% of total order value. The invoice presented by the beneficiary shall take into account the above price reduction, if applicable, and drafts for L.C. shall be drawn for reduced value only.

In a supply contract, the portion of supply completed in all respect which can be used for commercial operation shall not be considered for applying PRS, if delivered within contractual delivery period. The remaining supplies which are completed beyond the contractual delivery shall attract price reduction schedule @  $\frac{1}{2}\%$  of

the delayed delivery value maximum up to 5% of total order value. The value referred in PRS clause is excluding taxes and duties.

### **6.3 Non-conformance and Cancellation**

If the delivery schedule as per order is not adhered to or the progress of manufacture or supply of the goods is not satisfactory or not in accordance with the progress schedule, BCPL has right to:

**6.3.1** Cancel the Purchase order in whole or in part without liability for cancellation charges. In such event, BCPL may procure goods from elsewhere at the risk & cost of the Seller.

**6.3.2** In the event of non-conformance of goods, Seller shall be allowed, without any extension of delivery time, to rectify the non-conformities. Should, however, seller fail to do so within the stipulated time, the BCPL may cancel the order as to the non-conforming goods and retain the rights with respect to substitution and in addition recover actual expenses incurred by the BCPL in installing and removing the non-conforming goods. Alternatively, BCPL may at his option have or cause the non-conforming to be rectified at seller's risk & cost. The BCPL also deserves the right to claim damages for use of defective or substandard goods supplied by the seller irrespective of the fact whether goods were inspected prior to receipt at site by the BCPL or not.

## **7. CERTIFICATE OF CONFORMITY**

The seller shall provide certificate of conformity strictly as per proforma enclosed in the tender. This certificate will be an integral part of shipping documents.

## **8. SELLER'S SALE CONDITIONS**

Seller's standard sale conditions are not acceptable to BCPL and seller's are requested not to incorporate the same in their quotation. Further, offers subject to prior sale will not be considered.

## **9. WARRANTY/GUARANTEE**

Material supplied against this tender shall be guaranteed against any defects from design, materials, workmanship, operating characteristics etc. for a period of 12 months from the date of operation or 18 months from the date of shipment, whichever is earlier.

In case of rejection of material due to non-conformity to specifications in the tender / Certificate of Analysis issued by seller, the entire material shall be replaced by the seller free of cost including all expenses paid on "Free of Charge" to BCPL on DDP (Delivered Duty paid), Kolkata basis.

## **10. INSPECTION:**

The materials are to be inspected throughout the phases of production from raw materials to finished product by your works inspectors. Shipping documents in respect of each consignment should be accompanied by a certificate issued by works inspector indicating the tests conducted with results thereof as required under the relevant specification and also certifying that the materials conform to the specification as indicated in the purchase order.

## **11. PART ORDER**

BCPL, at its discretion, may finalize order on bidder(s) for any or all items of the enquiry.

## **12. REPEAT ORDER**

BCPL reserves the right, within 6 months of order to place repeat order up to 50% of the ordered quantity without any change in unit price and other terms & conditions.

## **13. BCPL'S RIGHT TO ACCEPT OR REJECT THE BID**

BCPL reserves the right to accept or reject the bid at any time prior to award of contract without assigning any reason whatsoever.

## **14. FALL CLAUSE**

The price charged for the items supplied under the contract by the seller shall in no event exceed the lowest price at which the seller or his Agent/Principal/Dealer, as the case may be, sells the goods or offer to sell goods of identical description to any persons/organizations around the world during the currency of the contract.

If at any time during the said contract period, seller or his Agent/Principal/Dealer, as the case may be, reduces the sale price, sells or offers to sell such goods to any persons/organizations at a price lower than the price chargeable under the contract, he shall forthwith notify such reduction or sale or offer of sale to the BCPL and

the price payable under the contract for the goods supplied after the date of coming into force of such reduction or sale or offer of sale stand correspondingly reduced. However, the above stipulation will not apply to:

- a) Exports by the Seller
  - b) Sale of goods as original equipment at prices lower than the prices charged for normal replacement
  - c) Sale of goods such as drugs which have expiry dates. The Seller shall furnish the following certificate to the concerned paying authority along with each bill for payment for supplies made against this order.  
“I/We certify that there has been no reduction in sale price of the goods of description identical to the goods supplied to the BCPL under the contract herein and such goods have not been offered/sold by me/us to any person/organization around the world up to the date of bill/ during the currency of the contract whichever is later, at a price lower than the price charged to the BCPL under the order”.
- Such a certificate shall be obtained except for quantity of items/goods/materials categories under sub clause (a), (b) & (c) above, of which details shall be furnished by the Seller.

## **15. FORCE MAJEURE**

Shall mean and be limited to the following:

(a) War/Hostilities (b) Riot or Civil Commotion (c) Earthquake, flood, tempest, lightning or other natural physical disaster.(d) Restrictions imposed by the Government or other statutory bodies which prevents or delays the execution of the order by the SELLER.

The SELLER shall advise BCPL by a registered letter duly certified by the local Chambers of Commerce or Statutory Authorities, the beginning and end of the above causes of delay within seven (7) days of the occurrence and cessation of such Force Majeure Conditions. In the event of delay lasting over one month, if arising out of causes of Force Majeure, BCPL reserves the right to cancel the order and provisions governing termination shall apply.

For delays arising out of Force Majeure, the SELLER shall not claim extension in completion date for a period exceeding the period of delay attributable to the causes of Force Majeure and neither BCPL nor SELLER shall be liable to pay extra costs provided it is mutually established that Force Majeure conditions did actually exist. SELLER shall categorically specify the extent of Force Majeure conditions prevalent in their works at the time of submitting their bid and whether the same have been taken into consideration or not in their quotations. In the event of any force majeure cause, the SELLER or the BCPL shall not be liable for delays in performing their obligations under this order and the delivery dates will be extended to the SELLER without being subject to price reduction for delayed deliveries, stated elsewhere.

## **16. RESOLUTION OF DISPUTES/ ARBITRATION**

**16.1** BCPL and the Seller shall make every effort to resolve amicably by direct normal negotiations any disagreement or dispute arising between them under or in connection with the Contract.

**16.2** If, after 30 days from commencement of such informal negotiations, BCPL and the Seller have been unable to resolve amicably a contract dispute, either party may require that the dispute be referred for resolution to the formal mechanism as specified hereunder:

### **16.3** Legal construction

The Contract shall be, in all respects be construed and operated as an Indian Contract and in accordance with Indian Laws as in force for the time being and is subject to and referred to the Court of Law situated within Union Territory of New Delhi.

### **16.4** Arbitration

All disputes, controversies or claims between the parties (except in matters where the decision of the Engineer-in-Charge is deemed to be final and binding) which cannot be mutually resolved within a reasonable time shall be referred to Arbitration by a sole arbitrator.

BCPL shall suggest a panel of three independent and distinguished persons to the Seller to select any one among them to act as the Sole Arbitrator.

In the event of failure of the Seller to select the Sole Arbitrator within 30 days from the receipt of the communication suggesting the panel of arbitrators, the right of selection of the sole arbitrator by the other party shall stand forfeited and BCPL shall have discretion to proceed with the appointment of the Sole Arbitrator. The decision of BCPL on the appointment of the sole arbitrator shall be final and binding on the parties. The award of the Sole Arbitrator shall be final and binding on the parties and unless directed/awarded otherwise by the sole arbitrator, the cost of arbitration proceedings shall be shared equally by the parties. The Arbitration proceedings shall be in English language and the venue shall be New Delhi, India. Subject to the above, the provisions of the Indian Arbitration and Conciliation Act, 1996 and the Rules framed there under shall be applicable. All matters

relating to this contract are subject to the exclusive jurisdiction of the Courts situated in the State of Delhi (India).

Seller may please note that the Arbitration & Conciliation Act 1996 was enacted by the Indian Parliament and is based on United Nations Commission on International Trade Law (UNCITRAL model law), which were prepared after extensive consultation with Arbitral Institutions and centers of International Commercial Arbitration. The United Nations General Assembly vide resolution 31/98 adopted the UNCITRAL Arbitration rules on 15 December 1996.

The work under the contract shall, however, continue during the Arbitration proceedings and no payment due or payable to the Seller shall be withheld on account of such proceedings.

**17.** Seller shall protect and fully indemnify BCPL from any claim from infringement of patents, copyright, trademark and the like. In case of any claim in this regard, Seller shall be solely responsible for any consequences/damages.

#### **18. PACKING & MARKING**

While dispatching ordered stores, it will be the responsibility of the supplier to properly pack the consignment so as to enable its delivery at destination free from loss, damage or pilferage. Each packing must contain a list of stores packed therein. Each packing/bundle must be prominently marked with order no. and packing no. & consignee name & address.

#### **19. DESPATCH DOCUMENTS**

The dispatch documents shall consist of Bill of Lading/AWB, Invoice, Packing List, Inspection/Test Certificate, Certificate of Conformity, Certificate of Origin of Goods any other document(s) mentioned in the P.O. In case of direct documents, original plus one copy of the documents may be sent to In-charge (F&A) BCPL, immediately after dispatch with copies to purchaser through email/Fax. Invoice must bear the purchase order no. with date. The vendor will intimate dispatch particulars to purchaser through e-mail / fax at the time of dispatch of goods. In case of documents through Bank, it may be noted that the documents will be retired only if the dispatches are made as per the terms of the purchase order.

**20.** Seller shall protect and fully indemnify BCPL from any claim from infringement of patents, copy right, trade mark and the like.