

INTERNATIONAL ONSITE BIDDING Nº 009/2013

REQUEST FOR PROPOSAL

THE HIRING OF A COMPANY TO SUPPLY, UNLOAD FROM THE SHIP, TRANSPORT FROM THE DOCKS TO THE TERMINAL, DELIVER AT THE WAREHOUSE, STORE, AND NATIONALIZE 147,056 (ONE HUNDRED FORTY-SEVEN THOUSAND AND FIFTY-SIX) TONS OF UIC-60E2 TRACK TO BE USED IN PERMANENT RAILLINES AND IN SWITCHES AND CROSSINGS, DESTINED FOR EF 334 – EAST-WEST INTEGRATION RAILWAY, FOR THE RAILLINES LINKING ILHÉUS/BA AND BARREIRAS/BA.

REQUEST FOR PROPOSAL – INTERNATIONAL ONSITE BIDDING Nº 009/2013			
CORPORATE NAME			
ADDRESS:			
NATIONAL REGISTRATION NUMBER(CNPJ)			
CONTACT	NAME		
	POSITION		
	TELEPHONE		FAX
	E:MAIL		
	NAME		
	POSITION		
	TELEPHONE		FAX
	E:MAIL		
LOCATION/DATE			
<p>1. The bidders who access the RFP on VALEC's website, www.valec.gov.br, should fill out this Request for Proposal and send it to the e-mail address gelic@valec.gov.br.</p> <p>2. Failing to submit this form may cause problems in the communication of VALEC with the bidder throughout all stages of the bidding process.</p>			

INTERNATIONAL ONSITE BIDDING Nº 009/2013

PROCESS Nº	51402.047876/2013-51
MODALITY:	BIDDING
FORM	ONSITE
TYPE	LOWEST OVERALL PRICE PER LOT
SYSTEM OF IMPLEMENTATION	OVERALL PRICE
OPENING DATE	SEPTEMBER 18, 2013
TIME	10:00 AM
VALEC HEADQUARTERS	SEP/SUL 713/913, BLOCO E, ED. CNC TRADE, BRASÍLIA/DF – CEP: 70.390-135

VALEC – Engenharia, Construções e Ferrovias S.A, hereinafter referred to as VALEC, hereby publishes its intent to hold an auction, in the modality INTERNATIONAL ONSITE BIDDING, for the hiring of a company to **supply, unload from the ship, transport from the dock to the terminal, deliver at the warehouse, store, and nationalize 147,056 (one hundred forty-seven thousand and fifty-six) tons of UIC-60E2 track to be used in permanent rail lines and in switches and crossings, destined for EF 334 – East-West Integration Railway, for the rail lines linking Ilhéus/BA and Barreiras/BA**, all the proceedings thereof shall be undertaken in accordance with Law 10.520, of 17 June, 2002, Decree 5.450, of 31 May, 2005, Decree 3.555, of 8 August, 2000, Law 8.078, of 11 September, 1990 – Consumer Defense Code, Decree 3.722, of 9 January, 2001, Complementary Law 123, of 14 December, 2006, and Law 8.666 of 1993 and its amendments, as well as with all other regulations and federal administrative directives, which make up an integral part of this Notice, irrespective of its transcriptions.

The RFP and the annexes thereof can be acquired at the Headquarters of VALEC, from 8 to 12 AM and 2 to 6 PM, Mondays through Fridays, on business days, upon payment of a sum corresponding to the cost of the printing of said documents, in accordance with Article 5, III, of Law 10.520 of 2002,

or it can be acquired at no cost from the website of VALEC, which is www.valec.gov.br and on the Comprasnet website, www.comprasnet.gov.br.

VALEC disavows any responsibility for the RFP and the spreadsheets, forms and other information contained thereon if it be obtained or referred to in a manner or location other than those mentioned above.

This notice and any possible corrections thereto will be available in English, with the caveat that, in the case of divergence in the English version of the notice, the Portuguese version thereof shall take precedence.

Justification for the adoption of the INTERNATIONAL ONSITE BIDDING as opposed to the electronic modality for the purchase of UIC-60E2 Rail Tracks

1. Firstly, we should clarify that the adoption of Bidding as a modality for the contest in question appears to be more advantageous for the Government as opposed to the other means of procurement provided for in Law No. 8666, of 1993: foremost among these advantages are: the expansion of economic advantages due to its competitive nature and through the possibility of reducing the price of the initial proposals through bids offered by participating companies; increasing the range of bidders, by means of the prohibition of the demand for bid guarantees, and simplifying the bidding process by inverting the stages of qualification and evaluation of the proposals.
2. Regarding the adoption of Bidding in its electronic form, Decree nº 5.450, of 2005, Article 4, paragraph 1 states, verbatim:

Art. 4 In the bidding process for the purchase of common goods and services, the auction modality shall be mandatory, preferably in its electronic form.
Par. 1º The bidding shall be accomplished in electronic form, except in those cases in which it is manifestly infeasible, which shall be justified by the competent authority.
3. Thus, it can be noted that, in general, the Electronic Bidding process should be adopted by the Government. However, within the law itself there are exceptions which allow the option of Onsite Bidding in cases of **manifest infeasibility**, to be duly justified by the competent authority.

4. In the case in point, the market is made up of a limited number of companies, being that all the manufacturers of the product are foreign-based with peculiarities which do not lend themselves to the electronic system of competition. Thus, due to the characteristics of the rail track market and of other peculiarities of a technical nature, as can be seen in the Term of Reference, which is an integral part of this Notice, the onsite bidding shows itself most appropriate for the contest.
5. Furthermore, whereas the logic of the market suggests that the prices ordinarily charged by distributors, importers and other intermediaries are higher than those charged directly by the international manufacturers, given that the product to be purchased is not manufactured in Brazil, the use of the onsite bidding modality shows itself most appropriate as opposed to the electronic.
6. Due to these market considerations, it appears that the use of the Electronic system is less suitable to the purposes of fostering competition as compared to the onsite modality, **bearing in mind that the electronic bidding system makes no provision for receiving proposals in foreign currency.**
7. It is well known that normal international trade is based on the U.S. dollar or the Euro. Foreign companies which manufacture rail track do not sell on the international market in the currency of each country to which they will provide their product, since this would make it impractical to sell their products in different countries. One cannot, therefore, require that the foreign bidders adopt the Real, since if this were done it would represent a departure from the rules of foreign trade, incurring significant reduction in the number of competing suppliers and certainly increased end prices for the government. Moreover, deserted or failed biddings would be a logical consequence of deviating from the dictates of the international market.
8. Another point that deserves attention in this choice of onsite bidding instead of electronic is the application of the liens related to the national tax burden regarding competition only among foreign companies or between foreign companies and domestic companies.
9. In onsite bidding when foreign companies participate with bids in US dollars or Euros, the auctioneer may, by accessing the website of the Central Bank of Brazil and using as a conversion parameter the exchange rate of the day before the bidding session, enter the result of this equation manually, in Reais, into Comprasnet.

10. When both foreign and domestic companies take part in the same contest, the bids are presented in Reais and foreign currency, and then, for purposes of competition, the auctioneer may add to the bid of a foreign competitor a percentage equivalent to the liens (taxation) highlighted in the bid of the domestic company. In other words, the auctioneer may equalize the bids to avoid favoring the bids tendered by foreign companies, since these are not subject to the Brazilian tax burden in the same manner as domestic companies are.
11. These peculiarities of a fiscal nature require that calculations and the posting of values by the auctioneer be done manually, since the Comprasnet does not have the specific functionality for equalizing proposals.
12. Thus, the fact that the bids proffered by Brazilian companies are taxed and those of foreign companies do not suffer any increase due to taxation in no way affects the outcome of the contest when onsite bidding is adopted, since the liens levied on domestic companies are applied to foreign companies for the equalization of the bids, which is materially impossible in the electronic system.
13. We might add that the object to be acquired, (rail track), is a common product, devoid of any sophistication, whose profile is duly standardized in domestic and foreign markets. According to legal scholar Ricardo Ribas da Costa Berloff:

A common good or service is one that can be acquired, in a satisfactory manner, through a selection procedure devoid of detail or sophistication. In short, common objects are standardized objects, those which have a qualitative profile defined in the market.

INDEX**1. DEFINITIONS AND ABBREVIATIONS****2. PRELIMINARY PROVISIONS**

- 2.1 – Purpose
- 2.2 – Duration of the contract and the execution of the services
- 2.3 – Reference Price and Budget Allocation
- 2.4 – Conduct of the bidding process

3. PARTICIPATION

- 3.1 – Conditions for participation
- 3.2 – Participation of consortiums
- 3.3 – Commercial Representative
- 3.4 – Conditions for the participation of micro and small businesses
- 3.5 – Clarifications and additional information
- 3.6 – Challenging the Bidding
- 3.7 – Penalties

4. OPENING PROCEDURES

- 4.1 – Opening of the Public Session and Accreditation
- 4.2 – Manner of delivery of the envelopes
- 4.3 – Procedures of the Public Session: Verbal bidding stage, Written bidding stage, and Accreditation stage.

5. ACCREDITATION AND BIDDING

- 5.1 – Documents for the Bid
- 5.2 – Documents for Accreditation

6. EVALUATION AND AJUDICATION

- 6.1 – Criteria for Adjudication and general provisions
- 6.2 – Analysis of the Bid
- 6.3 – Analysis of Accreditation Documents
- 6.4 – Classification of the Bidders

7. APPEALS, ADJUDICATION, AND CONFIRMATION

7.1 – Administrative Appeal

7.2 – Adjudication and Confirmation

8. CONTRACT

8.1 – Payment

8.2 – Oversight

8.3 – Penalties

8.4 – Termination

8.5 – Subrogation

8.6 – Subcontracting

8.7 – Readjustment

8.8 – Contractual Guarantees

8.9 – Obligations of the contractor and the contracting party.

8.10 – Receipt of the products.

9. FINAL PROVISIONS

ANNEXES**ANNEX I – TERM OF REFERENCE.****ANNEX II – MODELS OF STATEMENTS**

ANNEX II-A – Letter of Accreditation.

ANNEX II-B – Statement of the Absence of Disqualifications.

ANNEX II-C – Statement regarding Minors.

ANNEX II-D – Statement of Ability to Fulfill the Contract (for Brazilian bidders and foreign bidders operating in Brazil).

ANNEX II-E – Statement of Ability to Fulfill the Contract (for foreign bidders with no operations in Brazil).

ANNEX II-F – Cover Letter for Bid (with Spreadsheet model).

ANNEX II-G – Statement of Independent Preparation of Proposal.

ANNEX III – STATEMENT OF ECONOMIC AND FINANCIAL CAPACITY.**ANNEX IV – DRAFT CONTRACT.****ANNEX V – MODEL DELIVERY ORDER.****ANNEX VI – ACKNOWLEDGEMENT OF RECEIPT AND FINAL ACCEPTANCE CERTIFICATE.**

1 – DEFINITIONS AND ABBREVIATIONS

1. The following acronyms, expressions, and terms are adopted which shall bear the meaning indicated below, irrespective of others which may be included in this Notice, in the annexes thereof, or in applicable legislation:
 - 1.1. ABNT: Brazilian Association of Technical Standards;
 - 1.2. DELIVERY ORDER: Is the document issued by the CONTRACTING PARTY which authorizes the CONTRACTOR to initiate the services or parts thereof, indicating purpose, duration, values, and any other provisions necessary to the perfect description of the same; and,
 - 1.3. SERVICES: Any and all services/products to be provided by the CONTRACTOR.

2 – PRELIMINARY PROVISIONS

2.1 – Purpose

- 2.1.1 The purpose of this bidding is the hiring of a company to supply, unload from the ship, transport from the dock to the terminal, deliver at the warehouse, store, and nationalize 147,056 (one hundred forty-seven thousand and fifty-six) tons of UIC-60E2 track to be used in permanent rail lines and in switches and crossings, destined for EF 334 – East-West Integration Railway, for the rail lines linking Ilhéus/BA and Barreiras/BA, to meet the requirements of VALEC, in accordance with the specifications and quantities put forth in this Notice, in its Term of Reference, and, possibly, in question and answer booklets published on the website www.valec.gov.br.
- 2.1.2 The bidding is subdivided into 5 (five) distinct lots, with each bidder having the option of participating in the bidding for however many lots as may be of interest thereto. They must, however, tender a bid for all of the items which make up each lot for which they intend to bid.
- 2.1.3 The criteria adopted for adjudication will be that of the lowest overall price per lot, taking into account the exigencies set forth in this notice and the annexes thereof regarding the specifications of the purpose.

- 2.1.4 The destination/place of delivery of the rail tracks is in a warehouse/yard in the port of the city of Ilhéus/BA, in accordance with the conditions set forth in the Term of Reference.
- 2.1.5 Technical specifications, inspections, form of receipt of the rail tracks, as well as delivery specifications and further details are outlined in Annex I of this Notice.
- 2.1.6 VALEC will be the sole recipient of the rail tracks, whether they are purchased through a Brazilian company or a foreign company.

2.2 – Duration of the contract and the execution of the services

- 2.2.1 For lots “A”, “B”, and “C”, the duration of the contract will be 10 (ten) months from the date of the signing of the Contract and may, in VALEC’s interest, be extended in accordance with the provisions of Art. 57, section I, of Law 8.666, of 1993.
- 2.2.1.1 The duration of the abovementioned deliveries will be 8 (eight) months from the date of the issuing of the delivery order.
- 2.2.2 For lots “D” and “E”, the duration of the contract will be 18 (eighteen) months from the date of the signing of the Contract and may, in VALEC’s interest, be extended in accordance with the provisions of Art. 57, section I, of Law 8.666, of 1993.
- 2.2.2.1 The duration of the abovementioned deliveries will be 9 (nine) months from the date of the issuing of the delivery order.

2.3 – Reference Price and Budgetary Allocation

- 2.3.1 The base budget price, as of June, 2013, for the purchase of rail track, by lot, is:

LOT A: The reference budget price of lot “A”, with a baseline date of June, 2013, for the acquisition of rail track is in the amount of USD 32.470.518,08 and R\$ 1.342.380,44, and an additional R\$ 27.606.952,25, relative to the liens resulting from taxes levied. The currency exchange of the budget into REAIS (R\$) will be accomplished in accordance with the specifications in the notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT A							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708	1.117,81	29.854.469,48
b		Shipping	USD	t	26.708	74,67	1.994.286,36
c		Insurance for Shipping and Unloading	USD	t	26.708	3,20	85.465,60
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708	20,08	536.296,64
a+b+c+d		SUBTOTAL 01	USD	t	26.708	1.215,76	32.470.518,08
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	26.708	2.719,90	72.643.089,20
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708	8,45	225.682,60
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708	15,92	425.191,36
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708	24,89	664.762,12
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708	25,56	682.656,48
h		Dispatcher service for nationalization	R\$	process	3	2.950,00	8.850,00
e+f+g+h		SUBTOTAL 02	R\$				1.342.380,44
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				73.985.469,64
i		Taxes and Fees	R\$				27.606.952,25
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				101.592.421,89

LOT B: The reference budget price of lot “B”, with a baseline date of June, 2013, for the acquisition of rail track is in the amount of USD 32.470.518,08 and R\$ 1.342.380,44, and an additional R\$ 27.606.952,25, relative to the liens resulting from taxes levied. The currency exchange of the budget into REAIS (R\$) will be accomplished in accordance with the specifications in the notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT B							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708	1.117,81	29.854.469,48
b		Shipping	USD	t	26.708	74,67	1.994.286,36
c		Insurance for Shipping and Unloading	USD	t	26.708	3,20	85.465,60
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708	20,08	536.296,64
a+b+c+d		SUBTOTAL 01	USD	t	26.708	1.215,76	32.470.518,08
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	26.708	2.719,90	72.643.089,20
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708	8,45	225.682,60
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708	15,92	425.191,36
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708	24,89	664.762,12
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708	25,56	682.656,48
h		Dispatcher service for nationalization	R\$	process	3	2.950,00	8.850,00
e+f+g+h		SUBTOTAL 02	R\$				1.342.380,44
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				73.985.469,64
i		Taxes and Fees	R\$				27.606.952,25
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				101.592.421,89

LOT C: The reference budget price of lot “C”, with a baseline date of June, 2013, for the acquisition of rail track is in the amount of USD 32.470.518,08 and R\$ 1.342.380,44, and an additional R\$ 27.606.952,25, relative to the liens resulting from taxes levied. The currency exchange of the budget into REAIS (R\$) will be accomplished in accordance with the specifications in the notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT C							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708	1.117,81	29.854.469,48
b		Shipping	USD	t	26.708	74,67	1.994.286,36
c		Insurance for Shipping and Unloading	USD	t	26.708	3,20	85.465,60
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708	20,08	536.296,64
a+b+c+d		SUBTOTAL 01	USD	t	26.708	1.215,76	32.470.518,08
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	26.708	2.719,90	72.643.089,20
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708	8,45	225.682,60
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708	15,92	425.191,36
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708	24,89	664.762,12
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708	25,56	682.656,48
h		Dispatcher service for nationalization	R\$	process	3	2.950,00	8.850,00
e+f+g+h		SUBTOTAL 02	R\$				1.342.380,44
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				73.985.469,64
i	Taxes and Fees		R\$				27.606.952,25
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				101.592.421,89

LOT D: The reference budget price of lot “D”, with a baseline date of June, 2013, for the acquisition of rail track is in the amount of USD 40.686.624,16 and R\$ 1.682.757,38, and an additional R\$ 34.592.486,55, relative to the liens resulting from taxes levied. The currency exchange of the budget into REAIS (R\$) will be accomplished in accordance with the specifications in the notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT D							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	33.466	1.117,81	37.408.629,46
b		Shipping	USD	t	33.466	74,67	2.498.906,22
c		Insurance for Shipping and Unloading	USD	t	33.466	3,20	107.091,20
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	33.466	20,08	671.997,28
a+b+c+d		SUBTOTAL 01	USD	t	33.466	1.215,76	40.686.624,16
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	33.466	2.719,90	91.024.173,40
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	33.466	8,45	282.787,70
f		Unloading of the rail track at the bonded port terminal	R\$	t	33.466	15,92	532.778,72
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	33.466	24,89	832.968,74
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	33.466	25,56	855.390,96
h		Dispatcher service for nationalization	R\$	process	4	2.950,00	11.800,00
e+f+g+h		SUBTOTAL 02	R\$				1.682.757,38
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				92.706.930,78
i	Taxes and Fees		R\$				34.592.486,55
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				127.299.417,33

LOT E: The reference budget price of lot “E”, with a baseline date of June, 2013, for the acquisition of rail track is in the amount of USD 40.686.624,16 and R\$ 1.682.757,38, and an additional R\$ 34.592.486,55, relative to the liens resulting from taxes levied. The currency exchange of the budget into REAIS (R\$) will be accomplished in accordance with the specifications in the notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT E							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	33.466	1.117,81	37.408.629,46
b		Shipping	USD	t	33.466	74,67	2.498.906,22
c		Insurance for Shipping and Unloading	USD	t	33.466	3,20	107.091,20
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	33.466	20,08	671.997,28
a+b+c+d		SUBTOTAL 01	USD	t	33.466	1.215,76	40.686.624,16
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	33.466	2.719,90	91.024.173,40
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	33.466	8,45	282.787,70
f		Unloading of the rail track at the bonded port terminal	R\$	t	33.466	15,92	532.778,72
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	33.466	24,89	832.968,74
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	33.466	25,56	855.390,96
h		Dispatcher service for nationalization	R\$	process	4	2.950,00	11.800,00
e+f+g+h		SUBTOTAL 02	R\$				1.682.757,38
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				92.706.930,78
i	Taxes and Fees		R\$				34.592.486,55
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				127.299.417,33

2.3.2 The resources necessary for the execution of the purpose for Fiscal 2013 are contained in the Annual Budget Law– LOA/2013, Law 12.798 of 04 April, 2013, published in the D.O.U.(Federal Official Gazette) on 05 April, 2013 and will be distributed proportionally between the sections of the FIOL, as listed below:

a) Value for Fiscal 2013: R\$ 17.609.353,13:

Program Function: 26.783.2072.11ZE.0029 (construction of the FIOL - Section Ilhéus/Caetité); e

b) Value for Fiscal 2013: R\$ 16.254.787,50:

Program Function: 26.783.2072.124G.0029 (construction of the FIOL - Section Caetité/Barreiras).

2.3.3 The budget resources for Fiscal 2014 is included in the Plurianual Plan – PPA 2012/2015, Bill nº 29/2011 – CN, in accordance with the Law of Budgetary Directives – LDO, Law nº 12.708, of 17 August, 2012.

2.4 – Conduct of the Bidding Process

2.4.1 The bidding process which is the purpose of this Notice will be conducted by an auctioneer designated by Ordinance nº 359/2013-VALEC. We emphasize that all technical qualifications of the bidding process will be analyzed and judged by the TECHNICAL SUBCOMMITTEE instituted by Ordinance nº 242/2013, and the announcement of the outcome will be the sole responsibility of the auctioneer.

2.4.2 The auctioneer may call upon any VALEC unit for the purpose of answering questions, appeals, and challenges, analysis of bidders' documents as well as bids, and the reports of these units will be entirely the responsibility of the same.

2.4.3 In the case of unforeseen events occurring after the publication of the present Notice, remedies may be adopted to redress any procedural shortcomings, possibly including the following:

a) Extension of the deadlines provided in the Notice, in the case of government interest, unforeseeable circumstances, or force majeure;

b) Postponement or suspension of the bidding; and,

- c) Alteration of the conditions of the bidding process. In this case an erratum notice may be published or this Notice may be republished and, if the alteration unequivocally affects the preparation of the bids, a new date for the Bidding will be set.
- 2.4.4 Beyond those events mentioned above, the competent authority approving the bidding process may revoke it in light of reasons of public interest, by reason of a duly substantiated subsequent event which is pertinent and sufficient to justify such action, and must annul it for illegality, ex officio or by the request of a third party, provided this be presented in writing and duly substantiated.
- 2.4.5 Any changes to the date set for the bidding session will be disseminated through publication in the Federal Official Gazette and major newspapers.
- 2.4.6 The occurrence of any of the acts set forth herein will not result, at any time and under any circumstances, in the right to reimbursement or indemnification for the bidders.

3. PARTICIPATION

3.1 – Conditions for Participation

- 3.1.1 The Following may participate in this bidding:
- a) Brazilian companies;
 - b) Foreign companies with a subsidiary, branch, agency, office or establishment in Brazil (legally operating in the country);
 - c) Foreign companies without a subsidiary, branch, agency, office or establishment in Brazil, provided they have a legal representative established in Brazil (legal entity), with express powers to receive summons and respond administratively and judicially;
 - d) Foreign companies with commercial representation in Brazil; and,
 - e) Companies joined in the form of a consortium.

- 3.1.2 Foreign companies which are not legally in operation in the country who wish to participate in the bidding process shall meet all requirements of this Notice through equivalent documents, in addition to observing the provisions of the Brazilian Civil Code.
- 3.1.3 Participation in this contest implies full and irrevocable acceptance of all terms, clauses and conditions contained in this Notice and its Annexes as well as compliance with the applicable legal and regulatory provisions and responsibility for the fidelity and validity of the information and documents submitted at any stage of the process.
- 3.1.4 The following may not take part in the bidding process:
- a) Legal entities whose directors or technical managers are or have been occupying positions as leadership, senior advisors, intermediary assistance, in effective positions or employment in the Ministry of Transportation or any agency or company linked to it, in the last 180 (one hundred eighty) calendar days prior to the date of publication of the notice of this bid;
 - b) Companies who have among their personnel or stockholders a public servant or relative thereof who serves in VALEC in an appointed position (Decree nº 7.203/2010);
 - c) Companies which have been declared to be suspended from bidding and contracting with the government, in accordance with Article 7 of Law 10.520, of 2002;
 - d) Companies which have declared bankruptcy, are bankrupt, undergoing judicial or extrajudicial recovery of assets, contested by creditors, or are in the process of dissolution and liquidation;
 - e) Companies which are part of a consortium may not also participate in more than one consortium or singly; and
 - f) Companies which are barred from bidding and contracting upon consultation of the registries of:
 - f.1) Sistema de Cadastramento Unificado de Fornecedores – SICAF(Unified Registration System of Suppliers);
 - f.2) Certidão Nacional de Débitos Trabalhistas – CNDT (National Certificate of Labor Debts), issued by the Tribunal Superior do Trabalho(Superior Labor Court), in accordance with Law nº 12.440, of 2011;

f.3) Cadastro Nacional de Empresas Inidôneas – CEIS(National Registry of Disreputable Companies);

f.4) Cadastro Integrado de Condenação por Ilícitos Administrativos – CADICON(Integrated Registry of Convictions for Administrative Illegality); and,

f.5) Cadastro Nacional de Condenações Cíveis por Ato de Improbidade Administrativa(National Registry of Convictions in Civil Courts for Administrative Malfeasance) of the Conselho Nacional de Justiça – CNJ(National Council of Justice).

3.1.5 The provisions of the item above shall not affect, in any event, the exercise of the right of appeal.

3.2 Participation of consortiums

3.2.1 Consortiums must abide by the following:

a) Present the commitment by public deed or private document recorded in the Registry of Deeds and Documents, in Brazil, signed by the consortium members, which shall contain at least the following:

a.1) Indication of the leading company which will be responsible for fulfilling the obligations of the consortium members, conferring upon the leader full powers to represent them in the bidding process and contracting, to receive the price of the service, to discharge the same, and to answer administratively and judicially, including receiving notices, subpoenas and summons;

a.2) Regulate the participation of each consortium member in the performance of the services, as well as the percentage, allotted to each consortium member, of the price;

a.3) Regulate the responsibility of each consortium member regarding compliance with contractual and/or technical obligations, the members of the Consortium shall be jointly liable for compliance in the bidding and contract; and,

a.4) Commitment that they do not and will not constitute, for the purposes of the consortium, a separate legal entity and that the consortium will not adopt a denomination apart from that of its members;

- b) The leader must have specific powers to receive instructions on behalf of all other members of the consortium, bearing legal and overall responsibility for the execution of the Contract;
 - c) When the Consortium is made up of Brazilian and foreign companies, the leadership will necessarily fall to a Brazilian company;
 - d) The duration of the consortium must at least match the warranty period of the rail tracks provided in Annex I – Term of Reference;
 - e) Present the qualification documents on behalf of each member, observing the particular directives for foreign companies without a subsidiary, branch, agency, office or establishment in Brazil;
 - f) For the purpose of economic and financial qualification, each consortium member must prove their qualification in proportion to their respective participation. **The proportional substantiation will be valid only for capital/equity**, all other points of economic and financial qualification shall be substantiated individually by each participant;
 - g) For the purpose of technical qualification, either the sum of the qualifications of each participant or a single presentation by a single consortium member will be valid.
- 3.2.2 If the winning bidder is a consortium, it will have to be registered before concluding the contract.
- 3.2.3 The company appointed as leader of the consortium will be its representative to the auctioneer, for the purposes of communications, representations or notices, either to the consortium or to its member companies.
- 3.2.4 Changes in the constitution or composition of the consortium shall be submitted for the consent and approval of VALEC, to ensure the validity of the basis for accreditation of the original consortium.

3.3 Commercial Representation

- 3.3.1 A bidder may present itself by means of a commercial representative (legal entity) which shall be the legal representative thereof in Brazil, pursuant to Item 3.1.1 of this Notice.

- 3.3.2 The commercial representative will not bid on its' own behalf, but rather on behalf of the foreign company.
- 3.3.3 The representation will be made by means of a public deed or a private document recorded in the Registry of Deeds and Documents, and furthermore, as applicable, shall be in accordance with the provisions of Laws 4.886 of 1965 and 8.420 of 1992.
- 3.3.4 In the case of documents in a foreign language, the provisions of Item 4.2.7 of this Notice must be observed.
- 3.3.5 All qualification documents and bids will be tendered on behalf of the foreign bidder.
- 3.3.6 The contract will be signed between the foreign company and VALEC, and the participation of the commercial representative will be highlighted.

3.4 Conditions for the participation of Micro and Small businesses

- 3.4.1 Those companies wishing to take advantage of the benefits of Complementary Law n° 123/2006 which fall into the category of Micro or Small businesses in accordance with the provisions of Article 6 of Decree n° 6.204 of 2007, must be registered in the field of activity concerning the purpose of the bidding; meet all requirements, including those related to documentation, set forth in this Notice and its Annexes; and, if registered in the SICAF – Unified Registration System of Suppliers, this registration should contain the proper categorization.
- 3.4.2 Concerning Articles 3, 42 e 43 of Complementary Law n° 123 of 2006, regarding categorization and accreditation, besides the automatic verification by the Federal Revenue Agency regarding the size of the company, the bidder must declare that they meet the requirements of Article 3 to be eligible for the benefits provided.
- 3.4.3 The advantage set forth in Articles 42 and 43 of said Complementary Law allows the bidder to submit documentation which contains a possible restriction duly remedied within 2 (two) business days, which may be extended for two more days, as the case may be, for the purpose of the signing of the contract.
- 3.4.4 The bid of the Micro/Small company which is within 5% more than the lowest bid shall be tied for first place and shall have the right to tender a bid to break the tie, within a maximum of 5

(five) minutes, in accordance with the provisions of Article 45 of Complementary Law 123 of 2006.

3.4.5 In the case of a tie as mentioned in the above item, the auctioneer shall proceed in the following manner:

- I. The Micro/Small company that placed best may place a bid lower than that which was considered to be the winner of the contest, in which case, the bidding shall be decided in its favor;
- II. If the abovementioned Micro/Small company is not awarded the contract, the remaining companies of that description which fall within the provisions of Paragraphs 1 and 2 of Article 44 of Complementary Law 123 of 2006, shall be called, in order of classification, to exercise the same right;
- III. In the case of parity of the values presented by the Micro/Small companies which fall within the intervals established in Paragraphs 1 and 2 of Article 44, a lottery will be held among them to identify the first to tender a better offer.

3.4.6 In the case that the contract is not awarded in accordance with the provisions of Item 3.4.5 the contract shall be awarded to the company which tendered the original winning bid.

3.4.7 The price negotiation with the bidder ranked first, when it occurs, will always be after the tiebreaking process and final classification of the participating companies.

3.4.8 The substantiation of the status of Micro/Small Company by the owner or partners shall be done by means of a certificate issued by the State Board of Commerce of the bidder.

3.5 Clarifications and Additional Information

3.5.1 Any clarifications regarding questions arising from this Notice and its Annexes should be sent, in writing, within 3 (three) business days before the date set for the opening of the bidding, to the auctioneer at the e-mail address: gelic@valec.gov.br, and should include in the “Subject” slot the type and number of the bidding (INTERNATIONAL ONSITE BIDDING nº 009/2013-VALEC), taking into account the business hours of VALEC.

3.5.2 The dispatch of the request for clarification **MUST** be immediately confirmed by means of the telephone number 55 61 2029.6482.

- 3.5.3 The clarifications will be posted on the website www.valec.gov.br, without identifying the bidders.
- 3.5.4 The answers to the questions will also be available for consultation and/or copying at the Management of Biddings for Constructions and Services– GELIC/SULIC/DIRAF/VALEC.
- 3.5.5 Any and all additional information given by the auctioneer shall be an integral part of this Notice.

3.6 Challenging of the Bidding

- 3.6.1 Up to two (02) business days before the date fixed for receipt of tenders, any natural person or legal entity may challenge the notice of this Bidding.
- 3.6.2 The challenge(s) shall be sent to the Management of Biddings and Contracts – GELIC/SULIC/DIRAF/VALEC, by e-mail: gelic@valec.gov.br, **UPON CONFIRMATION BY TELEPHONE (55 61 2029-6482)**, in accordance with Article 18 of Decree 5.450 of 2005. Alternatively, the lodging of challenges in person shall be admissible, at the headquarters of VALEC, at the address SEP/SUL 713/913, Bloco E, Asa Sul, Brasília/DF, within the deadline set forth in item 3.6.1.
- 3.6.3 Challenges must be accompanied by a copy of the corporate documents, with the proxy of the legal representative, accompanied by documentation identifying the recipient.
- 3.6.4 Challenges filed in a manner other than that stipulated above or filed after the legal deadline will not be accepted.
- 3.6.5 It will be up to the auctioneer to come to a decision regarding the challenge within a period of up to twenty-four hours (24 hours) after the receipt thereof.
- 3.6.6 If the challenge is accepted and if it alters the formulation of the bid, a new date will be set for the opening of the contest.
- 3.6.7 The challenge shall not impede the bidder's participation in the bidding process.

3.7 Penalties

3.7.1 If the bidder fails to meet any of the requirements during the bidding phase, the following penalties may be applied:

- a) **WARNING**: A written warning, issued by the auctioneer, when the bidder fails to meet any of the obligations set forth in the Notice;
- b) **FINE**: A financial penalty, in the amount of 1% (one percent) of the budget, will be imposed on the bidder, by the Disbursement Officer of VALEC in the case of unjustified refusal by the winner of the contest to sign the contract or withdraw the equivalent document after 5 (five) days have elapsed;
- c) **SUSPENSION**: A period of time in which the bidder is disqualified from participating in biddings and receiving government contracts for:
 - I. Receiving the fine provided in the FINE item and making no payment;
 - II. Refusal to sign the contract or any other valid document in its place;
 - III. Presenting fraudulent, counterfeit, or falsified documents in the bidding process, seeking to obtain, for yourself or for another, benefits resulting from the award of the object of the bidding; and,
 - IV. Committing illegal acts in order to frustrate the objectives of the bidding.

3.7.2 The fine may be applied cumulatively with other penalties, depending on the nature and severity of the misconduct.

3.7.3 The penalties must be logged in SICAF, and, in case of suspension, the bidder shall be disqualified for the same period, irrespective of the fines provided for in the Notice and contract as well as other legal impositions.

3.7.4 In all cases, the constitutional right to legal defense and adversarial proceedings will be upheld.

4. OPENING PROCEDURES

4.1 Opening of the Public Session and Accreditation

4.1.1 **On 18 September, 2013, at 10:00 AM**, the interested bidders must repair to the auditorium at VALEC headquarters, located at SEP/SUL 713/913, Bloco E, Asa Sul, Ed. CNC TRADE

Brasília/DF, for the submission of envelopes 1 (Bids) and 2 (Qualification Documents), in accordance with the presentation format described in item 4.2.

- 4.1.2 The submitting of documents by mail or any other means than those referred to in item 4.1.1. shall be inadmissible.
- 4.1.3 If there is no time or any supervening fact occurs that impedes the execution of the bidding at the scheduled date, the session will automatically be moved to the next business day, at the same time and place previously established, provided there is no communication otherwise.
- 4.1.4 The non-delivery of the envelopes on the day, time and place established, will be tantamount to the withdrawal from participation in the Bidding, even if the bidder has delivered the RFP form.
- 4.1.5 At the public session for the presentation and opening of the envelopes, **each bidder must present itself for accreditation to the auctioneer by means of a representative**, duly provided with the document that accredits them to participate in this bidding process, who shall also, upon delivery of the envelopes, identify themselves by displaying their Identity Card or equivalent document.
- 4.1.6 The accreditation shall be accomplished by means of the **Letter of Accreditation – Annex II-A** which must contain the notarized signature of the grantor, in accordance with Paragraph 2 of Article 654 of the Brazilian Civil Code or, being the owner or administrative director of the bidding company, accompanied by a duly certified document proving their representative capacity.
- 4.1.7 **The accreditation must be accompanied by a statement by the bidder, declaring that they fully meet the qualification requirements, in accordance with the provisions of Article 4, Section VII, of Law 10.520, of 17 July, 2002 (model Annex II-B Statement of the Absence of Disqualifications).**
- 4.1.8 Each accredited representative may only represent a single bidder.
- 4.1.9 The accreditation of a representative does not prevent the shareholders or managing directors of the bidding company (who can provide proof of capacity for representation) from bidding at the public session.

4.2 Form of delivery of the envelopes

4.2.1 The bidder shall submit the envelopes sealed, separate, and identified on the cover, as follows:

ENVELOPE nº 1

BID (must contain the bid)

LOT Nº

NOTICE OF INTERNATIONAL ONSITE BIDDING Nº 009/2013

Corporate name of the bidder or consortium (indicating the leading company)

Name, telephone and e-mail of the accredited representative.

ENVELOPE nº 2

QUALIFICATION DOCUMENTS (must contain the qualification documents)

LOT Nº

NOTICE OF INTERNATIONAL ONSITE BIDDING Nº 009/2013

Corporate name of the bidder or consortium (indicating the leading company)

Name, telephone and e-mail of the accredited representative.

- 4.2.2 Inversion of the documents within the envelopes will result in the summary expulsion of the bidder from the contest.
- 4.2.3 All documents submitted for qualification must be submitted on behalf of the bidder, with the National Legal Entity Registration Number (CNPJ) and respective address.
- 4.2.4 If the bidder is the parent company, all documents must be in its name.
- 4.2.5 If the bidder is a subsidiary, all documents must be in its name, except those documents which, by their nature, demonstrably, are issued only in the name of the parent company, and the statements of technical capacity, which can be submitted in the name of either.
- 4.2.6 All documents to be submitted should be originals, copies by any process of certification by notary public or public servant, or publication in the official press agency, except those extracted from the internet. Photocopied documents delivered on heat-sensitive paper (fax) will not be accepted.
- 4.2.7 The documents should be presented in clear language, without erasures, corrections, interlineations or qualifications, and must observe the following rules with respect to the language:

- a) All documents relating to the Bidding, including those of a contractual nature, should be presented in Portuguese and all documentation will be understood and interpreted in accordance with that language. Thus, the documents issued in a foreign language must be submitted accompanied by a translation into Portuguese by a sworn translator and properly consularized, in accordance with Article 224 of the Brazilian Civil Code, Articles 156 and 157 of the Brazilian Code of Civil Procedure and Paragraph 4 of Article. 32 of Law 8.666 of 1993. Excepting only those strictly technical terms which have no equivalent translation into the vernacular;
- b) Only the bid may be accompanied by a simple translation, so long as it is effectively presented together with the other documents and effectively signed by the representative of the company. This measure seeks to protect the confidentiality of the bid;
- c) In the event that the country of origin of the foreign company has signed the Convention for Judicial Cooperation in Civil, Commercial, Labor and Administrative Matters with Brazil, the requirement for the authentication of documents by the respective consulates is waived, and a certified copy of the Convention must be submitted.

4.2.8 For the purpose of standardization, the models annexed to this Notice must be complied with.

4.2.9 The bidder shall bear all costs associated with the preparation and submission of its bid. The Administration shall in no event be liable for such costs, whatever the procedures followed in the bidding, or the results thereof.

4.3 Procedures of the Public Session

4.3.1 The meeting for the receipt and opening of the envelopes containing the Bids and Qualification Documents will be public, directed by the auctioneer and held pursuant to this Notice and its Annexes, at the place and time determined by Item 4.1.1.

4.3.2 At the beginning of the session, interested parties should submit their credentials, by means of the documents listed in item 4.1 of the Notice, and will be empowered to formulate verbal bids and offers, in accordance with Section IV, Article 11, of Decree nº 3.555 of 2000, and for all other procedures of the contest.

- 4.3.3 Once the auctioneer has declared the opening of the session, no new bidders will be accepted, and the receipt of the envelopes will begin.
- 4.3.4 **The interested parties or their legal representatives shall submit to the auctioneer, in separate envelopes, the Bid and the Qualification Documents.**
- 4.3.5 The auctioneer will proceed with the opening of the envelopes containing the bids and will classify the author of the lowest bid and those who tendered bids in successive and higher values up to 10% (ten percent) more than the lowest bid. In the case of bids in US Dollars(US\$) or in Euros (€), all prices will be converted to the Real (R\$) at the exchange rate published by the Central Bank of Brazil on the day prior to the public session.
- 4.3.6 When at least three (03) bids under the conditions defined in the previous item have not been found, the auctioneer will categorize the best subsequent proposals to a maximum of three (03), so that their representatives may participate in the verbal and sequential bidding, regardless of the prices proffered in the written bids.
- 4.3.7 **For foreign companies without a subsidiary, branch, agency, office or establishment in Brazil, the bid shall be submitted on behalf of the bidder, but should contain the National Legal Entity Registration Number (CNPJ) of the legal representative. For the purposes of registration in the Comprasnet System, the bid of the foreign company will be tendered through the National Legal Entity Registration Number of its legal representative, who shall be empowered to make proposals, bid, and negotiate values with VALEC.**

Regarding the bidding stage

- 4.3.8 Once the bids have been classified, in accordance with the aforementioned items, the auctioneer will then begin the stage of the presentation of verbal bids, which should be formulated sequentially in distinct and decreasing values.
- 4.3.9 The bids must be tendered by overall price for each lot.
- 4.3.10 The auctioneer will invite the classified bidders to sequentially tender verbal bids, starting from the author of the classified bid with the highest price and continuing to the others in decreasing order of value.

- 4.3.11 Failure to present a verbal bid, when called upon to do so by the auctioneer, will result in the exclusion of the bidder from the verbal bidding stage and the maintenance of the last price submitted by the bidder for the purpose of the ordering of the bids.
- 4.3.12 The auctioneer may stipulate the minimum value reduction for the bids and maximum time interval between these.
- 4.3.13 There can be no withdrawal of bids tendered, and the bidder who does so will be subject to the penalties set forth in this Notice.
- 4.3.14 Once the bidding stage is concluded, in the case of participation of a bidder which is a Microbusiness (ME) or a Small Business (EPP) or a cooperative enterprise as specified in article 34 of Law 11.488, of 2007(COOP), the dispositions of articles 44 and 45 of Supplementary Law 123, of 2006, as regulated by Decree 6.204, of 2007 will be complied with.
- 4.3.14.1 The Auctioneer will identify those prices offered by the ME/EPP and COOP bidders which are equal to or up to 5% (five percent) higher than the lowest price, so long as the first placed is not a ME/EPP/COOP.
- 4.3.14.2 The proposals or bids that meet this requirement shall be considered tied with the first placed bidder and the best placed ME/EPP/COOP bidder shall have the right to present a final tiebreaking bid, necessarily below that of the first placed bidder, within 5 (five) minutes.
- 4.3.14.3 If the best placed ME/EPP/COOP withdraws or does not respond within the time limit specified, the other ME/EPP/COOP bidders which are within the aforementioned range of 5% (five percent) will be called, by order of classification, to exercise the same right, as set forth in the previous subsection.
- 4.3.14.4 In the case that ME/EPP/COOP bidders submit bids of identical value, within the aforementioned range of 5% (five percent), a lottery will be undertaken to determine which of the bidders may first submit a new bid, in accordance with the above sub-items.
- 4.3.14.5 If this procedure is successful, the ME/EPP/COOP will assume the first place in the contest, for the purposes of acceptance. If it is unsuccessful, or in the case of the best

initial bid having been tendered by an ME/EPP/COOP, or in the absence of an ME/EPP/COOP participating, the initial classification shall stand.

4.3.14.6 Only after the theoretical tiebreaker procedure, if any, and the final classification of the bidders, will there be negotiation of the price with the supplier ranked first.

4.3.15 After this, the competitive stage will be closed and the bids will be ordered exclusively by the criterion of lowest overall price.

4.3.16 In the case of a tie among bids, or among written and verbal bids, the criteria to break the tie will be those set forth in article 3, Paragraph 2, of Law 8.666, of 1993, assuring preference, successively, to those goods and services which are:

- a) Produced in Brazil;
- b) Produced or provided by Brazilian companies; and
- c) Produced or provided by companies which invest in research and in the development of technology in Brazil.

4.3.17 If the tie is unbroken, the tiebreaking criterion will be a public lottery.

4.3.18 Once the winning bid has been ascertained, the auctioneer may negotiate directly with the bidder to obtain a better price, in accordance with the criteria for adjudication, the negotiation of conditions other than those specified in this Notice being forbidden.

4.3.19 Upon concluding the negotiation of the price, the auctioneer will begin the stage of acceptance and adjudication of the bid.

Regarding the bidding stage

4.3.20 As a prerequisite for the acceptance of the bid, if the bidder placed first has enjoyed the preferential treatment provided in articles 44 and 45 of Supplementary Law 123, of 2006, the Auctioneer may consult the Transparency Website of the Federal Government (www.portaldatransparencia.gov.br), section “Expenditures – Expenditures Director of the Government – recipient (persons, companies, and others)”, to verify if the sum total value of the money orders received in the last fiscal year exceeds the limit of R\$ 3,600,000.00 (three million six hundred thousand reais), set forth in article 33, subsection II, of the aforementioned

Supplementary Law or the proportional limit set forth in article 3, Paragraph 2, of the same Law, in the case of incorporation in the current fiscal year.

4.3.20.1 For Micro and Small Businesses, the consultation may also cover the current fiscal year, to ascertain if the sum total value of the money orders received, up to the month immediately preceding the public bidding session, exceeds the aforementioned limits, with the addition of the 20% (twenty percent) set forth in article 3, Paragraphs 9-A and 12, of Supplementary Law 123, of 2006.

4.3.20.2 If the occurrence of any of the situations of the exceeding of the legal limit is ascertained, the auctioneer will reject the request for preferential treatment for the bidder, in accordance with article 3, Paragraphs 9, 9-A, 10, and 12, of Supplementary Law 123, of 2006, and the resulting rejection of the tiebreaking bid, irrespective of the applicable penalties.

4.3.21 If there is no rejection based on the event depicted above, the auctioneer will examine the bid placed first regarding the compatibility of the price with regards to the estimated value for the contract and the feasibility of the same, as well as regarding the fulfillment of the specifications of the purpose.

4.3.22 If necessary, the auctioneer may suspend the session, providing a new date and time for the resumption of the same.

4.3.23 If the first placed bid is not acceptable or is disqualified, the auctioneer will examine the next placed bid and so on by order of classification, until a bid which satisfies the conditions of the Notice is ascertained.

4.3.23.1 In the abovementioned situation, the auctioneer may negotiate with the bidder for the purpose of obtaining a better price.

4.3.24 In the adjudication of the bids, the auctioneer may remedy mistakes or shortcomings which do not alter the substance of the same, by means of a duly substantiated order, entered into the records and accessible to all, conferring upon them validity and efficacy for the purposes of classification.

Regarding the qualification stage

- 4.3.25 The offer being judged acceptable, the envelope containing the qualification documents of the bidder which has made the best offer will be opened, verifying the compliance with the conditions for the qualification set forth in this Notice.
- 4.3.26 For confirmation of the conditions of the qualification or verification of fiscal compliance of the bidder, the auctioneer may access the Unified Registration System of Suppliers - SICAF, though the bidder retains the right to prove that their data is current and valid with the presentation of the documentation in the session itself when appropriate.
- 4.3.27 The auctioneer will seek, additionally, as a prerequisite for the examination of the qualification documents of the first-placed bidder, to ascertain any noncompliance with the conditions for participation, especially regarding the existence of sanctions which would impede participation in the contest or in any future contract, by means of consultation of the following registries:
- a) The Unified Registration System of Suppliers – SICAF;
 - b) The National Certificate of Labor Debts – CNDT, issued by the Tribunal Superior do Trabalho (Superior Labor Court), in accordance with Law nº 12.440 of 2011;
 - c) The National Registry of Disreputable Companies – CEIS;
 - d) The Integrated Registry of Convictions for Administrative Illegality – CADICON; and,
 - e) The National Registry of Civil Convictions for Administrative Malfeasance of the National Council of Justice - CNJ.
- 4.3.28 The consultation of the registries will be done in the name of the bidder and of the majority stockholder of the same, pursuant to article 12 of Law 8.429, of 1992, which provides, among the penalties imposed upon those responsible for committing acts of administrative malfeasance, the prohibition from contracting with the government, including by means of a legal entity of which they are the majority stockholder.
- 4.3.29 If the existence of a prohibition from bidding and contracting is ascertained, the auctioneer will consider the bidder to be disqualified, because of failure to meet the requirements for participation.

- 4.3.30 If no disqualification occurs, the qualification documents of the first-placed bidder will be examined.
- 4.3.31 If the need for detailed examination of the required documents arises, the auctioneer will suspend the session, providing a new date and time for the resumption of the same.
- 4.3.32 After verifying full compliance with the requirements set forth in the Notice, the auctioneer will question the bidders regarding their intention to appeal and the summary of their reasons will be entered into the record.
- 4.3.33 If there is no intention to appeal, the winner will be declared and the contract will be awarded by the auctioneer.
- 4.3.34 If the proposal or offer is not acceptable or if the bidder does not meet the requirements set forth in the Notice, the auctioneer will then examine the subsequent bids or offers, in order of classification, until the ascertainment of a bid that meets all the requirements of the Notice, verifying the acceptability of the same and proceeding to its qualifications, in the order established, and so on until the determination of a bid or proposal that fulfills the requirements of the Notice, the respective bidder then being declared the winner and awarded the object of the contest.
- 4.3.35 A detailed record shall be kept of the work done in public session and the procedures adopted, which shall be signed by the auctioneer and all bidders, and which shall be created only at the end of the public session, by means of the Comprasnet System.
- 4.3.36 Upon ascertaining, in the course of the analysis, noncompliance with requirements set forth in this Notice and its Annexes, the Bid will be disqualified.
- 4.3.37 The winning bidder shall, within 24 hours from the acceptance of the bid by the auctioneer, formulate and deliver the final bid, explicitly containing the lowest amount offered, under penalty of being considered to have quit, and the second-placed bidder being called, irrespective of the penalties set out in the Notice.
- 4.3.38 When the work cannot be completed in a single session, or, in case of any issues that cannot be resolved immediately, the auctioneer will state the reason in the record, and may suspend the session. The companies will be informed of the date and time for the resumption of the work, during the public session or later, through publication in the Federal Official Gazette.

4.3.39 The unopened envelopes, already initialed on the cover by the auctioneer and the legal representatives of the bidders present, shall be kept by VALEC and in the possession of the auctioneer until another meeting be duly scheduled for the resumption of the work.

5. ACCREDITATION AND BIDDING

5.1 Documents for the Bids

(Brazilian and foreign bidders with or without a subsidiary, branch, agency, office or establishment in Brazil)

5.1.1 The Bid shall be submitted in one original or certified copy, duly numbered, signed and initialed on every page by the owner or legal representative or a person duly authorized (notarized power-of-attorney), in a sealed envelope, identified, in accordance with Item 4.2, containing the following elements:

- a) Index;
- b) Cover Letter of the Bid (**Annex II-F – Cover Letter of Bid**);
- c) Statement of independent preparation of bid, stating that the bid was developed independently, and the content was not, in whole or in part, directly or indirectly, informed to, discussed with, or received by any other potential bidder, according to the model in **Annex II-G - Statement of Independent Preparation of Bid**;
- d) The composition of the unit prices that comprise the overall value contracted herein should be presented;
- e) Valid for not less than sixty (60) days from the date of submission (item 4.1.1 of the Notice);
- f) Express statement that in the quoted prices are included all taxes, levies, charges of any kind, either inside or outside Brazil, that directly or indirectly relate to the object of this bidding until the delivery of the product and no claim may be raised to this effect; and,
- g) Firm and precise overall price for the 147,056 (one hundred forty-seven thousand and fifty-six) tons of UIC-60E2 rail track, contain no pricing alternatives or any other

condition that induces the adjudication to produce more than one result, under penalty of disqualification.

- 5.1.2 The bidding will consist of 5 (five) separate lots, and it shall be the responsibility of the bidder to indicate in their proposal to which lot it refers, in accordance with item 4.2.1.
- 5.1.3 The presentation of the bid shall imply full knowledge and acceptance by the bidder of the conditions set forth in this Notice and its Annexes, as there can be no withdrawal of prices tendered, under penalty of the provisions herein.
- 5.1.4 The bidders may submit their bids with prices in REAL, U.S. DOLLARS, or EUROS, irrespective of country of origin, and no bids containing different currencies will be accepted.
- 5.1.5 The bidders which are Brazilian and foreign companies with a subsidiary, branch, agency, office or establishment in Brazil, should indicate in their bid the Company Name, CNPJ number, State/District/Municipal registration, full address, phone number and fax, internet website and email address (if applicable), bank, branch and account number to which the payment order shall be issued and name and contact information of the person responsible for the bid.
- 5.1.6 The foreign bidder without a subsidiary, branch, agency, office or establishment in Brazil should indicate the equivalent in their country of origin to the data specified above, and, should it be the winner, must provide the data for the issuance of a letter of credit by the issuing bank, Banco do Brazil SA, in Brazil, and the beneficiary will, necessarily, be the foreign bidder participating in the contest.
- 5.1.7 The bid tendered and considered for the purpose of adjudication shall be the sole and full responsibility of the bidder, including regarding the consideration of exemptions or incidental costs, insurance, freight, installation, warranty, technical responsibility, transportation, taxes, tributes, fiscal contributions, para-fiscal contributions, fees, import licenses, customs clearance, wharfage, and any others deemed necessary, such as the cost of handling, including, possibly, third-party services or labor, due in the country of origin or Brazil, as appropriate, and any others that may relate directly or indirectly to the object of the bidding.
- 5.1.8 It shall be the sole and full responsibility of the bidder to obtain from the competent agencies, whether in Brazil or abroad, information on the applicability or not of taxes and fees of any kind due for the delivery of the object of this bidding, in domestic and/or foreign markets as no

claims of ignorance regarding the applicability of taxes, or other related issues, will be accepted, as well as considering the respective liens in their bids.

5.1.9 The values in foreign currency which influence the calculation of the taxes shall be converted at the exchange rate of the business day immediately preceding said calculation.

5.1.10 All bidders, Brazilian and foreign, should prepare their price spreadsheet in the same manner, according to the model in Annex II - F, using the taxes listed below:

ICMS: 17%;

PIS: 1,65%;

COFINS: 7,60%.

5.1.11 Pursuant to Annex I – Term of Reference, when formulating their bids, the bidders should utilize the following algorithms for calculation of taxes:

a) $Pi_{imports}$, calculated using the formula: $c \times (VA \times X)$, in accordance with Law 10.865, of 2004, art. 8, I and II, and SRF Directive 572, of 2005:

$$X = \left[\frac{1 + e \times [a + b \times (1 + a)]}{(1 - c - d) \times (1 - e)} \right]$$

In which,

VA = Customs Value;

a = rate of Import Tax (II);

b = Rate of Tax on Industrialized Products (IPI)

c = rate of Contribution to PIS/Pasep-Imports

d = rate of Cofins-Imports

e = rate of tax on operations concerning the circulation of goods and the rendering of interstate and intermunicipal transport and communication services (ICMS).

b) $Cofins_{imports}$, calculated using the formula: $d \times (VA \times X)$, in accordance with Law 10.865, of 2004, art. 8, I and II, and SRF Directive 572, of 22 November, 2005:

$$X = \left[\frac{1 + e \times [a + b \times (1 + a)]}{(1 - c - d) \times (1 - e)} \right]$$

In which,

VA = Customs Value;

- a = rate of Import Tax (II);
 b = Rate of Tax on Industrialized Products (IPI)
 c = rate of Contribution to PIS/Pasep-Imports
 d = rate of Cofins-Imports
 e = rate of tax on operations concerning the circulation of goods and the rendering of interstate and intermunicipal transport and communication services (ICMS)

- I. Tax on Operations Concerning the Circulation of Goods and the Rendering of Interstate and Intermunicipal Transport and Communication Services (ICMS), calculated in accordance with legal requirements, illustrated below:

$$\text{Base de Cálculo ICMS} = \frac{VA + II + IPI + Pis_{importação} + Cofins_{importação} + outros impostos, taxas, e despesas aduaneiras}{100 - Alíquota ICMS}$$

$$\text{ICMS Recolhido} = \text{Alíquota ICMS} \times \text{Base de Cálculo ICMS}$$

{ figure that reads }

Base for Calculation of ICMS

VA+II+IPI+Pis imports+Cofins imports+ other taxes, fees, and customs expenditures
 100 – Rate of ICMS

ICMS Collected = ICMS Rate x ICMS Base for Calculation

{ figure ends }

- II. If VALEC obtains exemption from taxes, the value of these shall not be extended to the contracted company.
- III. Upon being declared the winner, if a bidding company is declared the winner, it must subsequently present its bid with the actual taxation included. If the winner is a foreign company, the amount referring to the taxes for the nationalization of the products will be subtracted from the bid.
- IV. The value proposed by the bidder for the provision of the services may not exceed the budget amount of VALEC indicated in the Term of Reference, and all unit prices should be equal to or lower than those listed in said budget. The budget figures referenced will be converted on the date of the last day before the opening of the bids in accordance with the exchange rate of the day.

5.2 Qualification Documents

- A. Brazilian companies and foreign companies with a subsidiary, branch, agency, office or establishment in Brazil and may be registered and partially accredited through the Unified Registration System for Suppliers - SICAF;
- B. Companies not registered in SICAF and who are interested in participating in this Bidding, may arrange for registration and licensing in any Registration Unit of any Government Agency up to the third business day preceding the date of opening of the Bidding. We emphasize that registration with the SICAF it is not compulsory, but only that the provisions in paragraph "d" of this section should be observed;
- C. Questions regarding the operation of the Comprasnet system should be directed to the Serpro Services Central by calling 0800-9782329;
- D. Companies not registered in SICAF or those registered less than three (3) business days prior to the date set for opening of the Bidding shall submit, upon the opening of the session, all documents listed in items 5.2.1.3 and 5.2.1.6;
- E. Regarding those companies already registered in SICAF and those registered up to 3 days before the opening of the session, accreditation can be accomplished by checking their respective records, as well as the validity of the registration documents and partial accreditation through online consultation of SICAF, at the opening of the contest, with a copy printed out for the record;
- F. In the case that some document which has already been submitted to SICAF having expired, and if the auctioneer is unsuccessful at obtaining the corresponding certificate through the official website, the bidder must present a valid document proving compliance with the requirements of this Notice, under penalty of disqualification, excepting only those cases regarding the proof of fiscal compliance of Micro and Small Businesses and cooperative enterprises meeting the requirements of article 34 of Law 11.488, of 2007;
- G. The bidder is obligated to declare, under penalty of law, the subsequent occurrence of any disqualifying fact;

H. All certificates which do not contain an expiration date previously established by the issuing agency must have been issued within ninety (90) days before the date described in paragraph 4.1.1.

5.2.1 Brazilian bidders or foreign bidders with a subsidiary, branch, agency, office or establishment in Brazil.

5.2.1.1 The Qualification Documents shall be submitted in one original or certified copy, duly numbered, signed and initialed on every page by the owner or legal representative or a person duly authorized (notarized power-of-attorney), in a sealed envelope, identified, in accordance with Item 4.2 of this Notice.

5.2.1.2 Statements to be presented by the bidders:

- a) Statement of Capacity for Contract Fulfillment - document should be submitted in accordance with the model in **Annex II-D - Statement of Capacity for Fulfillment of the Contract;**
- b) Statement that the company does not employ at night, under dangerous or unhealthy conditions anyone under 18 (eighteen) years of age and in any capacity those under 16 (sixteen) years of age, except as apprentices over 14 (fourteen) years of age, in accordance with the model in **Annex II-C - Statement Regarding Minors;** and,
- c) In the case that the bidder is not the manufacturer of the rail track the following documents should also be attached:
 - I. Statement from the manufacturer certifying that the bidder is qualified to provide the rail track in its name, and also that it meets international quality standards, as attested to by certifying companies of international quality and reputation;
 - II. A declaration by the manufacturer that the supply and delivery will be made in the terms and conditions required under the provisions of this Notice and its Annexes; and,
 - III. Manufacturer is defined, for the purposes of this Notice, as a company that effectively produces, manufactures, processes or assembles the rail track. The

affiliates, subsidiaries, wholly-owned subsidiaries, and other companies belonging to the same economic and financial group, as well as resellers, distributors, and representatives, are not covered by this definition of manufacturer.

5.2.1.3 **Documents for Judicial Accreditation**

- a) Identity documents of those legally responsible for the company/entity;
- b) Commercial Registration, in the case of a sole proprietorship;
- c) Articles of Incorporation, valid and duly registered, in the case of a partnership and, in the case of a corporation, accompanied by the publications and record of the election of its directors;
- d) Registration number of the Articles of Incorporation, in the case of partnerships accompanied by accreditation of the current board of directors;
- e) In case of an individual entrepreneur: registration in the Public Registry of Commercial Companies, by the Board of Commerce of its headquarters;
- f) In case of a joint or individual limited liability company - EIRELI: articles of incorporation, articles of association, or charter, current and duly registered with the Board of Commerce of the headquarters, accompanied by documentary evidence of its directors:
 - f.1) The above documents must be accompanied by all alterations or consolidation thereof.
- g) In the case of simple partnership: registry of the Articles of Incorporation in the Civil Registry of Legal Entities of the location of its headquarters, accompanied by proof of the appointment of its directors;
- h) In the case of micro or small business: certificate issued by the Board of Commerce or the Civil Registry of Legal Entities, as applicable, certifying the condition of micro or small business, in accordance with Article 8 of Directive No. 103 of 30 April, 2007, of the National Commercial Registration Department - DNRC;
- i) In the case of a cooperative enterprise: records of the foundation and current charter, with the minutes of the meeting in which they were approved, duly filed

with the Board of Commerce or inscribed in the Civil Registry of Legal Entities of its headquarters as well as the registration referred to in art. 107 of Law No. 5764, of 1971;

- j) Notarized power-of-attorney, proving the delegation of powers to sign and initial the documents in the bids and accreditation, when these are not signed by the director(s), with statutory powers to sign binding agreements; and,
- k) Foreign companies with a subsidiary, branch, agency, office, establishment in Brazil must also submit:
 - I. authorization, by means of act or decree issued by the Minister of Development, Industry and Foreign Trade to operate in Brazil, in accordance with the provisions of the Brazilian Civil Code; and,
 - II. Registration or operating license issued by the competent agency, if their activity requires one.

5.2.1.4 **Documents Proving Fiscal and Labor Compliance**

- a) Proof of Registration in the Nation Registry of Legal Entities – CNPJ;
- b) Proof of Registration in the State or Municipal Registry of Taxpayers, if applicable, regarding the registered address of the bidder, pertaining to the field of activity, and compatible with the contractual purpose;
- c) Proof of compliance with Federal, State, and Municipal Revenue Services in the registered address or headquarters of the bidder, in accordance with the law, namely:
 - I. Certificate of Discharge of Federal Taxes administered by the Federal Revenue Secretariat issued by the Ministry of Finance/ Federal Revenue Secretariat;
 - II. Certificate regarding Debts Collectible issued by the Federal Ministry of Finance/National Treasury Attorney General;
 - III. Certificate of Fiscal Compliance and Debt Clearance Certificate provided by the State Department of Finance; and,

IV. Certificate of Fiscal Compliance and Debt Clearance Certificate provided by the Municipal Secretary of Finance.

- d) Debt Clearance Certificate – CND, issued by the INSS (National Institute of Social Security), in accordance with Law 8.212, of 24 July, 1991, article 47, section I, subsection “a”, as well as section IV, of article 29 of Law 8.666 of 1993;
- e) Certificate of Compliance from the FGTS, issued by the CEF, within the expiration date, in accordance with Law 8.036 of 1990, article 27, subsection “a”; and,
- f) Compliance with Labor laws will be ascertained by the auctioneer, pursuant to item 4.3.17.

5.2.1.5 **Documents for Economic and Financial Accreditation**

- a) Certificate of the absence of bankruptcy, judicial settlement or liquidation, or foreclosure, as applicable, issued by the distributor of the headquarters of the bidder, or the residence of the same, within the period of validity provided upon the certificate itself, or, in the absence thereof, issued within ninety (90) days from the date of submission;
- b) The balance sheet and financial statements for the last fiscal year, required by and submitted according to the law, proving the financial solvency of the company, its replacement by interim balance sheets or statements being forbidden, and may update them based on official indexes when closed more than three (3) months before the date of submission of the proposal;
 - b.1) The balance sheet must be signed by an accountant or by another equivalent professional, duly registered in the Regional Accounting Council;
 - b.2) Those companies which were incorporated during the current fiscal year must present a copy of the opening financial statement or a copy of the ledger containing the opening financial statement including the terms of opening and closing;
 - b.3) In the case of bidding for the provision of goods for immediate delivery, Micro and Small Businesses will not be obligated to present the balance sheet of the previous fiscal year;

- b.4) If the bidder is a cooperative enterprise, these documents must be accompanied by the last accounting and financial audit, in accordance with article 112 of Law No. 5.764, of 1971, or a statement, under penalty of the law, that such an audit was not required by the supervising agency;
- b.5) The financial solvency of the bidder will be evaluated by means of the indexes of General Liquidity (LG), General Solvency (SG), and Current Liquidity (LC), greater than 1 (one) resulting from the application of the formulae below, with the values taken from the balance sheet or ascertained by means of an online search, in the case of companies registered in the SICAF:

$$LG = \frac{\text{Current Assets} + \text{Long Term Assets}}{\text{Current Liabilities} + \text{Non-Current Liabilities}}$$

$$SG = \frac{\text{Total Assets}}{\text{Current Liabilities} + \text{Non-Current Liabilities}}$$

$$LC = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

- c) The bidder must provide proof, on the day of the presentation of the bids, of owning capital or equity worth at least 5% (five percent) of the budgeted amount, as set forth in the Notice, in REAIS (R\$).

5.2.1.6 **Documents for Technical Qualification:**

- 1) The bidder shall present: Certificate(s) of Technical and Operational Capacity, provided by a public or private railroad company that uses the rail track, along with performance information for the track in question in operations similar to that of VALEC, i.e. which prove that the bidder has supplied track for Heavy Haul type railroads, presenting:
 - a) Manufacture or supply of at least 20% of the total quantity of each lot, of tracks which mass between 57 (fifty-seven) and 68 (sixty eight) kg/m. This quantity refers to the maximum percentage considered reasonable by the technical staff of the Federal Audit Court, in the proposed resolution contained in the report that generated Ruling 3.171 of 2011 - TCU / Plenum, concerning TC 002.509/2011-3;
 - b) The characteristics of rails supplied and quantity in tons; and,

- c) The railway which uses the tracks provided, which must meet the following criteria:
- c.1) Axle loading equal to or greater than 25 (twenty-five) tons/axle; and,
 - c.2) Amount transported equal to or greater than 20,000,000 (twenty million) annual gross tons or that the loading of individual trains exceeds five thousand (5,000) gross tons.

Note: For ongoing contracts, the requirements above will be considered and the amount will be that which has been effectively delivered to the buyer.

- 2) Documents from the manufacturer:
- a) Documents showing continual adherence, including documentary evidence showing that its plant and its system of quality control are in accordance with:
 - a.1) EN13764-1:2011 or AREMA; and,
 - a.2) ISO 9001/2008.
 - b) The following certificates from laboratories where testing and evaluation shall be performed:
 - b.1) Certification pursuant to ISO/IEC17025/2005 regarding the quality of the steel, or
 - b.2) Certification from an institution of national acceptance and renown in the field of quality testing of steels.
 - c) A document that identifies and characterizes the rail track to be manufactured. This document shall indicate under which standard the steel will be produced and the composition ranges of the main elements of the mixture. It shall also indicate the main mechanical properties of the rail track;
 - d) A description of the processes of controlled cooling or isothermal treatment for any billet used and demonstration of compliance with the requirements of EN13674-1: 2011 Item 9.1.3.2. or any equivalent AREMA standard;
 - e) For the grade of steel to be provided, the results, certified by the buyers, of the three (3) last tests before the time of the bidding, as set out in the standard;

- f) A detailed description of the ultrasound testing methodology to be employed, including the location and dimensions of the artificial defects in the billet, core, and foot of the standard reference track;
- g) Technical References - A list of Freight Railways going back at most five years where the manufacturer by direct sale or by bidding provided the rail track.

5.2.2 Foreign bidders with no subsidiary, branch, agency, office, or establishment in Brazil.

- 5.2.2.1 Envelope nº 02 – Qualification Documents for foreign bidders not established in Brazil, **must contain those documents described in items 5.2.1.1 to 5.2.1.6, substituted by equivalent documents from their country of origin**, observing the particulars detailed below.
- 5.2.2.2 In the absence of an equivalent document or prohibition or waiver by law or directive for providing any of the requested documents, this fact should be properly declared. Certificates that do not contain an expiration date previously established by the issuing institution must have been issued within ninety (90) days before the date described in paragraph 4.1.1.
- 5.2.2.3 **Taking into account that the foreign company must present themselves through a legal representative (legal entity) in Brazil, this representative must possess the minimum qualifications necessary for legal accreditation by SICAF:**
 - a) There is no requirement that the representative be registered in advance in SICAF, only that they should submit the documents required by the SICAF for judicial accreditation; and,
 - b) If the representative is registered in the SICAF, the requirement to submit these documents is waived, and they need only attach the SICAF resume to the bid.
- 5.2.2.4 In addition to the statements referred to in section 5.2.1.2, an express statement that the bidder submits entirely to Brazilian law, and to this Notice, and waives all claims through diplomatic channels pursuant to the model in Annex II-E – Statement of Capacity for Contract Fulfillment will also be submitted.
- 5.2.2.5 **Documents for Judicial Accreditation**

- a) In addition to the documents specified in item 5.2.1.3, a document must be presented which is signed by the bidder constituting its legal representative in Brazil, a legal entity, with express powers to receive summons and answer administratively and judicially for the bidder for the acts resulting from this bid, including the signing of those documents inherent to this bidding.

5.2.2.6 **Documents of Fiscal and Labor Compliance**

- a) Must possess those documents specified in item 5.2.1.4 **in the form of equivalent documents from their country of origin**, taking into account the particular circumstances detailed below; and,
- b) In the absence of an equivalent document or prohibition or waiver by law or directive for providing any of the requested documents, this fact should be properly declared. Certificates that do not contain an expiration date previously established by the issuing agency must have been issued within ninety (90) days before the date described in paragraph 4.1.1.

5.2.2.7 **Documents for Economic and Financial Accreditation**

- a) The documents specified in item 5.2.1.5 must be presented. The balance sheet must be signed by a competent professional duly registered in the CPA, or equivalent thereof in the country of origin; and,
- b) For purposes of verification, the values in foreign currency shall be converted by the bidder to the REAL, at the exchange rate of the day immediately preceding the date of receipt and opening of bids, as published by the Central Bank of Brazil at the following website: <http://www4.bcb.gov.br/pec/conversao/conversao.asp>

5.2.2.8 **Documents for Technical Accreditation**

- a) The same documents specified in item 5.2.1.6 of this Notice shall be submitted.

6. ANALYSIS AND ADJUDICATION

6.1 Criteria for adjudication and general provisions

The criterion for adjudication is that of **LOWEST OVERALL PRICE PER LOT**.

- 6.1.1 The qualification documents and the bid will be analyzed and evaluated in accordance with the terms of this Notice and its Annexes.
- 6.1.2 No bids shall be considered that:
- a) Are illegible, incomplete, altered, inserted, contain corrections by bidders, deletions or containing amendments that represent irregularities of any kind;
 - b) Are valid for less than 60 (sixty) days from the date of receipt of the bid (in the case of the bidding); and,
 - c) Do not meet the requirements of this Notice and its Annexes, are incomplete or present irresolvable defects.
- 6.1.3 The bidder shall examine carefully all instructions, conditions, requirements, laws, decrees, standards, specifications and other references cited within this Notice and its Annexes.
- 6.1.4 Any deficiencies in meeting the requirements and prerequisites for submission of documents will be considered the sole responsibility of the bidder.
- 6.1.5 Documents that do not meet the requirements set forth herein may result in the disqualification or elimination of the bidder.
- 6.1.6 Failure to meet non-essential formal requirements will not result in the removal of the bidder, so long as it is possible to remedy the shortcomings, taking into account the principles of equality and the public interest.
- 6.1.7 The auctioneer may direct inquiries to bidders to clarify or supplement the instruction of the bidding, including regarding the feasibility of the prices, while the subsequent inclusion of documents or information that should be included in the documents originally submitted by the Bidders is forbidden. Refusal to comply with the requirements, in the time period specified, may result in the disqualification or elimination of the bidder.
- 6.1.8 The receipt of bids does not imply acceptance of the same by VALEC.
- 6.1.9 The bidder may bid for however many lots it deems appropriate, however, it will only be awarded more than one lot if it provably meets the accreditation requirements cumulatively, that

is, the sum of the requirements of one or more lots for which it is competing, under penalty of disqualification, as well of the applicable penalties.

6.2 Analysis of the Bids

- 6.2.1 The overall price cap per lot established by VALEC set forth in item 2.3 of this Notice and may be presented in REAL, U.S. DOLLARS, or in EUROS.
- 6.2.2 No bid will be considered that:
- a) Quotes unit prices and/or overall prices above the established limit, which is defined as the reference price described in item 2.3 of the Notice and item 22 of the Term of Reference;
 - b) Quotes unit prices and/or overall prices which are manifestly impracticable, being defined as those which have failed to demonstrate their feasibility (after selection by the auctioneer) through documentation showing supply costs that are consistent with the market and the coefficients of productivity compatible with the fulfillment of the object of the contract; and,
 - c) Contains values which differ from the reference price posted by VALEC.
- 6.2.3 If deemed necessary, the auctioneer may request that the bidder ranked first provide evidence of the feasibility of the bid submitted, proof of which must be submitted within 03 (three) business days.
- 6.2.4 To prove the feasibility of their proposal, the bidders shall submit their justifications and documents proving the feasibility and compatibility of the values offered with the costs and expenses necessary for the full implementation of the object, which may be referred to the department requesting the services in VALEC for the issuance of an opinion regarding feasibility.
- 6.2.5 Any bid deemed impracticable will be refused by the auctioneer, in which case the next best placed bidder will be called, and the best value for acceptance negotiated.
- 6.2.6 Under no circumstances will the introduction of changes to the bids, due to claims of insufficient data and information, be allowed.

- 6.2.7 It will be the sole and full responsibility of the bidder to obtain from the competent agencies, whether in Brazil or abroad, information on the applicability or not of taxes, fees, or charges of any kind arising from the supply of the object of this bidding, in domestic and/or foreign markets, considering the liens thereof in the bids, as claims of ignorance of tax incidence or other related issues will not be countenanced.
- 6.2.8 The auctioneer will examine those bids which meet the essential requirements in this Notice. As for any arithmetical errors, only those who fall in the following categories may be corrected:
- a) Discrepancy between values typed in words and figures: the amount in words shall prevail;
 - b) Error in multiplying the unit price by the quantity of the corresponding item: these will be rectified by maintaining the quantity and unit price per item, and correcting the product; and,
 - c) Addition error: will be rectified by maintaining the unit prices and correcting the sum.
- 6.2.9 In case of corrections to the Bid, the total amount will be adjusted by the auctioneer in accordance with the procedures described above. The resulting value will be the value of the bid. If the bidder does not accept the resulting correction, their bid will be disqualified.
- 6.2.10 The inclusion of tax rates that are higher than those established in the tax laws is forbidden, and for Brazilian bidders or those established in Brazil, it is further forbidden to include the CSLL and the IRPJ taxes.
- 6.2.11 Bids tendered in U.S. Dollars (USD) or Euros (€) will be converted to the Real (R\$) at the rate of exchange published on the business day preceding the opening of the bidding by the Central Bank of Brazil on the website: <http://www4.bcb.gov.br/pec/conversao/conversao.asp>

6.3 Analysis of Qualification Documents

- 6.3.1 The auctioneer will examine the documentation presented to verify the judicial accreditation, technical qualifications, economic and financial qualifications and fiscal and labor compliance of the bidders.
- 6.3.2 The bidder which fails to prove their qualifications, fails to submit any of the documents required for qualification, or presents them at odds with the provisions of this notice will be

disqualified, excepting only the cases of proof of fiscal compliance of Micro and Small Businesses and cooperative enterprises as specified in Article 34 of Law No. 11.488, of 2007.

- 6.3.3 In the event of disqualification, the auctioneer will resume from the stage of the adjudication of the bids, examining the subsequent bid, and so on, in order of classification.
- 6.3.4 For purposes of accreditation, the auctioneer may obtain certificates from the issuing agencies or entities thereof through official websites.
- 6.3.5 No documents indicating different CNPJ numbers will be accepted, except those legally permitted.
- 6.3.6 While assessing accreditation, the auctioneer may correct mistakes or shortcomings which do not alter the substance of the documents and their legal validity, through a duly substantiated order, entered in the record and accessible to everyone, rendering them valid and effective for purposes of accreditation.
- 6.3.7 If the bidder is Micro or Small Business, or a cooperative enterprise in accordance with Article 34 of Law No. 11.488, of 2007, if there is some restriction in providing proof of fiscal compliance, they will be provided a period 2 (two) business days from the time the winner of the contest is declared, renewable for the same period, for the regularization of documentation, payment or debt negotiation, and the issuance of any debt clearance certificate or liability certificate with clearance effects.
- 6.3.7.1 As a condition for the granting of the time period for regularization, the auctioneer may consult the Transparency Website of the Federal Government (www.portaldatransparencia.gov.br) to check the sum of the values of the money orders received by the bidder in the previous or current fiscal year, in accordance with the procedure provided in the stage of acceptance and adjudication of the bid, if this has not already been accomplished.
- 6.3.7.2 Upon ascertaining the occurrence of any of the situations of exceeding of the legal limit, the auctioneer shall reject the application for preferential treatment for the bidder, pursuant to article 3, Paragraphs 9, 9a, 10 and 12 of Supplementary Law No.123, of 2006, with a denial of the time period for regularization and consequent disqualification, irrespective of the applicable penalties.

- 6.3.8 Extension of the deadline referred to in the above item should always be granted by the Administration when requested by the bidder, unless there is duly substantiated urgency in the contracting or provably insufficient time for the undertaking.
- 6.3.9 Failure to regularize the documentation within the prescribed time period will result in the lapsing of the right to contract, irrespective of the penalties provided in Article 81 of Law No. 8666, of 1993, and the Administration shall have the option of convening the remaining bidders, in order of classification, or of cancelling the bidding.
- 6.3.10 Upon having met the requirements for accreditation set forth in the notice, the bidder will be declared the winner.
- 6.3.11 If the accreditation documents are not complete and correct or contradict any provision of this notice and its annexes, the auctioneer will consider the bidder disqualified.

6.4 Classification of the Bidders

- 6.4.1 Classification of bidders will be according to the increasing order of values, with the bidder tendering the lowest value being declared the winner.

7. APPEALS, ADJUDICATION, AND CONFIRMATION

7.1 – Administrative Appeals

- 7.1.1 Once the winner of the bidding has been declared any bidder may state, immediately and with justification, their intent to appeal, at which time a period of three (03) days will be granted to present the reasons for the appeal, which will be forwarded to the Management of Bidding for Construction and Services – GELIC/SULIC/DIRAF/VALEC, while the remaining bidders will immediately be enjoined to challenge the appeal (counterarguments), over the same number of days, which will begin at the end of the term of the appellant, being granted full access to the case file.
- 7.1.2 Any appeal or challenge against the decision of the auctioneer will not have suspensive effect pursuant to Section XVIII, Article 11 of Decree 3.555 of 2000.

- 7.1.3 The upholding of the appeal shall result only in the invalidation of those acts incapable of use.
- 7.1.4 If the bidders intend to appeal, they shall communicate this to the auctioneer immediately after the announcement of the winner, and briefly explain their reasons.
- 7.1.5 The lack of the manifestation of intent, immediate and justified, by the bidder will result in the lapse of right to appeal and the award of the bidding, by the auctioneer, to the winner.
- 7.1.6 The case file will remain accessible to those interested at the Management of Procurement and Contracts - SULIC, weekdays from 8:00 to 12:00 and 14:00 to 18:00.

7.2 Analysis and confirmation

- 7.2.1 At the ending of the stages of the bidding process the object of the bidding will be awarded to the winner by the auctioneer, and the case will be submitted to the President of VALEC for the purpose of analysis and confirmation of the final outcome of the bidding.
- 7.2.2 Upon adjudication and confirmation of the administrative bidding process, the winning bidder will be convened to conclude the contract.
- 7.2.3 If the winning bidder makes no appearance within five (5) days after the formal summons, VALEC may successively invite the remaining bidders in order of classification within the same period, irrespective of the application of the penalties provided herein.
- 7.2.4 The adjudication and confirmation of the result of this bidding process does not entail the right to contract.

8. CONTRACT

8.1 Payment

- 8.1.1 The services will be paid for in accordance with Annex I – Term of Reference and Annex IV - Draft Contract, and the payment clauses contained therein shall be observed.

8.2 Oversight

8.2.1 The contract will be supervised by VALEC or by duly accredited representatives thereof with the contractor, in accordance with Annex I – Term of Reference and Annex IV - Draft Contract.

8.3 Penalties

8.3.1 The penalties to be applied during the execution of the contract are provided in Annex I – Term of Reference and Annex IV - Draft Contract.

8.3.2 In all cases, the constitutional right to legal defense and adversarial proceedings shall be upheld.

8.4 Termination

8.4.1 The contract resulting from this bidding may be terminated in accordance with the provisions of Annex IV - Draft Contract.

8.5 Subrogation

8.5.1 There shall be no transfer or subrogation of all or of ancillary parts of the object of the bidding.

8.6 Subcontracting

8.6.1 The subcontracting of the totality of the purpose of this bidding is forbidden.

8.6.2 Partial subcontracting will be allowed, in accordance with the Term of Reference, of up to 10% (ten percent) of the total value of the contract, for the following services:

- a) shipping;
- b) insurance;
- c) port operations; and,
- d) customs brokerage.

8.6.3 This subcontracting will be permitted due to the specific nature of these services which are essential for the supply of the rail track under the conditions specified. The subcontracted companies must meet the requirements and conditions set forth in item 10 of the Term of Reference. To this end, the registers of fiscal and labor compliance must be provided merely for reference.

- 8.6.4 The CONTRACTOR assumes full responsibility for any subcontracting of services before VALEC and must have the express prior consent of the same.
- 8.6.5 Subcontracting does not extinguish or reduce the liability of the CONTRACTOR, including to third parties, for any wrongdoing and does not extend liability to VALEC or its agents and representatives, in accordance with Articles 69 and 70 of Law 8.666, of 1993.
- 8.6.6 VALEC reserves the right to reject, in whole or in part, the services provided through subcontracting which violate the stipulations in the contract documents, specifications, and standards.

8.7 Readjustments

- 8.7.1 The readjustments to be applied during the execution of the contract are provided in Annex I – Term of Reference and Annex IV - Draft Contract.

8.8 Contract Guarantees

- 8.8.1 The contract guarantees shall be provided in accordance with Annex I – Term of Reference and Annex IV – Draft Contract.

8.9 Obligations of the Contractor and the Contracting Party

- 8.9.1 The obligations of the contractor and the contracting party are stipulated in Annex I – Term of Reference and Annex IV - Draft Contract.

8.10 Receipt of Goods

- 8.10.1 The conditions for receipt are stipulated in Annex I – Term of Reference and Annex IV - Draft Contract.

9. FINAL PROVISIONS

- 9.1 The mere presentation of documentation does not produce any commitment for contracting on the part of VALEC, it does, however, imply the unrestricted and irrevocable acceptance of the conditions for accreditation and the provisions of this Notice.

- 9.2 The bidders are responsible for the accuracy and legitimacy of the information and documents submitted at any stage of the bidding.
- 9.3 The rules governing this bidding will always be interpreted in favor of the extension of the contest among the parties, provided they do not compromise the interests of the government, the purpose, or the security of the contracting.
- 9.4 The schedules set out in the Notice, the RFP, and during the bidding session will utilize, for all intents and purposes, Brasília/DF standard time.
- 9.5 If business hours end or any subsequent occurrence impedes the performance of the contest on the date specified, the session will automatically be transferred to the first subsequent business day, at the same time and place specified previously, provided there is no communication from the auctioneer to the contrary.
- 9.6 This bidding process will be conducted independently for each lot, so that any incidents, administrative or judicial, arising from the proceedings, for one or more lots, will not interfere with and will not affect the processing and adjudication of the others, whose adjudication and contracting may be accomplished normally.
- 9.7 To all other cases not addressed herein shall apply the provisions set forth in Law No. 10.520, of 17 June, 2002, in Decree No. 5.450, of 31 May, 2005, in Decree No. 3.555, of 8 August, 2000, in Law No. 8.078, of 11 September, 1990 – Consumer Protection Code, in Decree No. 3.722, of 9 January, 2001, in Supplementary Law No.123, of 14 December, 2006, and in Law No. 8.666, of 21 June, 1993 and the alterations thereto, as well as in all other regulations and federal administrative directives, which are an integral part of this notice, irrespective of its transcripts.
- 9.8 This Notice and its technical requirements have been prepared in accordance with the documentation in the internal phase of the process, forwarded by the Superintendence of Construction Programming - SUPOB, duly approved by the Director of Engineering, and the information and technical requirements contained Notice and the Term of Reference is entirely the responsibility of the same.
- 9.9 The Draft Contract was drawn up by the Management of Biddings for Constructions and Services – GELIC/SULIC/DIRAF/VALEC, which bears responsibility for the content thereof.

- 9.10 Any amendment to the notice requires disclosure by the same means of publication utilized for the original text, restoring the initial deadline, except when the change unquestionably does not affect the formulation of the bids.
- 9.11 The auctioneer or higher authority may, at any stage of the bidding, make inquiries to clarify or complement the process, the subsequent inclusion of any document or information that should have been included in the public session being forbidden.
- 9.12 For the deadlines set forth in this notice and its annexes, the first day will be disregarded and the last day will be included. Deadlines may only begin and end on business day of the administration.
- 9.13 Failure to meet non-essential formal requirements will not result in the removal of the bidder, so long as it is possible to remedy the shortcomings, taking into account the principles of equality and the public interest.
- 9.14 In case of divergence between the provisions in the notice and the other parts that make up the process, the provisions set forth in the notice will prevail.
- 9.15 The forum for resolving issues arising from this notice will be the judicial section of Brasília/DF - Federal Court to the exclusion of any other.

Brasília/DF, August 1, 2013.

PEDRO PAULO SILVA RIBEIRO
Superintendent of Biddings and Contracts

VALEC

**Engenharia, Construções
e Ferrovias S.A.**

INTERNATIONAL ONSITE BIDDING Nº 009/2013

ANNEX I TERM OF REFERENCE

ANNEX I

TERM OF REFERENCE TO SUPPLY, UNLOAD FROM THE SHIP, TRANSPORT FROM THE DOCKS TO THE TERMINAL, DELIVER AT THE WAREHOUSE, STORE, AND NATIONALIZE 147,056 (ONE HUNDRED FORTY-SEVEN THOUSAND AND FIFTY-SIX) TONS OF UIC-60E2 TRACK TO BE USED IN PERMANENT RAILLINES AND IN SWITCHES AND CROSSINGS, DESTINED FOR EF 334 – EAST-WEST INTEGRATION RAILWAY, FOR THE RAILLINES LINKING ILHÉUS/BA AND BARREIRAS/BA.

1. INTRODUCTION

1.1. VALEC Engenharia, Construções e Ferrovias S/A. is a state-owned company linked to the Ministry of Transportation, in accordance with Law 11.772, of September 17, 2008. Among its functions are:

- 1.1.1. To coordinate, implement, oversee, review, monitor and administer railway infrastructure projects assigned to them;
- 1.1.2. To develop studies and projections for railway infrastructure construction;
- 1.1.3. To construct and operate railroads, ancillary storage systems, transferal and handling of products and goods to be transported as well as facilities and systems that interconnect railroads and other modes of transports.

1.2. The same law assigned VALEC the construction and operation of the infrastructure of Ferrovia de Integração Oeste-Leste - FIOL (East-West Integration Railroad), which includes the section linking Ilhéus/BA and Barreiras/BA where the tracks which are the object of this Term of Reference will be used.

2. PURPOSE

2.1. The purpose of this Term of Reference is the hiring of a company to supply, unload from the ship, transport from the dock to the terminal, deliver at the warehouse/yard, store, and nationalize 147,056 (one hundred forty-seven thousand and fifty-six) tons of UIC-60E2 railtrack.

3. OBJECTIVE

- 3.1. This contract seeks to acquire the railtrack to be used in permanent rail lines and in switches and crossings, destined for EF 334 – East-West Integration Railway, for the rail lines linking Ilhéus/BA-Caetité/BA and Caetité/BA-Barreiras/BA.
- 3.2. In this Term of Reference the parameters to be observed by the bidders in the preparation of bids for the supply of the UIC 60 E2 rail track are set out.

4. DEFINITIONS / ESSENTIAL INFORMATION

4.1. Operational characteristics of the railroad:

4.1.1. East-West Integration Railway (FIOL)

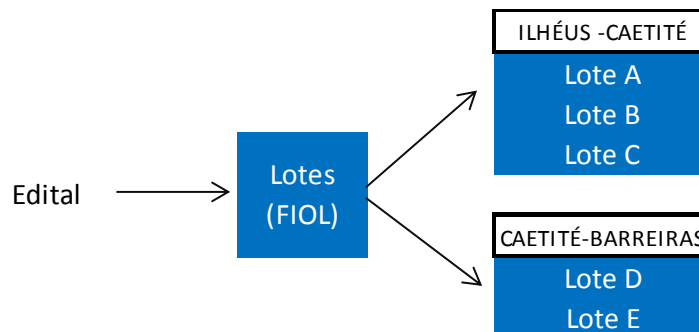
- Top speed: 80 km/h;
- Maximum tilt: 0,6% to 1% in the direction of exfiltration and 1,45% in the direction of infiltration;
- Minimum radius: 343,82 m;
- Weight/axle: 32t/axle;
- Volume of transport specified for the first 20 years of operation (in 10³ net tons – NT):

Up to the 5th year	Up to the 15th year	Up to the 20th year
50.672	57.871	62.231

4.2. Services: Supply and delivery of rail tracks unloaded and nationalized in Brazilian port warehouse/yard.

4.3. Type: Bidding.

4.4. Lots: The quantity of tracks will be divided into 05 (five) separate lots. 03 (three) lots will be offered to meet the needs of the section between Ilhéus-Caetité and 02 (two) lots to meet the needs of the section between Caetité-Barreiras, as shown in the following chart:



{ figure that reads }

Notice Lots(FIOL) Lot A Lot B Lot C Lot D Lot E

{ figure ends }

4.5. Type of tracks purchased: Heat treated UIC 60 E2 tracks will be purchased according to the guidelines set forth in the TECHNICAL SPECIFICATIONS section of this Term.

4.6. Execution of the Contract: For lots “A”, “B”, “C”: 8 consecutive months; and for lots “D” and “E”: 9 consecutive months.

4.7. Duration of the Contract: For lots “A”, “B”, “C”: 10 consecutive months; and for lots “D” and “E”: 18 consecutive months.

4.8. Consortium participation: Allowed.

4.9. Subcontracting: Allowed, under the conditions specified.

4.10. Budget: **R\$ 559.376.100,33 (five hundred fifty-nine million, three hundred seventy-six thousand one hundred REAIS and thirty-three cents).**

4.11. Nature of the Services: Not continuous.

4.12. Type of Services: Common.

5. JUSTIFICATIONS

5.1. CONTRACTING

5.1.1. Among the rail lines under construction of the East-West Integration Railway are the sections between Ilhéus/BA and Caetité/BA and between Caetité/BA and Barreiras/BA, where the tracks which constitute the purpose of this Term of Reference will be employed. It so happens that not only is the purchase of rails of fundamental importance to the completion of the construction, but this project also has a deadline set for its completion in the Growth Acceleration Program (PAC) and is a priority for the development of the country.

5.1.2. VALEC, seeking economic efficiency, decided to directly contract for the tracks, thus permitting their import on behalf of VALEC to benefit from tax exemptions through REPORTEO.

5.1.3. Joint contracting of the supply of the tracks, unloading from the ship, transport from the docks to the warehouse/yard, unloading at the warehouse/yard, storage, and nationalization are necessary due to the nationalization process to increase competitiveness and openness to participation of national and foreign companies, since nationalization can only be accomplished after the unloading of the goods. The subsequent operation which includes the transport of the product to the warehouse/yard after nationalization and its transportation to the construction sites will be the subject of a separate bidding process.

5.2. PARCELLING OF THE OBJECT

5.2.1. To meet the provisions of item IV of article 15. of Law 8.666/93:

“The purchases, whenever possible, should:

IV - be divided into as many parts as necessary to take advantage of the peculiarities of the market, in order to achieve greater economic efficiency”

And in order to achieve greater competitiveness in the event and the resulting benefit to the government, VALEC opted to divide the present bidding process into lots, thus allowing the participation of suppliers with different production capacities.

5.2.2. Therefore, this term of reference separates the quantity of tracks to be purchased into 5 lots each with their respective quantities and schedule pre-established herein.

5.2.3. Due to the differences in timetables for the execution of the sections of the East-West Integration Railway, the decision was made to, firstly, through lots “A”, “B” e “C” acquire the quantities to be utilized in the section between Ilhéus/BA-Caetitê/BA. Later on, after the receipt of lots “A”, “B” e “C”, will begin the receipt of lots “D” and “E” to meet the requirements of the section between Caetitê/BA-Barreiras/BA.

5.3. IMPORTING

5.3.1. The international bidding should enable VALEC to purchase directly from manufacturers, making the bidding more competitive by making foreign companies able to participate. Furthermore, VALEC has the possibility of benefiting from tax exemptions arising from imports of railtrack in accordance with Law 11.488/2007 (Special Incentive System for Infrastructure Development - REIDI) and/or Law 11.033/2004 (Tax System of Incentive for the Modernization and Amplification of Port Structure- REPORTO).

5.3.2. However, as VALEC is a government company (Law 11.772/2008), there is a need to conduct a bidding process for contracting, allowing ample competitiveness. Considering that the laws of federal tax exemption are specific to cases where the contracting is direct, for example, in the event that VALEC is the importer of the goods, the obtaining such tax exemptions becomes contingent upon certain specific taxation procedures, as these are only valid if the CONTRACTOR is a foreign company. If VALEC contracts an intermediary company for the import of the product, such as Brazilian companies that happen to be interested in bidding, the possibility of VALEC receiving the tax exemption referred to in the legal provisions would be frustrated.

5.3.3. One of the difficulties of directly contracting manufacturers who can supply the tracks comes from of the difficulty of internal transport logistics on the part of foreign companies. As there is no company that produces tracks in Brazil, the tracks have been imported from other countries as has been observed for over a decade, and it is still vital that VALEC minimize the existing obstacles to the participation of the track manufacturers.

5.4. NATIONALIZATION OF THE GOODS

5.4.1. If the contracted company is foreign, it will be responsible to hire a legal representative for the nationalization of the goods, as all costs of services for nationalization will be the responsibility of the CONTRACTOR; VALEC will be responsible for the

payment of the import taxes since the nationalization shall be executed on behalf of VALEC. The foreign company must deliver the tracks to the warehouse or yard to be indicated by VALEC. Within twenty (20) days after the vessel's arrival in port, the foreign company, through a representative, will complete the nationalization of the goods. Nationalization should be in the name of VALEC. Thus, the responsibility of the foreign company over the product ceases after the nationalization of the product and the delivery of the product to the warehouse, which includes: the transport of the tracks from the ship to the warehouse, the unloading of the product and its allocation in the warehouse or yard contracted. If the product has not been nationalized within the maximum period of twenty (20) days, the costs and responsibility for the product will accrue to the CONTRACTOR.

5.4.2. If the contracted company is Brazilian, nationalization will be part of the activities of the CONTRACTOR. The Brazilian company shall deliver the tracks to a warehouse or yard to be indicated to VALEC. Within twenty (20) days after the vessel's arrival in port, the Brazilian company will carry out the nationalization of the product. Thus, the responsibility of the Brazilian company over the product ceases after the nationalization of the product and its transport to the warehouse, which includes: the transportation of the tracks from the ship to the warehouse, the unloading of the product and its allocation in the warehouse or yard contracted. If the product has not been nationalized within the maximum period of twenty (20) days, the costs and responsibility for the product will accrue to the CONTRACTOR.

5.4.3. Due to the nature of the importation, the CONTRACTOR shall provide all necessary documents for the nationalization, within ten (10) calendar days after the date of the shipment of the goods, respecting the resolutions in force. The CONTRACTOR shall take charge of and be responsible for complying with all import regulations in force in Brazil and export regulations of the country of origin of the product (health, safety, etc.).

5.5. MODE OF CONTRACTING

5.5.1. Firstly, we should clarify that the adoption of Bidding as a modality for the notice in question appears to be more advantageous for the Government as opposed to the other forms of auction provided for in Law No. 8666, of 1993: foremost among these are: the expansion of economic advantages due to its competitive nature and through the possibility of reducing the price of the initial proposals by means of bids offered by the companies participating;

increasing the range of bidders, by means of the prohibition of the demand for bid guarantees, and simplifying the bidding process by inverting the stages of qualification and evaluation of the proposals.

5.5.2. Regarding the adoption of Bidding in its electronic form, Decree nº 5.450, of 2005, Article 4, paragraph 1 states:

“Art. 4 In the bidding process for the purchase of common goods and services, the auction modality shall be mandatory, preferably in its electronic form.

Par. 1º The bidding shall be accomplished in electronic form, except in those cases in which it is manifestly infeasible, which shall be justified by the competent authority.”

5.5.3. Thus, it can be noted that, in general, the Electronic Bidding process should be adopted by the Government, however, within the law itself there are exceptions, namely, cases in which it is manifestly infeasible which, being duly justified by the competent authority, allows the option of Onsite Bidding.

5.5.4. In the case in point, the market is made up of a limited number of companies, being that all the manufacturers of the product are foreign-based with peculiarities of competition which do not lend themselves to the Electronic Bidding system. Notwithstanding the qualities and benefits of the Electronic Bidding Process, in the case in point and because of the characteristics of the rail track market and of other peculiarities of a technical nature, as can be seen in the Term of Reference, which is an integral part of this Notice.

5.5.5. Whereas the logic of the market suggests that the prices charged by distributors, importers and other intermediaries are higher than those charged by international manufacturers, given that the product to be purchased is not manufactured in Brazil. Thus, the use of the electronic system does not show itself to be more advantageous when compared to onsite bidding.

5.5.6. Given these market considerations, it appears that the use of the Electronic system is less suitable to the purposes of fostering competition as compared to the Onsite modality. Furthermore, the Electronic Bidding system makes no provision for receiving proposals in foreign currency.

5.5.7. It is well known that normal international trade is based on the U.S. dollar or the Euro. Foreign companies, which manufacture rail track, do not sell on the international market in the currency of each country to which they will provide their product. If this were the case, it

would be impractical for such companies to sell their products in different countries, and would represent a departure from the normal operation of the international market. One cannot, therefore, require that the foreign bidders adopt the Real, since if this were done it would represent a departure from the rules of foreign trade, incurring a significant reduction in the number of competing suppliers and certainly increased end prices for the government. Moreover, deserted or failed biddings would be a logical consequence of deviating from the dictates of the international market.

5.5.8. Another point that deserves attention in this systematic logic in favor of choosing Onsite Bidding instead of Electronic is the application of the liens related to the national tax burden when there is competition only among foreign companies or when there is competition between foreign companies and domestic companies.

5.5.9. In Onsite Bidding when foreign companies participate with bids in US dollars or in Euros, the auctioneer may, by accessing the website of the Central Bank of Brazil and using as a conversion parameter the exchange rate of the day before the session of the Bidding, enter the result of this equation manually, in Real, into Comprasnet. When both foreign and domestic companies take part in the same contest, the auctioneer receives the bids in Real and foreign currency, and then, for purposes of competition, may add to the bid of a foreign competitor a percentage equivalent to the liens (taxation) highlighted in the bid of the domestic company. In other words, the auctioneer may equalize the bids to avoid favoring the bids tendered by foreign companies, since these are not subject to Brazilian taxation in the same manner as domestic companies.

5.5.10. These peculiarities of a fiscal nature require that calculations and the posting of values by the auctioneer be done manually, since the Comprasnet does not have the functionality for this purpose of equalizing proposals.

5.5.11. Thus, the fact that the bids proffered by Brazilian companies are taxed and those of foreign companies do not suffer any increase due to taxation in no way affects the outcome of the contest when Onsite Bidding is adopted, since the liens levied on domestic companies are applied to foreign companies for the equalization of the bids. This is materially impossible in the electronic system, as has been stated.

5.5.12. We might add that the object to be acquired, i.e. rail track, is a common product, devoid of any sophistication, whose profile is duly standardized in domestic and foreign markets.

6. LEGAL BASIS

6.1. Beyond that which is set forth in this Notice and its Annexes, the bidding will be governed by the provisions of Law 10,520, of July 17, 2002, and 8666 of June 21, 1993.

7. PARTICIPATION

7.1. The participation of a Consortium will be admitted in this bidding, in order to strengthen the technical and financial capability of the bidder, providing greater availability of raw materials, equipment and specialized personnel, allowing for the participation of even more companies, enabling increased competitiveness provided that they comply fully with all the provisions of this notice, its annexes and the current legislation.

7.2. Participation by a consortium:

7.2.1. Legal entities that fully meet all the conditions of this Notice, its annexes and the current legislation may participate in the bidding.

7.2.2. Two or more companies may form a consortium seeking to gather the capabilities, skills, scale and any other requirements, technical or financial, necessary and sufficient for the provision of services according to the specifications.

7.2.3. It is forbidden for a consortium member to participate separately, or in more than one consortium.

7.2.4. The companies participating in the consortium will be jointly responsible for the deeds thereof, both in the bidding stage and in contract execution. In case of a consortium involving Brazilian and foreign companies, the leadership will necessarily fall to the Brazilian company.

7.2.5. Companies joined in a consortium shall observe Article 33 of Law 8.666/93.

7.2.6. The bidders should submit the qualification documents on behalf of each consortium participant, observing the particularities for foreign companies without a subsidiary, branch, agency, office or establishment in Brazil.

7.2.7. For financial and economic accreditation, each consortium participant must prove their qualifications in proportion to their respective participation. The proportional proof will be valid only for Equity/Net Worth, and all other items for economic and financial accreditation shall be confirmed individually by each participant.

7.2.8. For technical accreditation, the accreditation of each participant or the individual presentation by a single consortium member will be valid.

- 7.2.9. The leader of the consortium must submit the commitment of constitution of the Consortium. The constitution document or constitution commitment of the Consortium shall meet the following requirements:
- 7.2.9.1. Indicate the leader of the consortium, which will be responsible for the fulfilling of the obligations of the consortium members;
 - 7.2.9.2. Confer upon the leader full powers to represent the consortium in the bidding process and contracting, to receive the price of the Service, to discharge it, and to respond administratively and judicially, including receiving notifications, court summons and subpoena;
 - 7.2.9.3. Regulate the participation of each consortium member in the performing of the services as well as the percentage of participation of each consortium member in the Price;
 - 7.2.9.4. Regulate the responsibility of each consortium member regarding the fulfillment of contractual and/or technical obligations, the members of the Consortium necessarily being jointly responsible for compliance in the bidding and Contract.
- 7.2.10. The consortium may not have its composition or constitution changed or modified in any way without express prior consent from VALEC.
- 7.2.11. If it be declared the winner in the bidding, the consortium is then obligated to undertake, before concluding the contract, the formalization of the consortium's constitution, drafted under the terms of the Commitment of Constitution submitted during the bid, duly registered in the Board of Commerce, or other competent agency.

8. SUBCONTRACTING

- 8.1. The subcontracting of the totality of the purpose of this bidding is forbidden.
- 8.2. Partial subcontracting will be allowed, in accordance with the Term of Reference, of up to 10% (ten percent) of the total value of the contract, for the following services:
- 8.2.1. Shipping,
 - 8.2.2. Insurance,
 - 8.2.3. Port operations,
 - 8.2.4. Customs brokerage
- 8.3. This subcontracting will be permitted due to the specific nature of these services which are essential for the supply of the rail track under the conditions specified. The subcontracted companies must meet the requirements and conditions set forth in item 10 of the Term of Reference, and to this end the registers of fiscal and labor compliance must be provided merely for reference.
- 8.4. The CONTRACTOR shall assume full responsibility for any subcontracting of services before VALEC and must have the express, prior consent thereof;

8.5. Subcontracting does not extinguish or reduce the liability of the CONTRACTOR, including to third parties, for any wrongdoing and does not extend liability to VALEC or its agents and representatives, in accordance with Articles 69 and 70 of Law 8.666/93;

8.6. VALEC reserves the right to reject, in whole or in part, the services provided through subcontracting which violate the stipulations in the contract documents and specifications and standards;

9. STANDARD REFERENCES

9.1. This specification has, as a technical basis, the national and international standards listed below, which, when they are referenced in this text, constitute provisions of this specification. Likewise to be considered as requirements are the standards of the Brazilian Association of Technical Standards - ABNT, when applicable, as well as the criteria deemed relevant by VALEC.

- AREMA 2009 – THE AMERICAN RAILWAY AND ENGINEERING AND MAINTENANCE-OF-WAY ASSOCIATION
- AREMA 2006 – THE AMERICAN RAILWAY AND ENGINEERING AND MAINTENANCE-OF-WAY ASSOCIATION
- ASTM – A1/76 – AMERICAN STANDARD FOR TESTING AND MATERIAL
- ASTM E10 - AMERICAN STANDARD FOR TESTING AND MATERIAL
- UIC 860/1986, 1991 edition– UNION INTERNATIONALE DES CHEMINS DE FER
- EN 13674/2011 (E) – EUROPEAN STANDARD
- EN 13674/2003 (E) – EUROPEAN STANDARD
- CPTM – TECHNICAL SPECIFICATION AM0856

10. SCOPE OF THE SERVICES

10.1. SPECIFICATION OF THE SUPPLY

10.1.1. The Quantity to be acquired is 147,056 tons, divided into 5 (five) lots, as indicated in item 11. QUANTITIES.

10.1.2. The supply and the deadline will be authorized after the signing of the Delivery Order for each auctioned lot, as laid out in Annex I-A.

10.1.3. The Delivery Order will be unique to the supply contract and will indicate the timing and amounts of each consignment.

10.1.4. Each lot has its delivery schedule linked to the Delivery Order and is divided into shipments as presented in item 12. TIMELINE.

10.1.5. Deliveries will be made to the location detailed in item 14. PLACE OF EXECUTION/DELIVERY.

10.2. DOCUMENTATION TO BE PRESENTED

10.2.1. The CONTRACTOR shall provide, within ten (10) consecutive days after the date of shipment, all the technical and legal import documents necessary to VALEC regarding the nationalization of the goods. The import documents include:

a) Billing

Document issued by the contractor, which describes all the characteristics of the goods, such as quantity, unit and overall price, and total gross and net weight, name and address of the contractor, manufacturer, bank details, payment form, warranty terms, etc.

The types of bills issued by the contractor:

a.1) Pro forma: precedes the commercial billings, describing the goods and the terms of sale, serving for the purpose of listing and formalizing what has been discussed by the parties.

a.2) Invoice: The commercial billing must present the formal transfer of ownership of the goods, attest to them being shipped, as well as the negotiated terms, along with the characteristics of the product sold.

b) Packing list (or tally)

Instruction document regarding the loading and unloading of the goods, assisting on the arrival of the goods in Brazil and relating the goods shipped to their respective packaging. It should also contain all other information, such as recipient, number of volumes, brands, etc

c) Bill of Lading:

Document issued by the transportation company that certifies that the cargo was received, the transport conditions and the obligation to deliver the goods to the legal consignee, at the preset destination, transferring ownership of the goods.

d) Others: other documents may be required by VALEC.

10.2.2. The documentation regarding the imports contained in this Term of Reference should be presented for the amount of rail track transported to the destination.

10.3. PROVISIONS REGARDING CHARTERING AND INSURANCE

10.3.1. To release the tracks for boarding, the VALEC supervisors will submit a spreadsheet containing the identification of the tracks that were approved and released for shipment to the CONTRACTOR.

10.3.2. The ships chartered must be suitable for the transport of the goods. The ships should be self-sustaining.

10.3.3. The rail track must be placed in a "clean" type hold.

10.3.4. The carrier vessel must comply with the harbor restrictions of the port of destination, particularly those restrictions regarding sea-gauges.

10.3.5. The goods must be insured throughout the voyage, from setting out from the port of origin to unloading at the port of destination.

10.4. PROVISIONS REGARDING PORT OPERATIONS

- 10.4.1. The handling should be performed by a duly registered and licensed port operator.
- 10.4.2. The load must be handled in accordance with the recommendations in item 15. TECHNICAL SPECIFICATIONS.
- 10.4.3. All docking fees are the responsibility of the CONTRACTOR.

10.5. MAIN CHARACTERISTICS OF THE TRACKS

- 10.5.1. This term of reference seeks to establish the basic requirements for the raw material, manufacturing, inspection and receipt of the UIC-60 E2 tracks for VALEC projects.
- 10.5.2. In item 15. TECHNICAL SPECIFICATIONS, technical specifications are presented in detail, in addition to the criteria for the quality control of the tracks, in accordance with the standards mentioned.
- 10.5.3. The tracks must be provided with UIC 60 E2 characteristics, heat treated, in the amounts and proportions provided in this document.
- 10.5.4. Only the tracks matching the UIC-60 E2 profile, 12 meters in length, for use in a railroad with the operating characteristics specified in this Term of Reference and other annexes will be accepted.

10.6. NATIONALIZATION

- 10.6.1. The process of nationalization is the obligation of CONTRACTOR, so that:
- 10.6.1.1. The foreign company must provide, at its expense, all necessary services for the nationalization of the goods. The nationalization must be in the name of VALEC and shall be provided within 20 days after arrival of the goods at the port of destination, the payment of all import taxes (ICMS, PIS, and COFINS) shall be the responsibility of VALEC. The company shall, efficiently and effectively, provide VALEC with continuous information regarding the progress of the nationalization of the goods, being subject to penalties provided in the contract in the case of non-compliance with this clause.
- 10.6.1.2. The Brazilian company shall provide, at its expense, all services necessary for the nationalization of the goods. Nationalization should occur within 20 days of arrival of goods at the port of destination, the import taxes (ICMS, PIS, and COFINS) already being considered in the bid. The company shall, efficiently and effectively, provide VALEC with continuous information regarding the progress of the process for the nationalization of the goods, being subject to penalties provided in the contract in the case of non-compliance with this clause.
- 10.6.2. Regardless of the winning bidder (domestic or foreign), if there is early nationalization, the services will be measured corresponding to the moment of delivery of the goods to the logistics operator contracted by VALEC.
- 10.6.3. The assumption of the contracted object by the logistics operator will occur after the nationalization in the warehouse/yard after a period of 20 days following the arrival of the ship.

- 10.6.4. Regardless of the import modality adopted by the CONTRACTOR, the goods shall be made available without hindrance to the rendering of subsequent services by the logistics operator hired by VALEC, assuming all risks and costs of non-compliance with this requirement.
- 10.6.5. Warehouse/yard is defined as:
- 10.6.5.1. The primary zone; or
 - 10.6.5.2. The secondary zone (domestic customs station-EADI);
- 10.6.6. The track may be stored for up to twenty (20) days in the warehouse/yard so long as the feasibility of this is duly substantiated.
- 10.6.7. Besides the price of storing the tracks in the warehouse/yard for a period of twenty (20) days, presented for the effect of composing the final price, the bidder shall also submit in their bid the value for the storage of the track for a period of ten (10) days.
- 10.6.8. The measurement for the storage of the tracks will be made consistent to the period in which the material is stored, for example, within ten (10) or twenty (20) days for the completion of the nationalization process, this measurement will be performed by the CONTRACTOR, monitored and validated by the Contract Manager to be defined by VALEC.
- 10.6.9. After the period of twenty (20) days, except for cases of delays provably caused by unforeseeable circumstances, force majeure, or delay by VALEC, if the CONTRACTOR has not yet met all the requirements for the issuance of the Acknowledgement of Receipt (TRR), the CONTRACTOR shall bear all costs of further storage of the tracks, without additional cost to VALEC, until the fulfillment of the requirements for the issuing of the TRR and subsequent services of the logistics operator hired by VALEC.
- 10.6.10. In the case of delays provably caused by unforeseeable circumstances, force majeure, or delay by VALEC, the value that may be requested by the CONTRACTOR for the storage period exceeding twenty (20) days will be evaluated through a case-by-case analysis of market prices by VALEC.

10.7. RECEIPT OF THE TRACKS

- 10.7.1. The tracks will be received at the destination by the signing of the Acknowledgement of Receipt (TRR), a model of which is given in Annex I-B.
- 10.7.2. The signing of the TRR will take place after the appraisal of the quality and integrity of the tracks delivered, which will occur after the nationalization in the warehouse/yard of the port.
- 10.7.3. At the end of the delivery and acceptance of all consignments of the contract, the Acknowledgement of Final Receipt (TRD) will be issued, a model of which is given in Annex I-C.

10.8. RECORDS OF WORK ACCOMPLISHED

- 10.8.1. The records of the winning bidders' contractual deeds will be the property of VALEC. These include elements such as: measurements, calculations, spreadsheets, reports and results of characterization tests, memoranda, computer programs developed, sections, records, including floppy disks, CD's, drafts and other related documents, which will be delivered to VALEC once the services are completed.

11. QUANTITIES

11.1. TOTAL QUANTITY – EAST WEST INTEGRATION RAILWAY – FIOL

QUANTITY OF RAIL TRACK							
EF-334 - FIOL (Ilhéus/BA - Barreiras/BA)							
LOCATION	LENGTH OF THE RAIL LINE(Km)	QUANTITY MAIN LINE(ton)	SWITCHES: AMV 1:8 (ton)	SWITCHES: AMV 1:14 (ton)	Loss in Welding (ton)	Emergency Sockpile(ton)	FINAL QUANTITY (ton)
Barra do Rocha/BA	158,119	18.984	213	143	32	1.335	20.707
Jequié/BA	121,476	14.584	-	111	24	1.026	15.745
Tanhaçu/BA	132,876	15.953	-	95	26	1.122	17.196
Brumado/BA	204,310	24.529	23	158	41	1.725	26.476
Guanambi/BA	173,581	20.840	-	95	34	1.465	22.434
Bom Jesus da Lapa/BA	2,900	348	-	-	1	24	373
Correntina/BA	176,140	21.147	58	48	35	1.487	22.775
Barreira/BA	164,560	19.757	92	79	33	1.389	21.350
TOTAL	1.133,962	136.142	386	729	226	9.573	147.056

The values in the "LENGTH OF THE RAIL LINE" column were taken from the executive project and include loading
The "LOSS IN WELDING" column refers to a loss in welding of 2 cm per new rail for assembly.

11.1.1. The rail tracks will be heat-treated UIC-60E2 type tracks and are covered in detail in item 15. TECHNICAL SPECIFICATIONS.

11.1.2. This quantity will be divided into 5 (five) lots, as shown in the following graph:

QUANTITY OF THE LOTS AND SHIPMENTS					
Lots	1st Shipment (t)	2nd Shipment (t)	3rd Shipment (t)	4th Shipment(t)	Total Lots (t)
Lot A	8.900	8.900	8.908		26.708
Lot B	8.900	8.900	8.908		26.708
Lot C	8.900	8.900	8.908		26.708
TOTAL(SECTION ILHÉUS-CAETITÉ)					80.124
Lot D	8.300	8.300	8.300	8.566	33.466
Lot E	8.300	8.300	8.300	8.566	33.466
TOTAL (SECTION CAETITÉ-BARREIRAS)					66.932
TOTAL					147.056

11.1.3. The quantity of the three first lots, "A", "B", and "C", will be delivered in three (3) shipments two months apart, and the quantities of lots, "D" and "E", will be delivered in 4 (four) shipments two months apart as presented in item 12.TIMELINE.

11.1.4. Shipments will be given a leeway of 1.0% plus or minus the stipulated mass value, being that only the quantities effectively provided will be paid for.

12. TIMELINE

12.1. The delivery of the nationalized product in a port warehouse/yard will occur according to the following estimated schedule, with an expected interval of 60 (sixty) days between each shipment, starting from the signing of the Delivery Order.

12.2. Estimated timeline for delivery of the lots for FIOL:

TIMELINE LOTS FIOL				
Number of days from the signing of the contract				
	1st Shipment	2nd Shipment	3rd Shipment	4th Shipment
SECTION ILHÉUS-CAETITÉ				
Lot A	91	151	211	
Lot B	111	171	231	
Lot C	131	191	251	
SECTION CAETITÉ-BARREIRAS				
Lot D	281	341	401	461
Lot E	311	371	431	491

12.2.1. The days shown above refer to the end of the nationalization process with the product available for withdrawal from the warehouse/yard.

12.2.2. This schedule is preliminary, with the effective date of delivery of the 1st shipment of the lot to be established upon the issuance of the Delivery Order, which will be issued at least ninety (90) days in advance of the arrival of 1st shipment of tracks of each lot.

12.3. The CONTRACTOR shall provide the tracks with proper traceability in distinguishable and identifiable quantities, in bundles containing a label listing at least the information identifying the manufacturer, the type of track, the production run, the billet and the position of the track in the billet as set out in the technical specifications of this Term of Reference.

13. DURATION AND EXECUTION

13.1. For lots “A”, “B”, and “C”, the duration of this contract is 10 (ten) months from its signing and it may, in the interest of VALEC, be extended in accordance with the provisions of art. 57, paragraph I, of Law 8.666/93.

13.2. For lots “D” and “E”, the duration of this contract is 18 (eighteen) months from its signing and it may, in the interest of VALEC, be extended in accordance with the provisions of art. 57, paragraph I, of Law 8.666/93.

13.3. For lots “A”, “B”, and “C”, the deadline for the deliveries of the object of this term of reference is 8 (eight) months from the date of issue of the delivery order.

13.4. For lots “D” and “E”, the deadline for the deliveries of the object of this term of reference is 9 (nine) months from the date of issue of the delivery order.

13.5. DEADLINES

13.5.1. Following the issuance of the Delivery Order, the CONTRACTOR must deliver the shipments according to the detailed schedule of the Delivery Order, which will follow the premises set forth in this Term of Reference.

13.5.2. Time taken for actions that are purely the responsibility of VALEC is not to be counted toward the deadline for the delivery. However, the elapsed time for actions, corrections, procedural measures, among others which are the responsibility of the CONTRACTOR, either directly or indirectly, will be counted. Please note that delays caused by remediation of damage and defects in the material will be counted toward the deadline of the CONTRACTOR. The interval between shipments may be altered, so long as this is authorized by VALEC.

14. PLACE OF EXECUTION/DELIVERY

14.1. In choosing the destination, items taken into account include the travel distances from that location to the final destination. Thus, greater flexibility and economy in the process of transport logistics is achieved.

14.2. The place of destination/delivery of the tracks is a warehouse/yard in the city of Ilhéus/BA.

15. TECHNICAL SPECIFICATIONS

15.1. This technical specification sets out the requirements to be met in the manufacture and supply of the tracks:

15.1.1. Heat Treated UIC 60E2 type.

15.2. HEAT TREATED UIC 60E2 TRACK

15.2.1. GENERAL REQUIREMENTS

15.2.1.1. Unless otherwise specified, the manufacture of the railtrack must comply in all respects with and conform to "EN13674-1: 2011" of CEN or relevant recommendations as indicated in the latest version of the "AREMA Manual for Railway Engineering".

15.2.1.2. This specification is referenced in the technical requirements expressed by the standards of the "CEN" and the standards set forth in the latest version of the "AREMA Rail Manual, Chapter 4".

- 15.2.1.3. The heat treated UIC 60E2 rail track must weigh 60 kg/m, have a type 60E2 cross section and be manufactured from class R350HT or R350LHT steel according to specification "EN13674-1: 2011" CEN standard. Alternatively the 60E2 can be manufactured with Treated Carbon Steel or Treated Low Alloy Steel for High Strength rails from specification "Chapter 4 - Rail" AREMA standard.
- 15.2.1.4. Impurities in the billet should be removed to prevent accumulation of harmful segregations and pocket formation. The rail should be free of cracks (shatter cracks) due to the presence of hydrogen.
- 15.2.1.5. The manufacturing process of the rail track must conform to the requirements of item 7 of EN13674-1: 2011.
- 15.2.1.6. The manufacturing process used must be "Continuous Casting" and no other process will be accepted.
- 15.2.1.7. The CONTRACTOR shall inform VALEC of the process adopted and the characteristics of the steel, in its bid, and may not change the process without prior knowledge and approval of VALEC.
- 15.2.1.8. The chemical composition adopted by the manufacturer shall ensure full weldability of the track.

15.2.2. MECHANICAL PROPERTIES AND CHEMICAL COMPOSITION

15.2.2.1. The type 60E2 HT tracks should meet the EN13674-1: 2011 specifications in the following aspects:

- Table 5a-chemical composition/mechanical properties (R350HT or R350LHT steels)
- Minimum tensile strength: 1175 Mpa
- Minimum Elongation: 9%
- Maximum hydrogen content: 2.0 ppm continuous control
- Hardness-point range at the middle of the top of the billet: 350-390 Brinell

Aço Classe CEN	% em peso								
	C	Mn	Si	P max	S max	Cr	Al max	V max	N max
R350HT	0,70 a 0,82	0,65 a 1,25	0,13 a 0,60	0,025	0,030	≤ 0,15	0,004	0,030	0,010
R350LHT	0,70 a 0,82	0,65 a 1,25	0,13 a 0,60	0,025	0,030	≤ 0,30	0,004	0,030	0,010

HT = Heat Treated e LHT = Low Alloy Heat Treated

{ figure that reads }
CEN Class Steel % by weight
{ figure ends }

CEN Steel Grade	ppm by mass max.		Tensile strength Rm (Mpa)	Elongation A (%) min.	Hardness of rail running surface centre line (HBW)
	O	H			
R350HT	20	2,0	1175	9	350 to 390
R350LHT	20	2,0	1175	9	350 to 390

- Table 5b-Maximum levels of trace elements

15.2.2.2. As an alternative to R350HT or R350LHT steels, the track can be produced according to "Chapter 4-Rail-Part 2 Manufacture of Rail" of the "AREMA Rail Manual" in the following aspects:

- Table 4-2-1-4-1a and 2a chemical composition
- Table 4-2-1-4-1b and 2b, minimum surface hardness of billet: 370 Brinell
- Table 4-2-1-4-1c and 2c-minimum tensile strength: 1190 MPa (171 ksi)
- Flow Tension: 837 MPa (120 ksi)
- Minimum Elongation: 9%
- Maximum hydrogen content: 2.0 ppm continuous control

Aço Classe AREMA	% por peso								
	C	Mn	Si	P max	S max	Cr	Al max	V max	N max
Alta Resistência em Aço Carbono	0,72 a 0,86	0,75 a 1,25	0,10 a 0,60	0,020	0,020	0,30	0,010	0,010	0,250
Alta Resistência em Aço Baixa Liga	0,75 a 0,82	0,70 a 1,25	0,10 a 0,50	0,020	0,020	0,40 a 0,70	0,005	0,030	0,015

{ figure that reads }

AREMA Class Steel % by weight

High Strength Carbon Steel

High Strength Low Alloy Steel

{ figure ends }

AREMA Stell grade	ppm by mass max H	Tesile strength (Mpa)	Yeid strength (Mpa)	Elongation A (%) min.	Minimun Surface Brinell Hardness (HB)
High Strength Standard Chemistry	≤ 2,0	1192 (171ksi)	837 (120ksi)	9	370
High Strength Low Alloy Chemistry	≤ 2,0	1192 (171ksi)	837 (120ksi)	9	370

15.2.3. LENGTH OF THE TRACKS

15.2.3.1. The tracks shall be provided in the standard length of 12 (twelve) meters. The dimensional tolerances (variations in length, angle, and flatness of the extremities shall conform to Table 9 of EN13674-1: 2011).

15.2.3.2. Tracks with different lengths (short track) will not be accepted. Short tracks are defined as those that exceed the tolerance levels specified in this Term of Reference.

15.2.4. LENGTHS AND TOLERANCES

15.2.4.1. For all types of Tracks, any dimensional tolerance shall meet the requirements of EN13674-1: 2011 Item 9.2 and in the following tables of this standard:

- Table 7 - Tolerances of the cross-sectional class X profile.
- Table 8 – Straightness, Flatness, and Warpage tolerance, Class A:
- Vertical flatness of the piece $d \leq 0.3$ mm over 3m $d \leq 0.2$ mm over 1m.
- Length of the End - 2m.
- End vertical straightness $d \leq 0.4$ mm over 2m and $d \leq 0.3$ mm over 1m $e \leq 0.2$ mm.
- End horizontal straightness $d \leq 0.6$ mm over 2m and $d \leq 0.4$ mm over 1m.
- Length of overlap - 2m.
- Length of overlap of vertical flatness $d \leq 0.3$ mm over 2m.
- Length of overlap of horizontal flatness $d \leq 0.6$ mm over 2m.
- Overall upward and downward bending 10 mm.

- Total Torsional backlash of the track, maximum 2.5 mm. Maximum Rotational Torsion of the end = 0.2 Maximum relative torsion of 0.003x (see EN13674-1: 2011 fig.11).

15.2.5. PERFORATION OF THE TRACKS

- 15.2.5.1. The rails should be provided with no perforations at the ends..
- 15.2.5.2. Tolerances of squareness and straightness these ends should comply with table 9 of EN13674-1: 2011.

15.2.6. MARKING OF THE TRACKS

15.2.6.1. The stamped and embossed identification pattern of the tracks made in CEN class R350HT and R350LHT steel must meet the standard described in Section 7.4 of EN13674-1: 2011. The identification of tracks made in AREMA class steel for High Strength tracks shall meet the standard described in section 2.1.6, section 2 of the AREMA Manual.

15.2.6.2. In addition to meeting the abovementioned standards, the embossed identification must contain the following details: VALEC seal, manufacturer seal, country of origin, cooling process, manufacturing process, the letter indicating the position of the track within the billet and the billet number by order of casting.

15.2.7. QUALITY CONTROL

15.2.7.1. The manufacturer should demonstrate that it meets the quality requirements, including full documentation of the quality control system of the manufacturing and process control. They must provide appropriate documentation and comprehensive quality control in accordance with EN13674-1: 2004 or AREMA, and this technical specification.

15.2.8. CERTIFICATION AND QUALIFICATION TESTS

- 15.2.8.1. The certification tests of the track shall comply with item 8 of EN13674-1: 2011.
- 15.2.8.2. The manufacturer shall perform the certification test for UIC-60E2 classification.
- 15.2.8.3. The manufacturer shall describe the controlled cooling processes or isothermal treatment employed on the billets.

15.2.9. ACCEPTANCE/INSPECTION TESTS

- 15.2.9.1. The manufacturer must perform all the acceptance tests described in item 9 of EN13674-1: 2011, and also provide a complete record of the results of these tests.
- 15.2.9.2. The chemical composition of the tracks manufactured according to the EN standard should be in accordance with Item 9.1.3 of EN13674-1: 2011.
- 15.2.9.3. The microstructure of the steel should be fully pearlitic without the presence of adverse microconstituents such as martensite, bainite and cementite grains around the grain.
- 15.2.9.4. The type and frequency of the tests shall be in accordance with EN 13674-1:2011, and they are:

Testes para Recebimento e Aceitação	Item da EN13674-1:2011	Classe do Aço	
		CEN R350HT, R350LHT	AREMA Trilho de Alta Resistência
Composição Química	9.1.3	Um por corrida de aço	Um por corrida de aço
Teor de Hidrogênio	9.1.3.2	Um por corrida (2 testes na primeira corrida da seqüência)	Um por corrida (2 testes na primeira corrida da seqüência)
Teor de Oxigênio	9.1.3.3	Um por sequencia	Um por sequencia
Microestrutura	9.1.4	Um cada 100 ton. de aço	Um cada 100 ton. de aço
Descarbonetação	9.1.5	Um cada 500 ton. de aço	Um cada 500 ton. de aço
Aço limpo de Óxidos (b ou c)	9.1.6	Um por sequencia	Um por sequencia
Teste de Macrografia (a, b ou c)	9.1.7	Um cada 500 ton. de aço	Um cada 500 ton. de aço
Dureza (a, c)	9.1.8	Um cada 100 ton. de aço	Um cada 500 ton. de aço
Resistência a Tração /Alongamento	8.7 e 9.1.9	Um por 1000 ton. de aço	Um por 1000 ton. de aço
Tensão Residual	8.5	Um trilho pronto a cada 24 horas de produção	Um trilho pronto a cada 24 horas de produção

a – Amostras deve ser extraídas de forma aleatória apenas de trilhos de lingotes fora da zona intermediária entre as corridas de lingotamento contínuo em seqüência.
b – Amostras devem ser cortadas depois da laminação.
c – Amostras devem ser cortadas de corridas de trilhos tratados termicamente.

{ figure that reads }

Tests for Receipt and Acceptance	Item of	Class of Steel	High Strength Track
Chemical Composition		One per run of Steel	
Hydrogen Content		One per run of Steel	
		(2 tests on the first run of the sequence)	
Oxygen Content		One per Sequence	
Microstructure		One per 100 tons of steel	
Decarburization		One per 500 tons of steel	
Oxide-free Steel (b or c)		One per Sequence	
Macrographic test (a, b, or c)		One per 500 tons of steel	
Hardness (a, c)		One per 100 tons of steel	One per 500 tons of steel
Tensile Strength and Enlongation		One per 1000 tons of steel	
Residual Tension		One finished track per 24 hours of production	
	a	Samples must be taken at random only from tracks of billets outside the intermediate zone between the runs of continuous billeting in sequence.	
	b	Samples must be cut after rolling	
	c	Samples must be cut from heat treated runs of track	

{ figure ends }

15.2.9.5. Acceptance testing by the manufacturer should also include the following tests and quality requirements:

15.2.9.5.1. Residual Stress Test

15.2.9.5.1.1. Prevention of Track Fractures due to Crosswise Cracks at the base of the Rail Foot and Horizontal Welding Cracks in the Core. Longitudinal residual stresses induced by the straightening rolls (during the straightening process) in the center of the rail foot of the track should be limited to a maximum of +200 MPa. The manufacturer shall ensure that this is the maximum level of residual stress in all tracks supplied to VALEC. Vertical residual stresses induced by the straightening rolls (during the straightening process) in the upper region of the core of the rail should be +50 MPa at maximum. The vertical and longitudinal residual stresses are to be determined by the instrumentation for "strain-gauges" according to EN13674-1: 2011 Item 8.5. Tests should be performed by a laboratory approved by VALEC. The point of measurement and placement of the "strain-gauging" sensors in the upper region of the core will be within the distance (h3-20 mm) below the billet/center joiner as in Fig. A.24 of EN13674-1: 2011. The track samples for Residual Tension tests should be produced in longer lengths and at least 03 (three) meters away from the end of the track selected. Every 24 hours, a finished track should be subjected to a Residual Stress Test. A track should also be tested after each change or calibration (adjustment) of the "straightening roller." Test results shall be submitted to VALEC, which shall have full and unrestricted access to the records of all tests.

15.2.9.5.1.2. Alternatively, residual stress testing of the core and the rail foot may be done as follows:

15.2.9.5.1.2.1. +250 MPa will be the maximum acceptable residual stress level of the rail foot of the track in accordance with the provisions of item 8.6 of EN13674-1/2003 but all other tests shall be performed as specified by this standard, especially in items 8.1, 8.2, 8.3, 8.4, 8.5 and 8.6. For the purpose of the tests, the standard sampling size to be submitted will be one equal to each supply shipment. The provisions of Appendix B of the EN 13674-1-2003 will also be applied. For the residual stress of the core, according to item 2.1.13.2 and 2.1.14 of AREMA 2009 for each sample, the size of a batch will be equal to that of each contracted shipment. The frequency of testing for residual stress should comply with item 2.1.13.2 c of AREMA, Chapter 4.

15.2.9.5.2. Evaluation of the Purity of the Steel Regarding Oxides

15.2.9.5.3. Prevention of Fracture by "Shelling" and Cracks due to Fatigue caused by Contact with the Rollers. The metallurgical purity of the steel (despite being R350HT or AREMA steels) shall be determined from samples taken from the section of a track already produced and ready. A sample of each run or sequence must be tested in accordance with the methodology in item 9.1.6, fig.8 of EN13674-1: 2011 and EN10247. At least one run in 10 should be tested. VALEC reserves the right to require 100%

testing on every sequence if this is deemed necessary. In case of a dispute or if a sample fails the metallurgical purity evaluation test, the following limits may be adopted:

- Average Particle Size: Not to exceed 30 µm squared;
- Length of the particle: The length of any transversal inclusion should not exceed 10 µm;
- Width of the particle: The width of any transversal inclusion should not exceed 10 µm;
- Density of the Inclusion: The total density of the inclusion should not exceed 100 particles/mm²;
- Fraction of total area: The total area of the sample should not contain more than 0.100% of inclusions;
- Total number of inclusions: The total number of inclusions per sample must not exceed 250;
- If any sample does not meet the specifications above, two additional samples should be tested; a sample from the front and one track of a rail behind the track rejected. If the retest of any sample is rejected, the tests should continue accordingly until a track with acceptable quality is found.

In the case of an abnormal event, additional tests must be performed at higher magnification.

- a) Examination of the sample magnified by 5x;
- b) Interpretation of metallographic sample prepared (polished) magnified by 100x.

15.2.9.5.4. Testing Macrographic Segregation Patterns

15.2.9.5.4.1. Prevention of VSH (Vertical Split Crack) and Piped Rail

15.2.9.5.4.2. Macrographic tests to identify segregations in the track must be conducted in accordance with item 8.8 and standard macrographic limits in Annex D of EN13674-1: 2011.

15.2.9.5.4.3. A test sample should be prepared (and attacked by the reagent) representing one track on each strand after the start of each continuous AC run and whenever a new run is started, which is the point representing the lowest pressure level in the "tundish" (discharge funnel). An additional sample from the end of each strand of the last run of the sequence must also be tested. A new load in the "tundish" is regarded as the beginning of a new sequence.

15.2.9.5.4.4. Upon request, the representative of VALEC has the right to examine any trail of any part of the run of their choice, and if VALEC determines that the selected sample is rejected, the entire run will be reevaluated according to the criteria below:

- If any sample is rejected in the macrographic pattern test, two additional samples of the track from the same strand should be tested.
- If any of the retest samples are rejected, the test should continue until a sample with acceptable internal quality is found;

- All tracks whose samples failed the macrographic tests should be rejected.

15.2.9.5.5. Ultrasound Test

15.2.9.5.6. Prevention of Defects and Internal discontinuities

15.2.9.5.6.1. Ultrasound tests should be performed on 100% of the tracks produced by a continuous process that ensures that its' entire length and cross-sectional area is inspected, and particular emphasis should be given to the ends of the rails. The ultrasonic inspection technique should ensure that the minimum cross-sectional area covered by the inspection is not less than:

- a) 70% of the billet;
- b) 60% of the core;
- c) The entire central part of the rail foot, as well as under the maximum width of the core.

15.2.9.5.6.2. These areas will be determined by the size of the projection of the crystal face of the probe. The billet of the track should be tested on both sides of the bearing surface. The method of inspection shall be submitted for approval to VALEC. Along with the proposal, a detailed description of the methodology of ultrasonic inspection that the manufacturer intends to employ must be submitted as well, including the position and dimensions of artificial defects in the billet, core and rail foot of the track (standard block). In the positions at the ends of the track that continuous inspection cannot cover, manual inspection must be performed on each side of the ends of the track.

15.2.9.5.7. Surface Condition of the Tracks

15.2.9.5.7.1. Prevention of Marks/Scarring from Heat, Bumps and Scratches/Cold Grooves.

15.2.9.5.7.2. All tracks must be visually inspected on all four sides (top/sides of the billet, right/left sides of the core and the underside of the rail foot) to ensure the absence of harmful and damaging defects.

15.2.9.5.7.3. All foreign material that can hide or mask imperfections in the rail surface should be manually removed prior to inspection on receipt.

15.2.9.5.7.4. Tracks with any protrusions caused by excess metal adhering to the surface of the tracks such as those caused by holes in the roller cylinders, or lamination in two-stage/dual center rolling, will be rejected if the protrusion affects the installation and adjustment of the splice junctions, or causes dislocation of the inspection gauge by more than 1.6 mm on the lateral.

15.2.9.5.7.5. Tracks that have protrusions in the core greater than 1.6 mm in height and covering more than 323 mm² will be rejected.

15.2.9.5.7.6. No protrusion of excess metal will be allowed on the bearing surface of the track or on the bottom surface of the rail foot. Every protrusion at the top of the billet or under the rail foot must be ground and polished.

15.2.9.5.8. Microstructural Surface Damage (Places where protrusions have been ground down)

15.2.9.5.8.1. Any sign of damage in the surface microstructure which results in martensitic or white-phase structures must be ground and polished or the track shall be rejected. The polished area should be tested for surface hardness variation. The hardness of the polished area must not exceed the hardness of the areas adjacent to it by more than 50 Brinell.

15.2.9.5.9. Surface Imperfections (Automatic Inspection of the Billet and Rail Foot)

15.2.9.5.9.1. Each track should be automatically and continuously inspected on all sides for the detection of surface imperfections.

15.2.9.5.9.2. The equipment used must be able to detect surface imperfections on the bottom of the billet, to the maximum dimensions in the table below:

Dimensões das imperfeições (mm)		
Profundidade	Comprimento	Largura
1,0	20	0,5
1,5	10	0,5

{ figure that reads }
Dimensions of the imperfections
Depth Length Width
{ figure ends }

15.2.9.5.9.3. For artificial flaws, a tolerance of +/- 0.1 mm must be applied.

15.2.9.5.9.4. The manufacturer shall submit a complete description of the test method they wish to employ to VALEC, including the location and dimensions of the artificial defects on the billet and rail foot.

15.2.9.5.10. Decarburization

15.2.9.5.10.1. Decarburization tests should be evaluated by hardness tests at 0.5 mm depth according to item 9.1.5 of EN13674-1: 2011.

15.2.9.5.11. Tests of Tensile Strength and Elongation

15.2.9.5.11.1. The management and monitoring of the implementation, procedures, and reports of Tensile Strength and Elongation will be submitted to VALEC according to item 8.7 of EN13674-1: 2011.

15.2.10. LABORATORY CERTIFICATES

15.2.10.1. The laboratories performing tests for approval, qualification, and receipt must be in possession of at least the following certification documents:

- Certificate of compliance with ISO/IEC17025 in the field of steel quality, or
- Certificate issued by a nationally recognized and certified commission in the field of quality testing of steels.

15.2.11. WELDABILITY – REQUIREMENTS FOR THE WELDABILITY OF THE TRACKS

15.2.11.1. The chemical composition used by the manufacturer must preserve the weldability of the tracks. To achieve this goal the Carbon Equivalent (CE) of the tracks made with High Strength Low Alloy Steel (AREMA class steel) should be kept below a value of 1.25.

15.2.11.2. The manufacturer shall inform VALEC of their own formula for determining the Carbon Equivalent, or the value of CE will be defined by the following formula: $CE = C\% + \% Mn + \% (Cr + V + Mo) / 5 + \% (Ni + Cu)$.

15.2.11.3. The manufacturer must send, along with the first shipment, an expert in the field of metallurgy to perform some field installations for VALEC so as to define procedures for regulating the setting of the welding machines (arc and resistance welding) to the class of the steel of their track.

15.2.11.4. The manufacturer shall submit the soldering process (Aluminum welding and soldering) for two R350HT steel tracks and for soldering two tracks, one of conventional carbon steel and the other R350HT. The same requirements shall be executed in relation to steel tracks produced from AREMA class steel.

15.2.12. INSPECTION BY VALEC

15.2.12.1. VALEC will send, at its own expense, a representative, who shall inspect the manufacturing and quality control tests, as specified in the standard EN13674-1: 2011 and the requirements of this specification. The manufacturer shall provide full assistance and cooperation to the VALEC inspector.

15.2.12.2. The manufacturer shall be responsible for coordinating and scheduling the inspection with the representative of VALEC.

15.2.12.3. The manufacturer shall submit the results of all qualification tests and acceptance tests of all delivery orders or lots to the VALEC representative.

15.2.13. STORAGE

15.2.13.1. The storage area, as well as its physical conditions for unloading the shipment must be approved by VALEC, and it will be the responsibility of the contractor to maintain storage conditions and perfect stacking of the rails to prevent the deterioration of the material. To this end, the supplier must ensure the safety of the rails as well as the ease of the subsequent withdrawal of the same. Each stack will contain tracks from the same manufacturing batch.

15.2.13.2. Storage Guidelines:

15.2.13.2.1. When it becomes necessary to stock the material, the bars should be stored in stacks of 90(Ninety) rails as shown below:

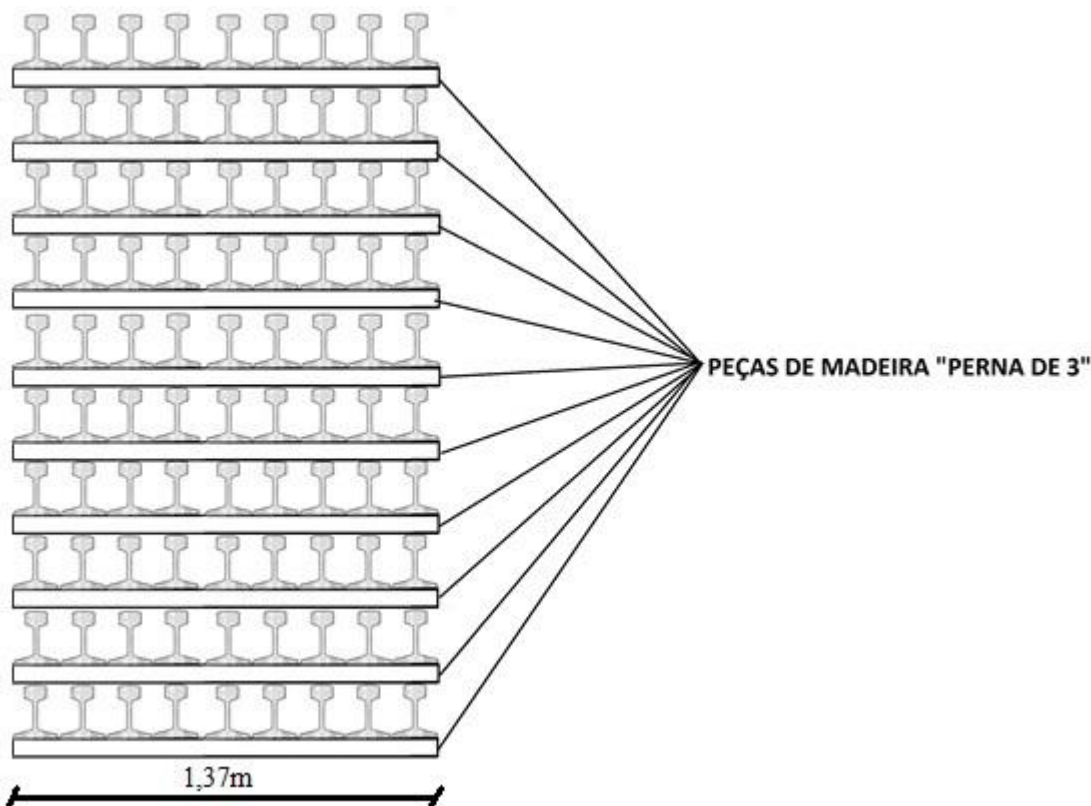


Figura 1 – Pilhas de trilhos

{ figure that reads }
3x3 wooden posts
Figure 1 Stacks of Rails
{ figure ends }

15.2.13.2.2. The pieces of wood must be positioned at 3,00 m intervals along the longitudinal axis.



Figura 2 – Visão longitudinal dos trilhos

{figure that reads}

Figure 2 Longitudinal view of the rails

{figure ends}

15.2.13.2.3. The resulting stacks must measure, approximately, 1,50 m in width, 2,45 m in height and 12,00 m in length.

15.2.13.2.4. The stacks must be approximately 0,60 m from each other.

15.2.13.2.5. There should also be adequate room for maneuver of the transporting vehicle.

15.2.13.2.6. The floor of the storage area must be capable of taking the weight necessary for storage, as well as being level and covered with fine gravel or the equivalent thereof.

15.2.13.3. The CONTRACTOR may suggest alternate forms of storage, but these must be formally approved by VALEC.

15.2.14. LOADING AND PACKAGING OF THE RAIL TRACKS

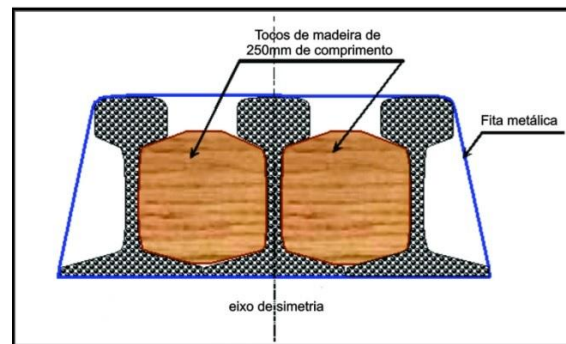
15.2.14.1. The tracks must be tethered (high tension steel straps) for loading and transport and shod in wood, so that they arrive at the delivery location in perfect state.

15.2.14.2. The CONTRACTOR may suggest other types of packaging, provided that they explain in detail in their proposal the type of tether or packaging used, and they may even propose the loading and transportation of rails without packaging, specifying the form of wrapping provided that, in all cases, the tracks are loaded and unloaded in an amount equal to or greater than 03 (three) tracks per cycle of loading and unloading, specifying the types of equipment for such operations.

15.2.14.3. The form of packaging and wrapping of the tracks for transportation must be approved by VALEC. This approval does not relieve the supplier of responsibility for the packaging or for delivering the tracks in perfect condition to the stipulated point of delivery.

15.2.14.4. Adequate space must be maintained between the tracks during the shipment so as to allow the tracks to be unloaded with equipment similar to those to be found at the port of destination.

15.2.14.5. The following is an optional packaging system for the tracks, in bundles of three (03) tracks with metal straps and wooden spacers. The maximum distance between each wooden spacer in each set of three rails is 3.0 m. The tracks should be packaged with the billets facing upwards. The packaging must be in accordance with the illustration below:



{ figure that reads }

Wooden posts 250mm in length

Metal Strap

axis of symmetry

{ figure ends }

Note: Alternative forms of packaging may be proposed for approval.

- 15.2.14.6. All tracks should be handled carefully to prevent mechanical damage to the rail foot and billet of the track and should be packed with the billet facing upwards and the use of the wooden separators between the layers of tracks is recommended. The embossed identification of all rails should be pointing in the same direction.
- 15.2.14.7. The use of steel chains in direct contact with the tracks is forbidden.
- 15.2.14.8. The straps must permit the use of clamps.
- 15.2.14.9. The wood used in packaging shall be certified for phytosanitary treatment recognized by the competent supervisory agency in Brazil.
- 15.2.14.10. The manufacturer shall prepare a description of the method of handling, loading, securing, transportation, unloading and storage of the track, including drawings and illustrative sketches, where necessary, to clarify and demonstrate the process of stacking, binding or other characteristics of the method of work.
- 15.2.15. TEMPLATES FOR INSPECTION
- 15.2.15.1. The design of the cross section of the rail must be submitted to VALEC by the manufacturer after the purchase process is completed along with all the templates described in Section 9.3 and Annex E of EN13674-1: 2011 necessary for inspection of the manufacturing process which will be provided by the manufacturer at their own expense.
- 15.2.15.2. Two sets of templates and profiles for inspection of the rails already manufactured shall remain with the representatives of VALEC, one set at the factory and the other set in the place for the receipt of the rails by VALEC in Brazil.

16. INSPECTIONS AND INSPECTION REPORTS

16.1. FACTORY INSPECTION AND RELEASE FOR EMBARKATION

16.1.1. Factory inspection is warranted pursuant to Official Letter 740/2012 and 1- 1051/2012 of Secob 4 of the TCU, which requests that VALEC present the records of the factory inspection undertaken in the previous bidding for the purchase of rail tracks for the North-South Railroad, Section Palmas - Annapolis.

16.1.2. Moreover, it is appropriate to carry out such inspections while still in the factory, considering the negative impact on project deadlines and consequently the cost of construction which occurs when such inspections, if undertaken domestically, result in rejections and the need to return goods. The impact of which, considering only transport, would result in a minimum delay of 80 days in providing the rail track and would directly impact the deadlines for the completion of the project.

16.1.3. Thus, during the manufacturing process, the CONTRACTOR must prepare and submit for approval by VALEC the Technical Report of Rail Track Inspection at the Factory and any other documents required by the Technical Specifications, such as laboratory reports, acceptance testing and inspection of the tracks and their results, as well as the list and numbers of the rail track and billets produced with the proper identification, traceability and date set forth in this Term of Reference.

16.1.4. The Technical Report of Rail Track Inspection must fulfill the provisions and requirements of the Technical Specifications and contain at least the following items and documents:

- Purpose;
- Standards;
- General Provisions containing: Contract number, date, steel mill references, VALEC representatives, representatives of the CONTRACTOR, Inspector and references thereof;
- Specific Technical Conditions of supply: steel type, rail profile, bar length, transportation, delivery location, quantity of rail track in tons;
- Inspection Certificate issued by the Steel Mill;
- Inspection Report of material/rail track;
- Annexes:
 - Annex 1 - Major buyers of rail track, type and quantity
 - Annex 2 - Certificate from the users
 - Annex 3 - Proof of the quality control system
 - Annex 4 - Chemical composition of hot steel
 - Annex 5 - Chemical composition of the rail track- preliminary testing
 - Annex 6 - Chemical composition, mechanical properties, hardness, macro and micrograph of the track – definitive certificate
 - Annex 7 - Hydrogen Content of the Steel
 - Annex 8 - Mechanical properties
 - Annex 9 - Oxygen Content of the Track
 - Annex 10 – Micrograph Report
 - Annex 11 - Residual Stress Report

- Annex 12 - Electrical Impedance Report
- Annex 13 - Report of dimensional inspection during lamination
- Annex 14 - Report of dimensional inspection of the Track
- Annex 15 - T-T-T Diagram
- Annex 16 - Traceability Report of the rail track supplied
- Annex 17 - Inspection Certificate of the Manufacturer
- Annex 18 - VALEC inspection report for release of shipment
- Annex 19 - Handling, packaging and transportation to the port
- Annex 20 - Manufacturer Catalogue of rail track
- Annex 21 - Photographs

16.1.5. VALEC and/or the contractor representing it will verify the conformity of the documents and of the tests done on the factory premises, in accordance with the Technical Specifications of this Term of Reference and the other annexes.

16.1.6. VALEC inspectors will have free access, at any business hours, to all sectors of manufacturing and testing relating to the manufacture of the material ordered.

16.1.7. An area should be provided to VALEC, on the site of the inspections, to be used for the storage of materials, the preparation and control of data, reports, etc.

16.1.8. It will be the responsibility of the manufacturer, free of charge, to provide VALEC with the location and the means necessary to perform the inspection in their country to ensure that the rail track produced meets all of the requirements specified.

16.1.9. The manufacturer shall provide VALEC, free of charge, with workers, equipment and tools to aid in the inspection.

16.1.10. Once the Technical Report of Rail Track Inspection is presented, with all the examinations and tests contained in this Term of Reference and the other annexes, and the rails are approved by the inspection of VALEC or the company hired by VALEC to conduct the inspections, the CONTRACTOR may transport them to their destination.

16.2. INSPECTION AT THE PORT OF DESTINATION AND RECEIPTS OF SHIPMENTS AND FINAL RECEIPT.

16.2.1. VALEC will conduct an inspection by sampling, using visual means and/or portable instrumentation, of the rail track shipment delivered to the location stipulated within the time period agreed upon and without adversely affecting the CONTRACTOR's schedule. Delivered is defined as those rails which are nationalized and unloaded in the warehouse/yard.

16.2.2. VALEC will issue an Acknowledgement of Receipt (TRR), after all the requirements for its issuance have been fulfilled, including:

- The provision of free access for inspection
- The delivery of the rail track onto the warehouse/yard.
- The delivery of relevant documentation

- The assessment of the integrity and quality of the rail track delivered
- Nationalization

16.2.3. Upon issuing the Acknowledgement of Receipt (TRR), VALEC closes out the counting of the deadline for delivery and begins the warranty period of the product.

16.2.4. If indications are found of defects in the tracks during the inspections upon receipt of the rail tracks at the warehouse, tests to assess the perfect condition of the rail track received will be carried out, including repeats of tests already carried out, the cost of which shall be borne by the CONTRACTOR or, if appropriate, by a specialized firm contracted for this purpose.

16.2.5. Upon final delivery and acceptance of all shipments contracted, VALEC shall issue the Acknowledgement of Final Receipt (TRD), which serve as the basis for the termination of the contract.

16.2.6. The issuance of the Acknowledgement of Final Receipt of the shipment does not prevent VALEC from conducting new tests to ascertain the manufacturing quality of the rail track throughout the warranty period.

16.2.7 The final technical documents, beyond those provided in this Term of Reference and in accordance with the Technical Specifications, are:

- Technical Report of Inspection of the Rail Track of the Contract;
- Acknowledgement of Receipt (TRR);
- Acknowledgement of Final Receipt (TRD);

16.2.8 The documents required for inspection, audit and those drawn up and received during the inspection should be compiled and presented in a RT- Technical Report of Track Inspection of Contract Number (attach number of contract between VALEC and CONTRACTOR) with all necessary information, developed by the CONTRACTOR and validated by VALEC and delivered on magnetic media and two copies in A4 format.

16.3 DEADLINES FOR INSPECTION

16.3.1 VALEC and/or the contractor representing it will conduct inspections of the rail track at the factory within a projected timeframe of up to 10 calendar days per shipment. The factory inspection period suspends the counting toward the deadlines stipulated by the schedule for the acquisition of the rail track. After verifying the quality and the perfect state of the rail track, the CONTRACTOR shall place at VALEC's disposal the proper identification and traceability certifying that the rail track that is shipped is the same that was inspected and approved. If the rail track fails to pass the inspections, a new lot must be produced as a matter of urgency without altering the delivery schedule.

16.3.2 The Contractor shall inform VALEC at least 30 days in advance of the date of the planned commencement of production and the respective schedule thereof.

17 TECHNICAL ACCREDITATION

17.1 The bidder shall present:

17.1.1 Certificate(s) of Technical and Operational Capacity, provided by a state-owned or private railroad company that uses the rail track with performance information for the track in question in operations similar to VALEC's, i.e. which prove that the bidder has supplied track for Heavy Haul type railroads, presenting:

a) Manufacture or supply of at least 20% of the total quantity of each lot of tracks which mass between 57 (fifty-seven) and 68 (sixty eight) kg/m. This quantity refers to the maximum percentage considered reasonable by the technical staff of the Federal Audit Court, in the proposed resolution contained in the report that generated Ruling 3.171/2011 - TCU/Plenum, concerning TC 002.509/2011-3.

b) The characteristics of rails supplied and quantity in tons.

c) The railway which uses the tracks provided, which must meet the following criteria:

c.1) Axle loading equal to or greater than 25 (twenty-five) tons/axle;

c.2) Amount transported equal to or greater than 20,000,000 (twenty million) annual gross tons or that the loading of individual trains exceeds five thousand (5,000) gross tons.

Note: For ongoing contracts, the requirements above must be met and the amount will be that which has been effectively delivered to the buyer.

17.1.2 The following documents from the manufacturer:

17.1.2.1 Documentation showing ongoing compliance, including documentary evidence showing that its plant and its system of quality control complies with:

17.1.2.1.1 EN13764-1: 2011 or AREMA and;

17.1.2.1.2 ISO9001/2008.

17.1.2.2 The following certificates from laboratories where the testing and examinations shall be performed:

- Certification of compliance with ISO/IEC17025/2005 standards regarding the quality of the steel, or
- Certification from an institution with national accreditation in the field of quality testing of steels.

17.1.2.3 A document that identifies and characterizes the rail track to be manufactured. This document shall indicate under which standard the steel will be produced and the composition ranges of the main elements of the mix. It shall also indicate the main mechanical properties of the rail track.

17.1.2.4 A description of the processes of controlled cooling or isothermal treatment for any billet used and demonstration of compliance with the requirements of EN13674-1: 2011 Item 9.1.3.2. or equivalent AREMA standard.

- 17.1.2.5 For the grade of steel to be provided, the results, certified by the buyers, of the 3 (three) last tests before the time of the bid, as set out in the standard.
- 17.1.2.6 A detailed description of the ultrasound testing methodology to be employed, including the location and dimensions of the artificial defects in billet, core and foot of the standard reference track.
- 17.1.2.7 Technical Reference - A list of Freight Railways going back at most five years where the manufacturer, by direct sale or bidding, provided the rail track.

18 ECONOMIC AND FINANCIAL ACCREDITATION

18.1 The bidder must present:

- 18.1.1 Certificate of the absence of bankruptcy, judicial settlement or liquidation, or foreclosure, as applicable, issued by the distributor of the headquarters of the bidder, or the residence of the same, within the period of validity provided upon the certificate itself, or, in the absence thereof, issued within 90 (ninety) days from the date of submission;
- 18.1.2 The balance sheet and financial statements for the last fiscal year, required by and submitted according to the law, proving the financial solvency of the company, its replacement by interim balance sheets or statements being forbidden, and may update them based on official indexes when closed more than 3 (three) months before the date of submission of the proposal;
- 18.1.2.1 The balance sheet must be signed by an accountant or by another equivalent professional, duly registered in the Regional Accounting Council;
- 18.1.2.2 Those companies which were incorporated during the current fiscal year must present a copy of the opening financial statement or a copy of the ledger containing the opening financial statement including the terms of opening and closing;
- 18.1.2.3 In the case of bidding for the provision of goods for immediate delivery, Micro and Small Businesses will not be obligated to present the balance sheet of the previous fiscal year;
- 18.1.2.4 If the bidder is a cooperative enterprise, these documents must be accompanied by the last accounting and financial audit, in accordance with article 112 of Law No. 5.764, of 1971, or a statement, under penalty of the law, that such an audit was not required by the supervising agency;
- 18.1.2.5 The financial solvency of the bidder will be evaluated by means of the indexes of General Liquidity (LG), General Solvency (SG), and Current Liquidity (LC), greater than 1 (one) resulting from the application of the formulae below, with the value taken from the balance sheet or ascertained by means of an online search, in the case of companies registered in the SICAF:

$$LG = \frac{\text{Current Assets} + \text{Long Term Assets}}{\text{Current Liabilities} + \text{Non-Current Liabilities}}$$

$$SG = \frac{\text{Total Assets}}{\text{Current Liabilities} + \text{Non-Current Liabilities}}$$

$$LC = \frac{\text{Current Assets}}{\text{Current Liabilities}}$$

18.1.3 The bidder must provide proof, on the day of the presentation of the bids, of owning capital or equity worth at least 5% of the budgeted amount, as set forth in the Notice, in Reais (R\$).

19 CRITERIA FOR THE ADJUDICATION OF THE BIDS

19.1 Bidding will be composed of 5 separate lots, and the bidder must indicate in the bid which lot it refers to.

19.2 A company can bid on more than one lot, but will only be awarded more than one lot if it meets the conditions set forth herein, in addition to:

19.2.1 Presenting technical capability commensurate to the number of lots bid for.

19.2.2 Presenting capital or equity commensurate to the number of lots awarded.

19.3 The bid, which contains a description of the object offered by the bidder, should be compatible with the specifications contained in the Notice.

19.4 Foreign bidders should prepare their price spreadsheet in the same way as the Brazilian bidders, according to the model in Annex I - D, using the taxes listed below:

- ICMS: 17%

- PIS: 1,65%

- COFINS: 7,60%

19.5 These taxes were used in the creation of the reference budget by VALEC.

19.6 The values in foreign currency which influence the calculation of the taxes will be converted based on the exchange rate of the business day preceding the calculation.

19.7 When formulating their bids, the bidders should utilize the following algorithms for calculation of taxes:

19.7.1 $P_{is_{imports}}$, calculated using the formula: $c \times (VA \times X)$, in accordance with Law 10.865/04, art. 8, I and II and SRF Directive 572 of 22 November, 2005:

$$X = \left[\frac{1 + e \times [a + b \times (1 + a)]}{(1 - c - d) \times (1 - e)} \right]$$

In which,

VA = Customs Value;

a = rate of Customs duties (II);

b = Rate of Tax on Industrialized Products (IPI)

c = rate of contribution to PIS/Pasep-Imports

d = rate of Cofins-Imports

e = rate of tax on operations concerning the circulation of goods and the rendering of interstate and intermunicipal transport and communication services (ICMS)

19.7.2 Cofins_{imports}, calculated using the formula: $d \times (VA \times X)$, in accordance with Law 10.865/04, art. 8, I and II and SRF Directive 572, of 22 November, 2005:

$$X = \left[\frac{1 + e \times [a + b \times (1 + a)]}{(1 - c - d) \times (1 - e)} \right]$$

In which,

VA = Customs Value;

a = rate of Customs duties (II);

b = Rate of Tax on Industrialized Products (IPI)

c = rate of contribution to PIS/Pasep-Imports

d = rate of Cofins-Imports

e = rate of tax on operations concerning the circulation of goods and the rendering of interstate and intermunicipal transport and communication services (ICMS)

19.7.3 Tax on Operations Concerning the Circulation of Goods and the Rendering of Interstate and Intermunicipal Transport and Communication Services (ICMS), calculated in accordance with legal requirements, illustrated below:

$$\text{Base de Cálculo ICMS} = \frac{VA + II + IPI + Pis_{importação} + Cofins_{importação} + outros impostos, taxas, e despesas aduaneiras}{100 - Alíquota ICMS}$$

$$\text{ICMS Recolhido} = \text{Alíquota ICMS} \times \text{Base de Cálculo ICMS}$$

{ figure that reads }

$$\text{Base for Calculation of ICMS} = VA + II + IPI + Pis imports + Cofins imports + other \underline{\text{taxes, fees, and customs expenditures}} \\ 100 - \text{Rate of ICMS}$$

$$\text{ICMS Collected} = \text{ICMS Rate} \times \text{ICMS Base for Calculation}$$

{ figure ends }

19.8 If VALEC obtains exemption from taxes, the value of these shall not be extended to the contractor.

19.9 The base date of the VALEC budget is June 2013.

19.10 The value proposed by the bidder to perform the services may not exceed the VALEC budget total as indicated in this Term of Reference, and all unit prices should be equal to or lower than those listed in the VALEC budget. The budget figures referenced in USD or Euros will be converted on the date of the last day before the opening of the bids in accordance with the exchange rate of that day.

19.11 EXAMINATION OF THE BIDS

19.11.1 In the examination of the bids, the following will be considered:

19.11.1.1 The mandatory submission of all documentation and tables required by this Term of Reference;

19.11.1.2 The coherence between the prices offered;

19.11.2 Failure to comply with any of the items will result in the annulment of the bid.

20 OBLIGATIONS OF THE CONTRACTING PARTY

- 20.1 Temporarily receive the material, provided it meets the specifications set out herein.
- 20.2 Reject the rail tracks which do not comply with the present technical specifications and applicable Technical Standards.
- 20.3 Certify the corresponding invoice after noting the faithful fulfillment of deliveries, with reports delivered and accepted.
- 20.4 Verify that the material received complies with the specifications contained in this Term of Reference, for acceptance and receipt of each shipment.
- 20.5 Issue Delivery Orders, through the contract manager to be appointed by VALEC indicating the amount of rail track in each shipment, according to the limits set out in this Term of Reference.
- 20.6 After performing the required verifications and the receipt and analysis of the reports containing the tests specified in this Term of Reference, it is the obligation of VALEC to issue the Acknowledgement of Receipt of the shipment.
- 20.7 Monitor and enforce the CONTRACTOR's compliance with their obligations, through a specifically designated representative. The representative of the Contracting Party must have the necessary experience for the monitoring and control of the execution of the services and of the contract.
- 20.8 The verification of the adequacy of the provision of the services should be undertaken based upon the criteria set forth in this Term of Reference.
- 20.9 Notify the CONTRACTOR in writing of any irregularities noted in the provision of services, setting deadlines for correcting them.
- 20.10 Notify the CONTRACTOR in writing of fines, debts and suspension of services.

- 20.11 Make payments to the CONTRACTOR for those materials actually invoiced under the conditions set forth herein.
- 20.12 For the release of the rail track for embarkation, the VALEC inspectors will present to the CONTRACTOR a spreadsheet containing the identification of the rail track which has passed inspection and is released for embarkation.
- 20.13 VALEC will send, at its own expense, a representative who will inspect the manufacture and the quality control tests, as specified in the EN13674-1:2011 standard and in the conditions put forth herein. The manufacturer must make available the fullest assistance and cooperation to the inspector from VALEC.
- 20.14 The manner of packaging and conditioning of the rail track for transport shall have to be approved by VALEC. This approval does not exempt the supplier from responsibility for said conditions or for delivering the rail track in perfect state for use to the location specified.
- 20.15 VALEC and/or the company hired to represent it will execute the inspection of the suitability of the documents and tests on the premises of the manufacturer, in accordance with the Technical Specifications of the Term of Reference and other annexes.
- 20.16 VALEC shall perform an inspection, by sampling, visually, and/or using portable instrumentation of the shipment of rail track delivered at the location stipulated, within a compatible timeframe and without undercutting the schedule of the CONTRACTOR. Delivered being defined as those rail tracks which are nationalized and unloaded at the warehouse/yard.
- 20.17 VALEC shall issue the Acknowledgement of Receipt (TRR), upon the fulfillment of all the prerequisites thereof, as set forth in this Term of Reference.
- 20.18 Upon issuance of the Acknowledgement of Receipt (TRR), VALEC closes out the counting toward the deadline for delivery and commences the counting of the warranty period of the product.
- 20.19 Following the delivery and acceptance of all the shipments provided in the contract, VALEC will issue the Acknowledgement of Final Receipt (TRD), which shall serve as the basis for the termination of the contract. The issuing of the Acknowledgement of Final Receipt does not impede VALEC from undertaking new tests of the quality of manufacture of the rail track throughout the warranty period.

21 OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

- 21.1 The CONTRACTOR shall ensure free access to all test results, calibrations, measurements and approximations that may interfere with the results of steel offered at the time of bidding.
- 21.2 The CONTRACTOR shall deliver the goods to the locations indicated.
- 21.3 The CONTRACTOR shall notify VALEC of the date of the ship's lading within 5 (five) calendar days of its departure.

- 21.4 The CONTRACTOR shall notify VALEC of the date and time of arrival of the rail track in port within 15 (fifteen) calendar days prior to its arrival at the port of destination.
- 21.5 In the event of demurrage not caused by VALEC, the responsibility for the charges shall rest with the CONTRACTOR.
- 21.6 Any damages or defects in the rail track arising from the raw material, manufacturing, shipping or handling within the scope of this Term of Reference will be the responsibility of the CONTRACTOR.
- 21.7 VALEC shall not be liable for the return to sender of any rail track that arrives with any defect to the place of delivery.
- 21.8 The CONTRACTOR shall bear responsibility for the costs and risks of delivery of the rail track to the warehouse/yard.
- 21.9 In case of delays provably caused by unforeseeable circumstances or force majeure, extra costs that may be incurred will be evaluated on a case-by-case basis, by means of an analysis of market prices, performed by VALEC.
- 21.10 All patent rights are the responsibility of the CONTRACTOR, which is responsible for all legal proceedings arising on the issue.
- 21.11 It is the responsibility of the CONTRACTOR to make delivery of the rail track in perfect condition, within the time specified by VALEC in strict compliance with the specifications of this Term of Reference with the proper invoice consisting of the detailed particulars of the brand, manufacturer, model, type, origin, and warranty period.
- 21.12 The reports containing the results of the tests specified in this Term of Reference must be delivered together with the shipment.
- 21.13 The reports shall be conclusive with clear information regarding the compliance with specified standards. They should also contain photographic records, analysis and the results of all tests performed.
- 21.14 The CONTRACTOR shall be responsible for any defects or damage arising from the product, in accordance with Articles 12, 13, 18 and 26 of the Consumer Protection Code (Law 8078, of 1990).
- 21.15 The responsibility referred to in the previous subsection implies the obligation, at the discretion of VALEC, to replace, repair, fix, remove, or rebuild at the expense of the CONTRACTOR, within 90 (ninety) days, the product containing damages or defects.
- 21.16 The CONTRACTOR must promptly meet any requirements of VALEC, inherent to the object of this bidding;
- 21.17 Reports must be rendered to VALEC, up to 24 (twenty four) hours before the date of delivery, outlining the reasons that preclude compliance with the established deadline, and proof thereof;

- 21.18 Maintain, throughout the execution of the contract, compliance with all contract obligations, as well as all accreditation and qualification requirements set forth in the bidding;
- 21.19 The CONTRACTOR shall notify VALEC at least thirty (30) days before, of the day of the planned commencement of production and the schedule thereof.
- 21.20 The CONTRACTOR must supply, within 10 calendar days after the date of embarkation, all of the technical, legal, and import documentation needed by VALEC concerning the nationalization of the goods.
- 21.21 All port fees will be the responsibility of the CONTRACTOR.
- 21.22 The process of nationalization will be the obligation of the CONTRACTOR
- 21.23 Irrespective of the modality of import executed by the CONTRACTOR, the goods will be made available without impediments for the undertaking of the subsequent services by the company responsible for logistical operations contracted by VALEC, assuming all risks and costs arising from non-compliance with this requirement.
- 21.24 Regarding storage, upon the expiration of the period of 20 (twenty) days, except in those cases provably caused by unforeseeable circumstances, force majeure, or delay by VALEC, if the CONTRACTOR has not yet fulfilled all the requirements for the issuance of the Acknowledgement of Receipt (TRR), the CONTRACTOR will bear all excess costs of storage of the rail track, at no additional expense to VALEC, until the fulfillment of the requirements for the issuance of the TRR and the enabling of the subsequent services of the company responsible for logistical operations contracted by VALEC.
- 21.25 The CONTRACTOR must provide the rail track with suitable traceability, in distinguishable and identifiable quantities, in packages with a tag containing at least that information which identifies the manufacturer, the type of track, the production run, the billet, and the position of the rail track in the billet, as set forth in the technical specifications of this Term of Reference.
- 21.26 Upon the issuance of the Delivery Order, the CONTRACTOR must deliver the shipments in accordance with the schedule detailed therein, which will adhere to the guidelines set forth in this Term of Reference.
- 21.27 The time elapsed for actions which are the sole responsibility of VALEC will not be counted towards the deadline for the delivery of the material. However, time elapsed for actions, corrections, procedural measures, among any others which are, directly or indirectly, the responsibility of the CONTRACTOR, will be counted toward the deadline. It is emphasized that the delays resulting from the remedying of damages or defects arising from the material will be counted toward the deadline of the CONTRACTOR. The interval between shipments may be altered, so long as this is authorized by VALEC.
- 21.28 The manufacture of the rail track must adhere in every respect to and be in accordance with the “EN13674-1:2011” of CEN, or the pertinent recommendations indicated in the latest edition of the “AREMA Manual for Railway Engineering”.

- 21.29 The manufacturer shall bear responsibility for the coordination and scheduling of inspections together with the representative from VALEC.
- 21.30 The manufacturer must provide the representative from VALEC with the results of all quality control tests and acceptance tests of every delivery order or lot.
- 21.31 The tracks must be tethered (high tension steel straps) for loading and transport and shod in wood, so that they arrive at the delivery location in perfect state. The CONTRACTOR may suggest other types of packaging, provided that they explain in detail in their proposal the type of tether or packaging used, and they may additionally propose the loading and transportation of rails without packaging, specifying the form of wrapping, and provided that, in all cases, it be shown that the tracks can be loaded and unloaded in an amount equal to or greater than 03 (three) tracks per cycle of loading and unloading, specifying the types of equipment for such operations.
- 21.32 The design of the cross section of the rail must be submitted to VALEC by the manufacturer after the purchase process is completed along with all the templates described in Section 9.3 and Annex E of EN13674-1: 2011 necessary for inspection of the manufacturing process which will be provided by the manufacturer at their own expense.
- 21.33 Two sets of templates and profiles for inspection of the rails already manufactured shall remain with the representatives of VALEC, one set at the factory and the other set in the place for the receipt of the rails by VALEC in Brazil.
- 21.34 During the manufacturing process, the CONTRACTOR must prepare and submit for approval by the VALEC inspectors the Technical Report of Rail Track Inspection at the factory and any other required documents listed in the Technical Specifications, such as laboratory reports, acceptance testing, and inspections of the tracks and the results thereof, as well as the list and numbers of the rail track and billets produced with the proper identification, traceability and date set forth in this Term of Reference.
- 21.35 The Technical Report of Rail Track Inspection must fulfill the provisions and requirements of the Technical Specifications.
- 21.36 An area, at the location to be inspected, must be provided to VALEC to be used for the storage of materials, preparation and control of data, reports, etc.
- 21.37 VALEC inspectors will have free access, at any business hours, to all sectors of manufacturing and testing relating to the manufacture of the material ordered.
- 21.38 To ensure the faithful fulfillment of contract obligations, the CONTRACTOR will provide guarantees using any of the means provided for in Article 56, Paragraph 1, of Law 8.666, of 1993, in REAIS, in an amount equal to 5% (five percent) of the value of the contract, to be presented within 15 (fifteen) business days after signing the contract, under penalty of termination of the contract and the penalties provided for in this Contract.

- 21.39 The rail track shall be guaranteed for a period of five years from the date of signing the Acknowledgement of Receipt (TRR), against any defect attributable to the manufacturer, even if the same has not been verified at the time of inspection upon receipt.
- 21.40 In the execution of the purpose of the present contest, the CONTRACTOR must respect and adhere to all Brazilian and international environmental regulations and laws, as well as those of their country of origin.

22 REFERENCE PRICE

- 22.1 All lots will have the same composition and the same values of reference unit prices.
- 22.2 The prices posed which make up the overall price of the object of the term of reference are tied to the U.S. dollar (USD) up to the unloading of the material at the port.
- 22.3 The overall price of the budget is presented in REAIS (R\$), considering the Free on Board (FOB) price, shipping, insurance, wharfage, the unloading of the product from the ship at the port of landing, the transportation of the product from the docks to the warehouse/yard and its unloading at the warehouse/yard, storage and nationalization, considering all smaller costs to be imbedded in these prices.
- 22.4 The FOB reference price was obtained by means of consulting the website <http://aliceweb2.mdic.gov.br/> of the Brazilian Ministry of Development, Industry, and Foreign Trade. This ascertained the latest prices of each country which exported rail track to Brazil and the median price thereof was adopted.
- 22.5 All other prices presented herein were obtained by means of the average market prices quoted.
- 22.6 The reference date of the present contest is June 2013.
- 22.6.1 For Lot "A":
- 22.6.1.1 The budget reference price of Lot "A", reference date June 2013, for the purchase of rail track is the sum of USD 32.470.518,08 and R\$ 1.342.380,44, and an additional R\$ 27.606.952,25, relative to the liens resulting from taxes levied. The conversion of the budget values into REAIS (R\$) will be done in accordance with the specifications in the Notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT A							
ITEM	DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE	
a	Free on Board Price of manufacture/supply	USD	t	26.708	1.117,81	29.854.469,48	
b	Shipping	USD	t	26.708	74,67	1.994.286,36	
c	Insurance for Shipping and Unloading	USD	t	26.708	3,20	85.465,60	
d	Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708	20,08	536.296,64	
a+b+c+d	SUBTOTAL 01	USD	t	26.708	1.215,76	32.470.518,08	
a+b+c+d	SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	26.708	2.719,90	72.643.089,20	
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708	8,45	225.682,60
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708	15,92	425.191,36
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708	24,89	664.762,12
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708	25,56	682.656,48
h		Dispatcher service for nationalization	R\$	process	3	2.950,00	8.850,00
e+f+g+h	SUBTOTAL 02	R\$				1.342.380,44	
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)		R\$				73.985.469,64	
i	Taxes and Fees	R\$				27.606.952,25	
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)		R\$				101.592.421,89	

22.6.2 For Lot "B":

22.6.2.1 The budget reference price of Lot "B", reference date June 2013, for the purchase of rail track is the sum of USD 32.470.518,08 and R\$ 1.342.380,44, and an additional R\$ 27.606.952,25, relative to the liens resulting from taxes levied. The conversion of the budget values into REAIS (R\$) will be done in accordance with the specifications in the Notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT B							
ITEM	DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE	
a	Free on Board Price of manufacture/supply	USD	t	26.708	1.117,81	29.854.469,48	
b	Shipping	USD	t	26.708	74,67	1.994.286,36	
c	Insurance for Shipping and Unloading	USD	t	26.708	3,20	85.465,60	
d	Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708	20,08	536.296,64	
a+b+c+d	SUBTOTAL 01	USD	t	26.708	1.215,76	32.470.518,08	
a+b+c+d	SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	26.708	2.719,90	72.643.089,20	
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708	8,45	225.682,60
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708	15,92	425.191,36
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708	24,89	664.762,12
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708	25,56	682.656,48
h		Dispatcher service for nationalization	R\$	process	3	2.950,00	8.850,00
e+f+g+h	SUBTOTAL 02	R\$				1.342.380,44	
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)		R\$				73.985.469,64	
i	Taxes and Fees	R\$				27.606.952,25	
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)		R\$				101.592.421,89	

22.6.3 For Lot “C”:

22.6.3.1 The budget reference price of Lot “C”, reference date June 2013, for the purchase of rail track is the sum of USD 32.470.518,08 and R\$ 1.342.380,44, and an additional R\$ 27.606.952,25, relative to the liens resulting from taxes levied. The conversion of the budget values into REAIS (R\$) will be done in accordance with the specifications in the Notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT C							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708	1.117,81	29.854.469,48
b		Shipping	USD	t	26.708	74,67	1.994.286,36
c		Insurance for Shipping and Unloading	USD	t	26.708	3,20	85.465,60
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708	20,08	536.296,64
a+b+c+d		SUBTOTAL 01	USD	t	26.708	1.215,76	32.470.518,08
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	26.708	2.719,90	72.643.089,20
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708	8,45	225.682,60
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708	15,92	425.191,36
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708	24,89	664.762,12
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708	25,56	682.656,48
h		Dispatcher service for nationalization	R\$	process	3	2.950,00	8.850,00
e+f+g+h		SUBTOTAL 02	R\$				1.342.380,44
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				73.985.469,64
i		Taxes and Fees	R\$				27.606.952,25
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				101.592.421,89

22.6.4 For Lot “D”:

22.6.4.1 The budget reference price of Lot “D”, reference date June 2013, for the purchase of rail track is the sum of USD 40.686.624,16 and R\$ 1.682.757,38, and an additional R\$ 34.592.486,55, relative to the liens resulting from taxes levied. The conversion of the budget values into REAIS (R\$) will be done in accordance with the specifications in the Notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT D							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	33.466	1.117,81	37.408.629,46
b		Shipping	USD	t	33.466	74,67	2.498.906,22
c		Insurance for Shipping and Unloading	USD	t	33.466	3,20	107.091,20
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	33.466	20,08	671.997,28
a+b+c+d		SUBTOTAL 01	USD	t	33.466	1.215,76	40.686.624,16
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	33.466	2.719,90	91.024.173,40
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	33.466	8,45	282.787,70
f		Unloading of the rail track at the bonded port terminal	R\$	t	33.466	15,92	532.778,72
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	33.466	24,89	832.968,74
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	33.466	25,56	855.390,96
h		Dispatcher service for nationalization	R\$	process	4	2.950,00	11.800,00
e+f+g+h		SUBTOTAL 02	R\$				1.682.757,38
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				92.706.930,78
i		Taxes and Fees	R\$				34.592.486,55
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				127.299.417,33

22.6.5 For Lot “E”:

22.6.5.1 The budget reference price of Lot “E”, reference date June 2013, for the purchase of rail track is the sum of USD 40.686.624,16 and R\$ 1.682.757,38, and an additional R\$ 34.592.486,55, relative to the liens resulting from taxes levied. The conversion of the budget values into REAIS (R\$) will be done in accordance with the specifications in the Notice. For reference purposes, herein is presented the conversion of values listed in USD at the exchange rate of 17/07/2013:

REFERENCE BUDGET LOT E							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	33.466	1.117,81	37.408.629,46
b		Shipping	USD	t	33.466	74,67	2.498.906,22
c		Insurance for Shipping and Unloading	USD	t	33.466	3,20	107.091,20
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	33.466	20,08	671.997,28
a+b+c+d		SUBTOTAL 01	USD	t	33.466	1.215,76	40.686.624,16
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of 17/07/2013 (2,2372)	R\$	t	33.466	2.719,90	91.024.173,40
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	33.466	8,45	282.787,70
f		Unloading of the rail track at the bonded port terminal	R\$	t	33.466	15,92	532.778,72
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	33.466	24,89	832.968,74
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	33.466	25,56	855.390,96
h		Dispatcher service for nationalization	R\$	process	4	2.950,00	11.800,00
e+f+g+h		SUBTOTAL 02	R\$				1.682.757,38
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				92.706.930,78
i		Taxes and Fees	R\$				34.592.486,55
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				127.299.417,33

23 SOURCE OF FUNDING

- 23.1 The costs of the contract which is the object of this bidding are expected to be in the amount of **R\$ 101,592,421.89** (one hundred one million, five hundred ninety-two thousand, four hundred twenty-one Reais and eighty-nine cents) for LOT A, **R\$ 101,592,421.89** (one hundred one million, five hundred ninety-two thousand, four hundred twenty-one Reais and eighty-nine cents) for LOT B, **R\$ 101,592,421.89** (one hundred one million, five hundred ninety-two thousand, four hundred twenty-one Reais and eighty-nine cents) for LOT C, **R\$ 127,299,417.33** (one hundred twenty-seven million, two hundred ninety-nine thousand, four hundred seventeen Reais and thirty-three cents) for LOT D, and **R\$ 127,299,417.33** (one hundred twenty-seven million, two hundred ninety-nine thousand, four hundred seventeen Reais and thirty-three cents) for LOT E, which together total **R\$ 559,376,100.33 (five hundred fifty-nine million, three hundred seventy-six thousand, one hundred Reais and thirty-three cents)**.
- 23.2 The allocation of the funds for the rendering of these services will be included in the Federal Budget for VALEC and in the Multiyear Investment Plan, as applicable, as set out in the purchase requisition of the Process.

24 MEASUREMENT OF THE SERVICES

- 24.1 The measurement will be performed using as the unit of measure the weight in tons supplied by the shipment once the quality and state of the imported rail track is verified.

25 FORM OF PAYMENT

- 25.1 Payment shall be commensurate to the material actually delivered and accepted by the VALEC and will be accomplished only after the issuance of the Acknowledgement of Receipt (TRR);
- 25.2 Payment will be made by bank transfer, in which case the CONTRACTOR shall provide all the information necessary for the issuance of the order for payment and/or letter of credit.
- 25.3 The payment of amounts in foreign currency, U.S. dollars or Euros, will be made in Reais converted according to the exchange rate, for purchase, valid for the foreign currency according to the value provided by the Information System of the Central Bank of Brazil - SISBACEN Closing Bulletin on the business day immediately preceding the effective date of the payment.
- 25.4 Upon receipt of the billing order, the CONTRACTOR shall issue the billing documents in accordance with the measurement reports, the Contract and the current legislation and shall submit these to VALEC along with the other documents requested.
- 25.5 In the case of an invoice issued in error, it shall be returned to the CONTRACTOR for the necessary corrections of the information that led to the rejection, counting the time for payment from the date of resubmission.
- 25.6 Upon the issuance of the Acknowledgement of Receipt (TRR), the VALEC shall pay within 30 (thirty) calendar days from the submission and registration of the Acknowledgement of Receipt

in the General Document Registry, with the delivery of the material and the presentation and acceptance of the Invoice by the Manager to be appointed by VALEC.

- 25.7 In case of any delays in payment, provided that the CONTRACTOR has not contributed in any way thereto, it is agreed that the late payment charges owed by VALEC, corresponding to the time between the due date and the actual payment of the installment, will be included in the invoice of the month following the occurrence, and shall be calculated by means of the following formula:

$$EM = I \times N \times VP$$

In which:

EM = Late payment charges;

N = number of days between the due date for payment and the actual payment;

VP = Value of the overdue payment.

I = Index of Financial Compensation = 0.00016438 calculated thus:

$I = (i/100) / 365,$

where:

i = annual percentage rate in the amount of 6%.

- 25.8 VALEC will not make any payment to the CONTRACTOR before any fines that may have been imposed on the latter have been paid or declared to be invalid.
- 25.9 VALEC may suspend the payment of any invoice submitted by the CONTRACTOR, in whole or in part, in the following cases:

- a) Defective rendering of services;
- b) Breach of obligation related to the contracted services;
- c) Debt of the CONTRACTOR to VALEC, due either to the execution of this Contract, or the obligations arising from other contracts;
- d) Non-fulfillment of contract obligation, in which case the payment will be withheld until the CONTRACTOR fulfills the clause infringed;
- e) CONTRACTOR obligations with third parties that may eventually harm VALEC;
- f) Suspension of services through fault of the CONTRACTOR.

26 READJUSTMENT

- 26.1 The contract price may be adjusted after twelve months have elapsed from the date upon which the reference price is based.
- 26.2 The base date of the reference price shall be considered as the base date for the purpose of adjustments. Therefore, in the present bidding, June 2013 will be considered the base date.
- 26.3 Two types of indexes will be used according to the product to which they refer:
- 26.4 The FOB price of the rail track will be adjusted based on the variation of the price in US\$ (U.S. Dollars) of commercial steel billets on the Brazilian market. The monthly price data is obtained

from the Steel Business Briefing webpage: <https://www.steelbb.com/pt/>. Values will be adjusted according to the following formula:

$$R = \left(\frac{I - I_0}{I_0} \right) \bullet V$$

Where:

R = Value of adjustment sought;

V = Value of the UIC-60 E2 rail track;

I₀ = Price in US\$ (U.S. Dollars) of commercial steel billets on the Brazilian market on the month of the creation of the reference budget by VALEC;

I = Price in US\$ (U.S. Dollars) of commercial steel billets on the Brazilian market, 12 months after the month of creation of the reference budget by VALEC.

26.5 Due to the specificity of the previous index, the other services will be adjusted based on the variation of the General Market Price Index (IGP-M/FGV), according to the following formula:

$$R = \left(\frac{I - I_0}{I_0} \right) \bullet V$$

Where:

R = Value of adjustment sought;

V = Value of the service contract

I₀ = General Market Price Index (IGP-M), corresponding to the base date.

I = General Market Price Index (IGP-M), corresponding to the adjustment date.

27 CONTROL AND SUPERVISION OF THE EXECUTION

27.1 The monitoring and supervision of the execution of the contract consists of verifying the conformity of the rendering of the services and the allocation of the necessary resources to ensure perfect fulfillment of the accord, and shall be exercised by one or more representatives of the CONTRACTING PARTY, specially designated, pursuant to Arts.67 and 73 of Law 8666 of 1993, and Art. 6 of Decree 2271 of 1997.

27.2 The representative of the CONTRACTING PARTY shall possess the necessary experience to monitor and control the execution of the services and of the contract.

27.3 Inspection of the adequacy of service provision shall be made based on the criteria set forth in this Term of Reference.

- 27.4 The execution of the contracts shall be monitored and supervised by means of control instruments, consisting of the measurement of the aspects indicated in Art.34 of SLTI/MPOG Directive 02, of 2008, as applicable.
- 27.5 The suitability of the material to be used in the rendering of the services should be verified along with the document containing the CONTRACTOR's detailed account of the same as specified in the Term of Reference and the bid, stating the quantities and technical specifications thereof, such as brand name, quality and manner of use.
- 27.6 The representative of the CONTRACTING PARTY shall undertake to record any events that occur, and adopt the measures necessary for the faithful performance of the contract terms, as provided in paragraphs 1 and 2 of article.67 of Law 8666 of 1993.
- 27.7 The total or partial noncompliance with all other obligations and responsibilities assumed by the CONTRACTOR shall incur the administrative penalties provided for in this Term of Reference and in current legislation, and may result in contract termination, pursuant to articles 77 and 80 of Law 8666 of 1993.
- 27.8 The inspection referred to in this clause does not exclude or reduce the liability of the CONTRACTOR, including toward third parties, for any wrongdoing, even if arising from technical imperfections, redhibitory defects or use of material that is inappropriate or of inferior quality and, in this case, does not imply co-liability of the CONTRACTING PARTY or its agents and representatives, in accordance with art.70 of Law 8666 of 1993.

28 CONTRACT GUARANTEES

- 28.1 To assure the faithful fulfillment of contract obligations, the CONTRACTOR will provide guarantees in an amount equal to 5% (five percent) of the value of the contract, to be proven within 20 (twenty) business days after signing the contract, under penalty of termination of the contract and the penalties provided in this Contract.
- 28.2 The guarantee may be provided in any of the following forms:
- a. Deposit of collateral in currency or Government Bonds;
 - b. Insurance policy; or
 - c. Bank securities.
- 28.3 No guarantee will be accepted which does not cover all the risks or losses which may be incurred in the course of the execution of the contract, such as liability for fines.
- 28.4 In the case of currency, the deposit must be made to the Caixa Economica Federal Bank, by means of a deposit credited to the account of the CONTRACTING PARTY.
- 28.5 If Government Bonds are opted for, these must be in book-entry form, by means of registration in a central system of liquidation and custody authorized by the Banco Central do Brasil

(Central Bank of Brazil), and assessed by their commercial values, as defined by the Ministry of Finance.

- 28.6 The guarantee, if provided in the form of bank securities or an insurance policy, must be valid for the duration of this Contract.
- 28.7 In the case of a guarantee in the form of bank securities, this must include an express waiver by the underwriter of the benefits of Article 827 of the Brazilian Civil Code.
- 28.8 If the value of the guarantee is used, in full or in part, by the CONTRACTING PARTY as compensation for any losses incurred in the course of the execution of the contract due to the actions of the CONTRACTOR, the latter shall make restitution thereof within ten (10) business days from the date it is notified in writing.
- 28.9 Upon execution of this Contract, and verification of the faithful discharge of all the obligations of the CONTRACTOR, the guarantee provided by the same will be released or returned and, when in currency, duly adjusted for inflation, minus any deductions for values owed to the CONTRACTING PARTY.
- 28.10 This guarantee shall expire no less than sixty (60) days after the expiration of the term of this Contract.

29 PENALTIES

- 29.1 The CONTRACTOR commits an administrative violation under Law 8666 of 1993 and Law 10,520 of 2002, when it:
- 29.1.1 fails completely or partially to fulfill any of the obligations arising from the contract;
 - 29.1.2 delays the execution of the purpose of the contract;
 - 29.1.3 commits fraud in the execution of the contract;
 - 29.1.4 behaves in a disreputable manner;
 - 29.1.5 commits tax fraud;
 - 29.1.6 does not honor the bid tendered.
- 29.2 The CONTRACTOR who commits any of the offenses detailed in the above subsection shall be subject, irrespective of civil and criminal liability, to the following penalties:
- 29.3 warning for slight faults, defined as those not involving significant harm to the CONTRACTING PARTY;
- 29.4 fine for arrears of 0.33% (thirty-three hundredths of a percent) per day of undue delay on the value of the defaulted portion, for up to thirty (30) days;
- 29.5 compensatory fine of 15% (fifteen percent) of the total value of the contract, in the event of complete default on the contract;

- 29.5.1 in case of partial default, a compensatory fine, in the same percentage as the subsection above, shall be applied proportionally to the defaulted obligation;
- 29.6 suspension from bidding and from contracting with the CONTRACTING agency or entity for a period of up to two years;
- 29.7 declaration of unfitness to bid or contract with the Government, so long as the motives for punishment stand or until rehabilitation is undertaken before the same authority which imposed the penalty, which will be granted when the CONTRACTOR reimburses the CONTRACTING PARTY for the damages caused;
- 29.8 The CONTRACTOR shall also be subject to the penalties of Art. 87, III and IV of Law 8666 of 1993 that:
- 29.8.1 has been convicted of intentional tax fraud in the payment of any taxes;
- 29.8.2 has committed illegal acts in order to frustrate the objectives of the bidding;
- 29.8.3 is demonstrably unfit to contract with the government due to wrongful acts.
- 29.9 The application of any of the above penalties will be in an administrative process that will ensure adversarial proceedings and legal defense to the CONTRACTOR, observing the procedure set forth in Law 8666 of 1993, and alternatively in Law 9784 of 1999.
- 29.10 The competent authority, in the application of the penalties, will take into account the gravity of the conduct of the offender, the educational character of the sentence, as well as damage to the CONTRACTING PARTY, pursuant to the principle of proportionality.

30 INSURANCE AND WARRANTY

- 30.1 The rail track shall be guaranteed for a period of five years from the date of signing the Acknowledgement of Receipt (TRR) against any defect attributable to the manufacturer, even if the same has not been verified at the time of inspection upon receipt.
- 30.2 During the warranty period, if any rail track presents manufacturing defects, it will be taken out of service, tests will be performed to ascertain the defect and the track will be made available to the supplier for verification, upon written notice.
- 30.3 The tests which ascertained the defect must also be made available to the supplier.
- 30.4 The supplier shall have a period of 30 (thirty) calendar days from the date of notification, assuming all costs and logistics, to perform the necessary tests and submit the results to VALEC.
- 30.5 If the tests prove the existence of the defect, the supplier shall have a period of 60 (sixty) days to honor the warranty by replacing the rail track, delivering it on a one track per defective track ratio to a port defined by VALEC or at VALEC's sole discretion, indemnify VALEC in an amount equivalent to the current value of each defective track, plus the cost of shipping the track to the same location for delivery stipulated in the contract. In the case of losses incurred by VALEC due to the defective rails provided, VALEC may assess the loss and bill it to the

supplier, ensuring legal defense and adversarial proceedings. Such losses may arise from factors such as the additional costs for domestic transport, the costs of welding of the track, and losses throughout the construction and operations, among others that have been provably directly caused by the defects ascertained in the tracks.

- 30.6 In case of variance in the test results, further tests will be carried out by an institution defined by mutual agreement between VALEC and the supplier.
- 30.7 The results of these tests will be considered final by both parties.

VALEC

**Engenharia, Construções
e Ferrovias S.A.**

INTERNATIONAL ONSITE BIDDING Nº 009/2013

ANNEX II STATEMENT MODELS

ANNEX II-A
LETTER OF ACCREDITATION

(on document with letterhead)

TO

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

In Re.: International Onsite Bidding nº 009/2013 – VALEC

Dear Sirs,

The undersigned, legal representative of the company does hereby serve notice that Mr., Identity Document, CPF is the person designated to represent our company in the aforementioned bidding process, being empowered to sign the records and any other documents; present appeals, intention to appeal, and reasons thereof, and additionally undertake all acts necessary for the performance of representation in said bidding process, including developing proposals, bidding and negotiating values with VALEC, during or after the bidding session.

Place and Date

(Signature)

ANNEX II-B
STATEMENT OF THE ABSENCE OF DISQUALIFICATIONS

(on document with letterhead)

TO

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

In Re.: International Onsite Bidding nº 009/2013 – VALEC

Dear Sirs,

_____ (Corporate Name), registered in the CNPJ under number _____, located at _____, declares, under the penalties of law, that to date there exist no disqualifying facts concerning this bidding process, being fully aware of the obligation to declare any subsequent occurrences.

Place and Date

(Signature)

ANNEX II-C
STATEMENT REGARDING MINORS

(on document with letterhead)

TO

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

In Re.: International Onsite Bidding nº 009/2013 – VALEC

Dear Sirs,

_____ (**Corporate Name**) _____ (**complete address**), registered in the CNPJ under number _____, declares under penalty of law, full compliance with the standard contained in the Constitution of the Federative Republic of Brazil of 1988, art. 7, paragraph XXXIII, namely:

"(...) The prohibition of night work, or work under hazardous or unhealthful conditions for any person under eighteen years of age and of any work for any person under sixteen years of age, except as apprentices from the age of fourteen."

Place and Date

(Signature)

ANNEX II-D
STATEMENT OF CAPACITY FOR FULFILLMENT OF THE CONTRACT
(for Brazilian companies or foreign companies established in Brazil)

(on document with letterhead)

TO

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

In Re.: International Onsite Bidding nº 009/2013 – VALEC

(Name of Company), headquartered at (complete address), registered in the CNPJ under number _____, declares, under penalty of the law, that it:

- a) is fully aware of the conditions of the bidding;
- b) assumes full responsibility for the authenticity of all documents submitted, pursuant to the provisions of Laws 10,520/02 and 8.666/93 and, and will provide any additional information requested by **VALEC**;
- c) will perform the services in accordance with the specifications of **VALEC**, ABNT - Brazilian Association of Technical Standards and/or others authorized by **VALEC**;
- d) will provide the necessary human and material resources and to take all measures to ensure the quality of the services rendered;
- e) is fully cognizant of all information, including local conditions, pursuant to the fulfillment of those obligations which are the purpose of this bidding and has obtained all information needed to formulate the bid;
- f) will perform the services in accordance with the deadlines set out in the Notice;
- g) will provide the rail track with a 5 (five) year warranty against any defect attributable to the manufacturer, even if the same are not found upon inspection at delivery.

Place and Date

(Signature)

ANNEX II-E
STATEMENT OF CAPACITY FOR CONTRACT FULFILLMENT
(for foreign companies not operating in Brazil)

(on document with letterhead)

TO

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

In Re.: International Onsite Bidding nº 008/2013 – VALEC

(Name of Company), headquartered at (complete address), registered in the CNPJ under number _____, declares, under penalty of the law, that it:

- a) is fully aware of the conditions of the bidding;
- b) assumes full responsibility for the authenticity of all documents submitted, pursuant to the provisions of Laws 10,5208/02 and 8666/93, and will provide any additional information requested by **VALEC**;
- c) will perform the services in accordance with the specifications of **VALEC**, ABNT - Brazilian Association of Technical Standards and/or others authorized by **VALEC**;
- d) will provide the necessary human and material resources and to take all measures to ensure the quality of the services rendered;
- e) is fully cognizant of all information, including local conditions, pursuant to the fulfillment of those obligations which are the purpose of this bidding and has obtained all the information needed to formulate the bid;
- f) will perform the services in accordance with the deadlines set out in the Notice;
- g) the rail track will be provided with a five (5) year warranty against any defect attributable to the manufacturer, even if the same are not found upon inspection at delivery.
- h) submits fully to Brazilian law as well as the aforementioned Notice and its annexes and expressly waives any complaint through diplomatic channels.

Place and Date

(Signature)

ANNEX II-F
COVER LETTER OF THE BID
(with model of spreadsheet)
 (on document with letterhead)

TO

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

In Re.: International Onsite Bidding nº 009/2013 – VALEC

Dear Sirs,

(Company), headquartered in the city of, Address, registered in the CNPJ/MF under No. (for foreign bidders) herein represented by. CNPJ No. situated at (address) proposes to render services to VALEC under the following conditions:

- a) The proposed price for the rendering of the services is (in figures and words), as detailed in the attached chart.
- b) The time period for the rendering of the services is (in figures and words) calendar days from the date of the first Delivery Order to be issued by VALEC.
- c) The Proposal is valid for (in figures and words) calendar days from the opening date of this Bidding.

Place and Date

(Signature)

ITEM	PRODUCT	CURRENCY	UNIT	QUANT	TOTAL VALUE
a	Free on Board Price – FOB of manufacture/supply	USD	t		
b	Shipping	USD	t		
c	Shipping Charter and Unloading Insurance	USD	t		
d	Unloading of the Product from the Ship to the Port of Destination (wharfage included)	USD	t		
a+b+c+d	SUBTOTAL 1	USD	t		
a+b+c+d	SUBTOTAL 01, converted at the Exchange rate of XX/XX/2013	R\$	t		
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	
f		Unloading of the rail track at the bonded port terminal	R\$	t	
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	
h		Dispatcher service for nationalization	R\$	process	
e+f+g+h	SUBTOTAL 2	R\$	t		
TOTAL (SUBTOTAL 01 AND SUBTOTAL 02)		R\$	t		
i	Taxes and Fees	R\$	t		
TOTAL VALUE OF THE BID	SUBTOTAL 01 + SUBTOTAL 02 + TAXES	R\$	t		
UNIT COST OF THE CHARGES RELATIVE TO TAXES AND FEES (SECTION I OF THE SPREADSHEET)			ICMS=	% -	
			COFINS=	% -	
			PIS=	% -	
			OTHERS =	% -	
BID DATE:	NAME OF THE LEGAL REPRESENTATIVE OF THE COMPANY				
MANUFACTURER NAME:	CNPJ				
NAME:	ADDRESS:				

For preparation of the bid, the bidder should use the following formulas for calculating taxes:

- $Pis_{imports}$, calculated by means of the algorithm: $c \times (VA \times X)$, pursuant to Law 10.865/04, art. 8, I e II and SRF Directive 572, of 22 November, 2005:

$$X = \left[\frac{1 + e \times [a + b \times (1 + a)]}{(1 - c - d) \times (1 - e)} \right]$$

Where,

VA = Customs Value;

a = rate of Import Tax (II);

b = rate of Tax on Industrial Products (IPI)

c = rate of Contribution to the PIS/Pasep-Imports

d = rate of Cofins-Imports

e = rate of Tax on Operations concerning the Circulation of Goods and the Rendering of Interstate and Intermunicipal Transport and Communication Services (ICMS)

- $Cofins_{imports}$, calculated by means of the algorithm: $d \times (VA \times X)$, pursuant to Law 10.865/04, art. 8º, I e II and SRF Directive 572, of 22 November, 2005:

$$X = \left[\frac{1 + e \times [a + b \times (1 + a)]}{(1 - c - d) \times (1 - e)} \right]$$

Where,

VA = Customs Value;

a = rate of Import Tax (II);

b = rate of Tax on Industrial Products (IPI)

c = rate of Contribution to the PIS/Pasep-Imports

d = rate of Cofins-Imports

e = rate of Tax on Operations concerning the Circulation of Goods and the Rendering of Interstate and Intermunicipal Transport and Communication Services (ICMS)

- Tax on Operations concerning the Circulation of Goods and the Rendering of Interstate and Intermunicipal Transport and Communication Services (ICMS), calculated pursuant to legal directives illustrated below:

$$Base\ de\ Cálculo\ ICMS = \frac{VA + II + IPI + Pis_{importação} + Cofins_{importação} + outros\ impostos, taxas, e despesas\ aduaneiras}{100 - Alíquota\ ICMS}$$

$$ICMS\ Recolhido = Alíquota\ ICMS \times Base\ de\ Cálculo\ ICMS$$

ANNEX II-G
STATEMENT OF INDEPENDENT PREPARATION OF BIDS

(on document with letterhead)

..... (Name of representative) as the duly appointed representative of
(Corporate Name) hereinafter referred to as....., for purposes of the Request
For Proposal for the International Onsite Bidding 009/2013 UASG 275075 declares, under
penalty of law, in particular art. 299 of the Brazilian Penal Code, that:

(a) the bid presented for participation in the International Onsite Bidding No. 009/2013 was prepared independently by (name of company) and the content of the proposal was not, in whole or in part, directly or indirectly, disclosed to or discussed with or received from any other potential or actual participant of the International Onsite Bidding No. 009/2013 by any means or by any person;

(b) the intention to submit the bid prepared for participation in the International Onsite Bidding No. 009/2013, was not disclosed to or discussed with or received from any potential or actual participant of the International Onsite Bidding No. 009/2013 by any means or by any person;

(c) no attempt was made by any means or by any person to influence the decision of any other potential or actual participant of the International Onsite Bidding No. 009/2013, regarding participating or not in said bidding;

(d) the content of the bid prepared for participation in the International Onsite Bidding No. 009/2013, will not, in whole or in part, directly or indirectly, be communicated to or discussed with any potential or actual participant of the International Onsite Bidding No. 009/2013 before the awarding of the object of said bidding;

(e) the content of the bid prepared for participation in the International Onsite Bidding No. 009/2013 was not, in whole or in part, directly or indirectly, disclosed to, discussed with, or received from any member of VALEC- ENGENHARIA, CONSTRUÇÕES E FERROVIAS S/A prior to the official opening of the bids, and,

(f) the company is fully aware of the content and the scope of this statement and has full powers and information to make it.

Place and Date

(Signature)

ANNEX III
STATEMENT OF ECONOMIC AND FINANCIAL CAPACITY

ANNEX III
STATEMENT OF ECONOMIC AND FINANCIAL CAPACITY

AC = Current Assets	R\$
PC = Current Liabilities	R\$
AT = Total Assets	R\$
ELP = Long-Term Liabilities	R\$
RLP = Long-Term Assets	R\$
ISG = AT / PC + ELP	SG =
ILG = (AC + RLP) / (PC + ELP)	LG =
ILC = AC / PC	LC =

VALEC

**Engenharia, Construções
e Ferrovias S.A.**

PREGÃO PRESENCIAL nº 009/2013

**ANNEX IV
DRAFT CONTRACT**

**ANNEX IV
DRAFT CONTRACT****CONTRACT N° XXX/2013****PROCESS N° 51402.047876/2013-51**

CONTRACT FOR THE SUPPLY OF UIC-60E2 RAIL TRACK, INTO WHICH ENTER VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A., AND

VALEC - ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A., a federal government-owned company, a public service concessionaire, connected to the Ministry of Transportation, headquartered at SEP/Sul, Quadra 713/913, Bloco “E”, Ed. CNC Trade, Asa Sul, Brasília/DF, CEP: 70390-135, registered in the (National Registry of Legal Entities) CNPJ under n° 42.150.664/0001-87, hereinafter referred to as **CONTRACTING PARTY**, herein represented by its Director-President, **JOSIAS SAMPAIO CAVALCANTE JÚNIOR**, Brazilian, married, civil engineer, identity document n° 8172-D/CREA/DF, registered in the (Registry of Natural Persons) CPF under n° 381.024.981-53, residing in the city of Brasília/DF and by its Director of Engineering, **OSIRIS DOS SANTOS**, Brazilian, married, civil engineer, identity document n° 433.860 SSP/GO, CPF n° 019.361.401-44, residing in the city of Brasília/DF and, headquartered in,,, registered in the CNPJ under n°, hereinafter referred to as **CONTRACTOR**, herein represented by its.....,, identity document n°/... and CPF n°, do resolve to enter into this Contract, in accordance with the Clauses and conditions set forth herewith:

1. FIRST CLAUSE – PURPOSE

1.1. This Contract is for the purpose of the supply, offloading, removal from the pier to the terminal, transport to the warehouse, storage, and nationalization of 147.056 (one hundred forty-seven thousand and fifty-six) tons of UIC-60 E2 rail track, under the conditions set forth in the Notice and its Annexes.

2. SECOND CLAUSE – LEGAL BASIS

2.1 This contract is the result of Bidding No 009/2013, bidding modality, international onsite type, indirect execution system, by overall price, lowest overall price per lot type, with legal basis in Law 10,520, of July 17, 2002, Decree 5.450, of May 31, 2005, Decree 3,555, of August 8, 2000, Law 8.078, of September 11, 1990 – Consumer Defense Code, Decree 3.722, of January 9, 2001, Complementary Law 123 of December 14, 2006, and Law 8,666 of 1993 and its amendments, as well as on all other regulations and federal administrative directives, which make up an integral part of this Contract, irrespective of its transcriptions.

3. THIRD CLAUSE – CONTRACT DOCUMENTS

3.1. The following documents constitute an integral part of this Contract, irrespective of their transcripts:

- a) Notice of International Onsite Bidding No. 009/2013 and its Annexes;
- b) The documents specified in Process No. 51402.047876/2013-51; and,
- c) Bid of the CONTRACTOR.

4. FOURTH CLAUSE – LOCATION, QUANTITY, AND DEADLINE FOR DELIVERY OF THE MATERIAL

4.1. The material must be delivered in accordance with the specifications below:

4.2. Lot A:

LOT A

PURPOSE OF THE DELIVERY:

Supply, unloading from the ship, transportation from the pier to the terminal, unloading at the warehouse, storage, and nationalization of 26,708 tons of UIC -60 E2 rail track.

LOCATION FOR DELIVERY:

The place of destination/delivery of the tracks is a port warehouse/yard in the city of Ilhéus/BA.

Shipments	Quantity in tons per shipment.	Approximate deadline for delivery, in days, from the signing of the Delivery Order.
1st shipment	8.900 tons	91 days
2nd shipment	8.900 tons	151 days
3rd shipment	8.900 tons	211 days
Total in tons	26.708 tons	

4.3. Lot B:

LOT B**PURPOSE OF THE DELIVERY:**

Supply, unloading from the ship, transportation from the pier to the terminal, unloading at the warehouse, storage, and nationalization of 26,708 tons of UIC -60 E2 rail track.

LOCATION FOR DELIVERY:

The place of destination/delivery of the tracks is a port warehouse/yard in the city of Ilhéus/BA.

Shipments	Quantity in tons per shipment.	Approximate deadline for delivery, in days, from the signing of the Delivery Order.
1st shipment	8.900 tons	111 days
2nd shipment	8.900 tons	171 days
3rd shipment	8.900 tons	231 days
Total in tons	26.708 tons	

4.4. Lot C:

LOT C		
PURPOSE OF THE DELIVERY: Supply, unloading from the ship, transportation from the pier to the terminal, unloading at the warehouse, storage, and nationalization of 26,708 tons of UIC -60 E2 rail track.		
LOCATION FOR DELIVERY: The place of destination/delivery of the tracks is a port warehouse/yard in the city of Ilhéus/BA.		
Shipments	Quantity in tons per shipment.	Approximate deadline for delivery, in days, from the signing of the Delivery Order.
1st shipment	8.900 tons	131 days
2nd shipment	8.900 tons	191 days
3rd shipment	8.900 tons	251 days
Total in tons	26.708 tons	

4.5. Lot D:

LOTE D		
PURPOSE OF THE DELIVERY: Supply, unloading from the ship, transportation from the pier to the terminal, unloading at the warehouse, storage, and nationalization of 33,466 tons of UIC -60 E2 rail track.		
LOCATION FOR DELIVERY: The place of destination/delivery of the tracks is a port warehouse/yard in the city of Ilhéus/BA.		
Shipments	Quantity in tons per shipment.	Approximate deadline for delivery, in days, from the signing of the Delivery Order.
1st shipment	8.300 tons	281 days
2nd shipment	8.300 tons	341 days

3rd shipment	8.300 tons	401 days
4th shipment	8.566 tons	461 days
Total in tons	33.466 tons	

4.5. Lot E:

LOT E		
PURPOSE OF THE DELIVERY:		
Supply, unloading from the ship, transportation from the pier to the terminal, unloading at the warehouse, storage, and nationalization of 33,466 tons of UIC -60 E2 rail track.		
LOCATION FOR DELIVERY:		
The place of destination/delivery of the tracks is a port warehouse/yard in the city of Ilhéus/BA.		
Shipments	Quantity in tons per shipment.	Approximate deadline for delivery, in days, from the signing of the Delivery Order.
1st shipment	8.300 tons	311 days
2nd shipment	8.300 tons	371 days
3rd shipment	8.300 tons	431 days
4th shipment	8.566 tons	491 days
Total in tons	33.466 tons	

4.6. The deadlines for contracting, inspection, nationalization, and receipt must be met as specified in the Term of Reference, which is an integral part of this Contract.

5. FIFTH CLAUSE – VALUE OF THE CONTRACT

5.1. The value of this contract is R\$ _____, consisting of the following:

5.1.1. Lot “A” - R\$ _____(_____), pursuant to the values set forth below:

REFERENCE BUDGET LOT A							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708		
b		Shipping	USD	t	26.708		
c		Insurance for Shipping and Unloading	USD	t	26.708		
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708		
a+b+c+d		SUBTOTAL 01	USD	t	26.708		
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of XX/XX/2013 (XXXXX)	R\$	t	26.708		
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708		
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708		
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708		
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708		
h		Dispatcher service for nationalization	R\$	process	3		
e+f+g+h		SUBTOTAL 02	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				
i		Taxes and Fees	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				

5.1.2. Lot "B" - R\$ _____(_____), pursuant to the values set forth below:

REFERENCE BUDGET LOT B							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708		
b		Shipping	USD	t	26.708		
c		Insurance for Shipping and Unloading	USD	t	26.708		
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708		
a+b+c+d		SUBTOTAL 01	USD	t	26.708		
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of XX/XX/2013 (XXXXX)	R\$	t	26.708		
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708		
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708		
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708		
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708		
h		Dispatcher service for nationalization	R\$	process	3		
e+f+g+h		SUBTOTAL 02	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				
i		Taxes and Fees	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				

5.1.3. Lot “C” - R\$ _____(_____), pursuant to the values set forth below:

REFERENCE BUDGET LOT C							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	26.708		
b		Shipping	USD	t	26.708		
c		Insurance for Shipping and Unloading	USD	t	26.708		
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	26.708		
a+b+c+d		SUBTOTAL 01	USD	t	26.708		
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of XX/XX/2013 (XXXXX)	R\$	t	26.708		
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	26.708		
f		Unloading of the rail track at the bonded port terminal	R\$	t	26.708		
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	26.708		
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	26.708		
h		Dispatcher service for nationalization	R\$	process	3		
e+f+g+h		SUBTOTAL 02	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				
i	Taxes and Fees		R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				

5.1.4. Lot “D” - R\$ _____(_____), pursuant to the values set forth below:

REFERENCE BUDGET LOT D							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		Free on Board Price of manufacture/supply	USD	t	33.466		
b		Shipping	USD	t	33.466		
c		Insurance for Shipping and Unloading	USD	t	33.466		
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	33.466		
a+b+c+d		SUBTOTAL 01	USD	t	33.466		
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of XX/XX/2013 (XXXXX)	R\$	t	33.466		
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	33.466		
f		Unloading of the rail track at the bonded port terminal	R\$	t	33.466		
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	33.466		
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	33.466		
h		Dispatcher service for nationalization	R\$	process	4		
e+f+g+h		SUBTOTAL 02	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				
i	Taxes and Fees		R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				

5.1.5. Lot “E” - R\$_____ (_____), pursuant to the values set forth below:

REFERENCE BUDGET LOT E							
ITEM		DESCRIPTION	Currency	UNIT	QUANT.	UNIT PRICE (per ton)	TOTAL VALUE
a		<i>Free on Board</i> Price of manufacture/supply	USD	t	33.466		
b		Shipping	USD	t	33.466		
c		Insurance for Shipping and Unloading	USD	t	33.466		
d		Unloading of the Goods from the Ship at the Port of Debarkation (including wharfage)	USD	t	33.466		
a+b+c+d		SUBTOTAL 01	USD	t	33.466		
a+b+c+d		SUBTOTAL 01, converted at the exchange rate of XX/XX/2013 (XXXXX)	R\$	t	33.466		
e	Dispatcher and handling to the terminal	Removal of the rail track from the pier to the bonded port terminal	R\$	t	33.466		
f		Unloading of the rail track at the bonded port terminal	R\$	t	33.466		
-		Storage of the rail track at the bonded port terminal for up to 10 days	R\$	t	33.466		
g		Storage of the rail track at the bonded port terminal for up to 20 days	R\$	t	33.466		
h		Dispatcher service for nationalization	R\$	process	4		
e+f+g+h		SUBTOTAL 02	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02)			R\$				
i		Taxes and Fees	R\$				
TOTAL (SUBTOTAL 01 + SUBTOTAL 02 + Taxes)			R\$				

5.2 It is expressly established that in the value of the contract are included all fees, taxes, and charges of any kind, either in Brazil or abroad, that directly or indirectly concern the purpose of the contract, until the final delivery of the rail track, thus constituting a single payment.

6. SIXTH CLAUSE – MEASUREMENT

6.1. The measurement shall comply with the Notice and its Annexes.

6.2. The measurement will be performed using as the unit of measure the weight in tons supplied per shipment once the quality and state of the imported rail track is verified.

7. SEVENTH CLAUSE – PAYMENT AND BILLING

7.1. Payment shall be commensurate to the material actually delivered and accepted by the CONTRACTING PARTY and will be accomplished only after the issuance of the Acknowledgement of Receipt (TRR).

7.2. Payment will be made by bank transfer, in which case the CONTRACTOR shall provide all the information necessary for the issuance of the respective payment order and/or letter of credit.

7.3. The payments of values in foreign currency, will be made in Reais converted according to the exchange rate, for purchase, valid for said foreign currency according to the value

provided by the Information System of the Central Bank of Brazil - SISBACEN Closing Bulletin on the day immediately preceding the effective date of the payment.

7.4. Upon receipt of the billing order, the CONTRACTOR shall issue the billing documents in accordance with the measurement reports, the Contract and current legislation and shall submit these to the CONTRACTING PARTY along with all other documents requested.

7.5. In the case of an invoice issued in error, it shall be returned to the CONTRACTOR for the necessary corrections of the information that led to the rejection, counting the time for payment from the date of resubmission of the same.

7.6. Upon the issuance of the Acknowledgement of Receipt (TRR), the CONTRACTING PARTY shall pay within 30 (thirty) calendar days from the submission and registration of the Acknowledgement of Receipt in the General Document Registry, with the delivery of the material and the presentation and acceptance of the Invoice/Bill by the Manager appointed by the CONTRACTING PARTY.

7.7. In the case of any delays in payment, provided that the CONTRACTOR has not contributed in any way thereto, it is agreed that the late payment charges owed by the CONTRACTING PARTY, corresponding to the time between the due date and the payment, will be included in the invoice of the month following the occurrence, and shall be calculated by means of the following formula:

$$EM = I \times N \times VP$$

In which:

EM = Late payment charges;

N = number of days between the due date for payment and the actual payment;

VP = Value of the overdue payment.

I = Index of Financial Compensation = 0.00016438 calculated thus:

$I = (i/100) / 365$, where: i = annual percentage rate in the amount of 6%.

7.8. The CONTRACTING PARTY will not make any payment to the CONTRACTOR before any fines that may have been imposed on the latter have been paid or declared to be invalid.

7.9. The CONTRACTING PARTY may suspend the payment of any invoice submitted by the CONTRACTOR, in whole or in part, in the following cases:

- a) Defective rendering of services;
- b) Breach of obligation related to the contracted services;
- c) Debt of the CONTRACTOR to the CONTRACTING PARTY, due either to the execution of this Contract, or to obligations arising from other contracts;
- d) Non-fulfillment of contract obligation, in which case the payment will be withheld until the CONTRACTOR fulfills the clause infringed;
- e) CONTRACTOR obligations with third parties that may eventually harm the CONTRACTING PARTY;
- f) Suspension of services through fault of the CONTRACTOR.

7.10. Pursuant to the conditions of SINIEF Agreement No. 07/07, as amended by SINIEF Agreement No. 08/10 of the National Treasury Policy Council- CONFAZ and the Secretary General of the Federal Revenue Service of Brazil, the CONTRACTOR, at the time of issuance of the invoices, shall send the same to the CONTRACTING PARTY in the digital file format called XML, at the e-mail address "gecon.nfe@valec.gov.br" with the respective invoices issued in electronic format.

7.11. If the CONTRACTOR is unable to comply with the conditions set forth in the previous section, they shall prepare and deliver to the CONTRACTING PARTY a statement to that effect upon signing the contract.

7.12. Any subsequent situation of fiscal irregularity on the part of the CONTRACTOR will not impede payment, if the delivery has been made and verified. Such a case will result, however, in the adoption of attendant measures for the penalizing of the company and termination of the contract.

8. EIGHTH CLAUSE – READJUSTMENT

8.1. The contract price may be adjusted after 12 (twelve) months have elapsed from the date upon which the reference price is based.

8.2. The base date of the reference price shall be considered as the base date for the purpose of adjustments. Therefore, June 2013 will be considered the base date.

8.3. Two types of indexes will be used according to the product to which they refer:

- a) The FOB price of the rail track will be adjusted based on the variation of the price in US\$ (U.S. Dollars) of commercial steel billets on the Brazilian market. The monthly price data is obtained on the Steel Business Briefing webpage: www.steelbb.com. The values will be readjusted pursuant to the following formula:

$$R = \left(\frac{I - I_0}{I_0} \right) \cdot V$$

Where:

R = Value of adjustment sought;

V = Contract value of the UIC-60 E2 rail track;

I₀ = Price in US\$ (U.S. Dollars) of commercial steel billets on the Brazilian market on the month of the creation of the reference budget by VALEC;

I = Price in US\$ (U.S. Dollars) of commercial steel billets on the Brazilian market, 12 months after the month of creation of the reference budget by VALEC.

- b) Due to the specificity of the previous index, the other services will be adjusted based on the variation of the General Market Price Index (IGP-M/FGV), according to the following formula:

$$R = \left(\frac{I - I_0}{I_0} \right) \cdot V$$

Where:

R = Value of adjustment sought;

V = Contract value of the service

I₀ = General Market Price Index (IGP-M), corresponding to the base date.

I = General Market Price Index (IGP-M), corresponding to the adjustment date.

9. NINTH CLAUSE – BUDGETARY ALLOCATION

9.1. The budget allocation for fiscal 2013 is contained in the Annual Budget Law – LOA/2013, Law 12.798 of 04 April, 2013, published in the Federal Official Gazette on 05 April, 2013, and will be distributed proportionally between the sections of the FIOLE, as laid out below:

- a) Value for Fiscal 2013: R\$ 17.609.353,13:
Program Function: 26.783.2072.11ZE.0029 (Construction of the FIOLE - Section Ilhéus/Caetité); and
- b) Value for Fiscal 2013: R\$ 16.254.787,50:
Program Function: 26.783.2072.124G.0029 (Construction of the FIOLE - Section Caetité/Barreiras).

9.2. The budget resources for fiscal 2014, the sum of R\$ 525,511,959.70 is provided in the Multi-Year Plan - PPA 2012/2015, Bill No. 29/2011 - CN, in accordance with the Budget Guidelines Law - LDO, Law 12,708 of 17 August, 2012.

- a) Nature of the Expenditures: 4490.30.45;
- b) Source of Funding: 0100;
- c) Promissory Note nº: _____.

10. TENTH CLAUSE- DELIVERY ORDERS and DELIVERY OF THE RAIL TRACKS

10.1. The purpose of this Contract will be executed by means of Delivery Orders issued by the CONTRACTING PARTY and accepted by the CONTRACTOR.

10.2. The supply and deadline will be authorized after the signing of the Delivery Order for each lot bid for, according to the model laid out in Annex V of the Notice.

10.3. The Delivery Order will be unique to the supply contract and will indicate the delivery schedule and quantities of each consignment.

10.4. Each lot will have its delivery schedule linked to the Delivery Orders and be divided into shipments, as shown in item 12 of the Term of Reference.

10.5. The place of destination/delivery of the rail track is the city of Ilhéus/BA, in a port warehouse/yard.

11. ELEVENTH CLAUSE – RECEIPT AND ACCEPTANCE OF THE RAIL TRACKS

11.1. The rail track will be received at the port of destination by means of the signing of the Acknowledgement of Receipt (TRR), a model of which is in Annex VI of the Notice.

11.2. The signing of the TRR will take place after the appraisal of the quality and integrity of the rail track delivered, which will occur after the nationalization in the warehouse/yard of the port.

11.3. Upon final delivery and acceptance of all shipments of the contract the Acknowledgement of Final Receipt (TRD) will be issued, a model of which is in Annex VI of the Notice.

11.4. A commission shall be appointed consisting of at least 03 (three) employees of the CONTRACTING PARTY which shall attest to the receipt of the contracted purpose.

12. TWELFTH CLAUSE – STORAGE AND STOCKPILING

12.1. The rail track may be stored for up to twenty (20) days in the warehouse/yard provided the feasibility of this is properly justified.

12.2. The rail track must be packaged and handled in accordance with the specifications set out in the Term of Reference.

13. THIRTEENTH CLAUSE – OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTING PARTY

13.1. Temporarily receive the material, provided it meets the specifications set out herein.

13.2. Reject the rail tracks which do not comply with the technical specifications set forth in the Term of Reference and applicable Technical Standards.

13.3. Certify the corresponding invoice after noting the faithful fulfillment of deliveries, with reports delivered and accepted.

13.4. Verify that the material received complies with the specifications contained in the Term of Reference, for acceptance and receipt of each shipment.

13.5. Issue Delivery Orders, through the contract manager to be appointed by the CONTRACTING PARTY indicating the amount of rail track in each shipment, according to the limits set out in the Term of Reference.

13.6. After performing the required verifications and the receipt and analysis of the reports containing the results of the tests specified in the Term of Reference, it is the obligation of the CONTRACTING PARTY to issue the Acknowledgement of Receipt of the shipment.

13.7. Monitor and enforce the CONTRACTOR's compliance with their obligations, through specifically designated employees. The representatives of the CONTRACTING PARTY must possess the experience necessary for the monitoring and control of the execution of the services and of this Contract.

13.8. The ascertainment of the adequacy of the provision of the services must be undertaken based upon the criteria set forth in the Term of Reference.

13.9. Notify the CONTRACTOR in writing of any irregularities noted in the provision of services, setting deadlines for correcting them.

13.10. Notify the CONTRACTOR in writing of fines, debts and suspension of service.

13.11. Make payments to the CONTRACTOR for those materials actually invoiced under the conditions set forth in this Contract and the Term of Reference.

13.12. For the release of the rail track for embarkation, the inspectors of the CONTRACTING PARTY will present to the CONTRACTOR a spreadsheet containing the identification of the rail track which has passed inspection and is released for embarkation.

13.13. The CONTRACTING PARTY will send, at its own expense, a representative who will inspect the manufacture and the quality control tests, as specified in the EN13674-1:2011 standard and in the conditions put forth herein. The manufacturer must make available the fullest assistance and cooperation to the inspector from the CONTRACTING PARTY.

13.14. The manner of packaging and conditioning of the rail track for transport shall have to be approved by the CONTRACTING PARTY. This approval does not exempt the supplier from responsibility for the conditions or for delivering the rail track in perfect state for use to the location specified.

13.15. The CONTRACTING PARTY and/or the company hired to represent it will execute the inspection of the suitability of the documents and tests on the premises of the manufacturer, in accordance with the Technical Specifications set forth in the Term of Reference and other annexes.

13.16 The CONTRACTING PARTY shall perform an inspection, by sampling, visually, and/or using portable instrumentation of the shipment of rail track delivered at the location stipulated, within a compatible timeframe and without undercutting the schedule of the CONTRACTOR. Delivered being defined as those rail tracks which are nationalized and unloaded at the warehouse/yard.

13.17 The CONTRACTING PARTY shall issue the Acknowledgement of Receipt (TRR), upon the fulfillment of all the prerequisites thereof, as set forth in the Term of Reference.

13.18 Upon issuance of the Acknowledgement of Receipt (TRR), the CONTRACTING PARTY closes out the counting toward the deadline for delivery and commences the counting of the warranty period of the product.

13.19 Following the delivery and acceptance of all the shipments provided for in this Contract and in the Term of Reference, the CONTRACTING PARTY will issue the Acknowledgement of Final Receipt (TRD), which shall serve as the basis for the termination of this Contract. The issuing of the Acknowledgement of Final Receipt does not impede the CONTRACTING PARTY from undertaking new tests of the quality of manufacture of the rail track throughout the warranty period.

14. FOURTEENTH CLAUSE – OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

14.1. The CONTRACTOR shall ensure free access to all test results, including calibrations, measurements, and approximations that may interfere with the test results of the steel offered at the time of bidding.

14.2. The CONTRACTOR shall deliver the goods to the locations indicated.

14.3. The CONTRACTOR shall notify the CONTRACTING PARTY of the date of the ship's lading within 5 (five) calendar days of its departure.

14.4. The CONTRACTOR shall notify the CONTRACTING PARTY of the date and time of arrival of the rail track in port within 15 (fifteen) calendar days prior to its arrival at the port of destination.

14.5. In the event of demurrage not motivated by the CONTRACTING PARTY, the responsibility for the charges shall rest with the CONTRACTOR.

14.6. Any damages or defects in the rail track arising from the raw material, manufacturing, shipping or handling within the scope of the Term of Reference will be the responsibility of the CONTRACTOR.

14.7. The CONTRACTING PARTY shall not be liable for the return to sender of any rail track that arrives with any defect at the place of delivery.

14.8. The CONTRACTOR shall bear responsibility for the costs and risks of delivery of the rail track to the warehouse/yard.

14.9. In case of delays provably caused by unforeseeable circumstances or force majeure, extra costs that may be incurred will be evaluated on a case-by-case basis, by means of an analysis of market prices, performed by the CONTRACTING PARTY.

14.10. All patent rights are the responsibility of the CONTRACTOR, which is responsible for all legal proceedings arising on the issue.

14.11. It is the responsibility of the CONTRACTOR to deliver the rail track in perfect condition, within the time specified by the CONTRACTING PARTY in strict compliance with the specifications of the Term of Reference with the proper invoice consisting of the detailed particulars of the brand, manufacturer, model, type, origin, and warranty.

14.12. The reports containing the results of the tests specified in the Term of Reference must be delivered together with the shipment.

14.13. The reports shall be conclusive with clear information regarding the compliance with specified standards. They should also contain photographic records, analysis and the results of all tests performed.

14.14. The CONTRACTOR shall be responsible for any defects or damage arising from the product, in accordance with Articles 12, 13, 18 and 26 of the Consumer Protection Code (Law 8078 of 1990).

14.15. The responsibility referred to in the previous subsection implies the obligation, at the discretion of the CONTRACTING PARTY, to replace, repair, fix, remove, or rebuild at the expense of the CONTRACTOR, within 90 (ninety) days, any product containing damage or defects.

14.16. The CONTRACTOR must promptly meet any requirements of the CONTRACTING PARTY, inherent to the purpose of the International Onsite Bidding No. 009/2013.

14.17. Reports must be rendered to the CONTRACTING PARTY, up to 24 (twenty four) hours before the date of delivery, outlining the reasons that preclude compliance with the established deadline, and proof thereof.

14.18. The CONTRACTOR must maintain, throughout the execution of this Contract, compliance with all contract obligations, as well as all accreditation and qualification requirements of the International Onsite Bidding No.008/2013.

14.19. The CONTRACTOR shall notify the CONTRACTING PARTY, at least 30 (thirty) days before, of the date of the planned commencement of production and the schedule thereof.

14.20. The CONTRACTOR must supply, within 10 (ten) calendar days after the date of embarkation, all of the technical, legal, and import documentation needed by the CONTRACTING PARTY concerning the nationalization of the goods.

14.21. All port fees will be the responsibility of the CONTRACTOR.

14.22. The process of nationalization will be the obligation of the CONTRACTOR.

14.23. Irrespective of the modality of import executed by the CONTRACTOR, the goods will be made available without impediments for the undertaking of the subsequent services by the company responsible for logistical operations contracted by the CONTRACTING PARTY, assuming all risks and costs arising from non-compliance with this requirement.

14.24. Regarding storage, upon the expiration of the period of 20 (twenty) days, except in the case of delay provably caused by unforeseeable circumstances or force majeure, if the CONTRACTOR has not yet fulfilled all the requirements for the issuance of the Acknowledgement of Receipt (TRR), the CONTRACTOR will bear all excess costs of storage of the rail track, at no additional expense to the CONTRACTING PARTY, until the fulfillment of the requirements for the issuance of the TRR and the enabling of the subsequent services of the company responsible for logistical operations contracted by the CONTRACTING PARTY.

14.25. The CONTRACTOR must provide the rail track with suitable traceability, in distinguishable and identifiable quantities, in packages with a tag containing at least information which identifies the manufacturer, the type of track, the production run, the billet, and the position of the rail track in the billet, as set forth in the technical specifications of the Term of Reference.

14.26. Upon the issuance of the Delivery Order, the CONTRACTOR must deliver the shipments in accordance with the schedule detailed therein, which will adhere to the guidelines set forth in the Term of Reference.

14.27. The time elapsed for actions which are the sole responsibility of the CONTRACTING PARTY will not be counted towards the deadline for the delivery of the material. However, time elapsed for actions, corrections, procedural measures, among any others which are, directly or indirectly, the responsibility of the CONTRACTOR, will be counted toward the deadline. It is emphasized that the delays resulting from the remedying of damages or defects arising from the material will be counted toward the deadline of the CONTRACTOR. The interval between shipments may be altered, so long as this is authorized by the CONTRACTING PARTY.

14.28. The manufacture of the rail track must adhere in every respect to and be in accordance with the “EN13674-1:2011” of CEN, or the pertinent recommendations indicated in the latest edition of the “AREMA Manual for Railway Engineering”.

14.29. The manufacturer shall bear responsibility for the coordination and scheduling of inspections together with the representative from the CONTRACTING PARTY.

14.30. The manufacturer must furnish the representative from the CONTRACTING PARTY with the results of all quality control tests and acceptance tests of every delivery order or lot.

14.31. The tracks must be tethered (high tension steel straps) for loading and transport and shod in wood, so that they arrive at the delivery location in perfect state. The CONTRACTOR may suggest other types of packaging, provided that they explain in detail in their proposal the type of tether or packaging used, and they may additionally propose the loading and transportation of rails without packaging, specifying the form of wrapping, and provided that, in all cases, it be shown that the tracks can be loaded and unloaded in an amount equal to or greater than 03 (three) tracks per cycle of loading and unloading, specifying the types of equipment for such operations.

14.32. The design of the cross section of the rail must be submitted to the CONTRACTING PARTY by the manufacturer after the purchase process is completed along with all the templates described in Section 9.3 and Annex E of EN13674-1: 2011 necessary for inspection of the manufacturing process which will be provided by the manufacturer at their own expense.

14.33. Two sets of templates and profiles for inspection of the rails already manufactured shall remain with the representatives of the CONTRACTING PARTY, one set at the factory and the other set in the place for the receipt of the rails by the CONTRACTING PARTY in Brazil.

14.34. During the manufacturing process, the CONTRACTOR must prepare and submit for approval by the CONTRACTING PARTY the Technical Report of Rail Track Inspection at the factory and any other required documents listed in the technical specifications, such as laboratory reports, acceptance testing, and inspections of the tracks and the results thereof, as well as the list and numbers of the rail track and billets produced with the proper identification, traceability and date set forth in the Term of Reference.

14.35. The Technical Report of Rail Track Inspection must fulfill the provisions and requirements of the Technical Specifications.

14.36. An area, at the location to be inspected, must be provided to the CONTRACTING PARTY to be used for the storage of materials, preparation and control of data, reports, and any other purpose necessary for the correct execution of the services.

14.37. The inspectors of the CONTRACTING PARTY will have free access, at any business hours, to all sectors of manufacturing and testing relating to the manufacture of the material ordered.

14.38. To ensure the faithful fulfillment of contract obligations, the CONTRACTOR will provide guarantees using any of the means provided for in Article 56, Paragraph 1, of Law 8.666, of 1993, in REAIS, in an amount equal to 5% (five percent) of the value of the contract, within 15 (fifteen) business days after signing the contract, under penalty of termination of the contract and the penalties provided for in this Contract.

14.39. The rail track shall be guaranteed for a period of five years from the date of signing the Acknowledgement of Receipt (TRR), against any defect attributable to the manufacturer, even if the same has not been verified at the time of inspection upon receipt.

14.40. In the execution of the purpose of the present contest, the CONTRACTOR must respect and adhere to all Brazilian, and international environmental regulations and laws, as well as those of their country of origin.

14.41. The CONTRACTOR shall provide the nationalization of the goods as far in advance as possible, in an efficient and effective manner, and submit to the manager of the CONTRACTING PARTY, continuously, information regarding the progress of the process of nationalization of the goods, and is subject to the penalties provided in this contract in the case of non-compliance with this Clause. For the purposes of the nationalization of the product, the CONTRACTOR shall comply with the requirements provided in item 10.6 of the Term of Reference.

14.42. The foreign company must undertake the nationalization of the product, on behalf of the CONTRACTING PARTY, pursuant to the requirements set forth in Item 10.6 of the Term of Reference.

14.43. The CONTRACTOR must assume responsibility for the expenditures with taxes, payroll taxes, Social Security, fiscal and commercial taxes, fees, transportation, insurance,

transportation of personnel, provision of guarantees, as well as any others arising from the execution of this Contract.

14.44. The CONTRACTOR must not permit the use of any labor of those less than sixteen years of age, except as an apprentice for those over the age of fourteen; nor permit the use of labor of those less than eighteen years of age at night or under dangerous or unhealthy conditions.

15. FIFTEENTH CLAUSE – CONTRACT MANAGEMENT

15.1. The CONTRACTING PARTY shall nominate a contract manager with full powers to represent it.

15.2. The CONTRACTOR must indicate within 5 (five) business days that, jointly with the contract manager of the CONTRACTING PARTY, it will take all necessary measures for the faithful execution of the purpose.

16. SIXTEENTH CLAUSE – SUPERVISION

16.1. The monitoring and supervision of the execution of the contract consists of verifying the conformity of the rendering of the services and the allocation of the necessary resources to ensure perfect fulfillment of the accord, and shall be undertaken by one or more representatives of the CONTRACTING PARTY, specially designated, pursuant to Arts. 67 and 73 of Law 8666 of 1993, and Art. 6 of Decree 2271 of 1997.

16.2. The representative of the CONTRACTING PARTY shall possess the necessary expertise to monitor and control the execution of the services and of this Contract.

16.3. Inspection of the adequacy of service provision shall be made based on the criteria set forth in this Contract and the Term of Reference.

16.4. The execution of the Contract shall be monitored and supervised by means of control instruments, consisting of the measurements indicated in Art. 34 of SLTI/MPOG Directive No. 02 of 2008, as applicable.

16.5. The quality of the material to be used in the rendering of the services should be verified along with the document containing the CONTRACTOR's detailed account of the same as

specified in the Term of Reference and the bid, stating the quantities and technical specifications, such as brand name, quality and manner of use.

16.6. The representative of the CONTRACTING PARTY shall undertake to record any events that occur, and adopt the measures necessary for the faithful performance of the contract terms, as provided in paragraphs 1 and 2 of article 67 of Law 8666 of 1993.

16.7. The total or partial noncompliance with all other obligations and responsibilities assumed by the CONTRACTOR shall incur the administrative penalties provided in this Contract, the Term of Reference and in the law, and may result in contract termination, pursuant to articles 77 and 80 of Law 8666 of 1993.

16.8. The inspection referred to in this clause does not exclude or reduce the liability of the CONTRACTOR, including regarding third parties, for any wrongdoing, even if arising from technical imperfections, redhibitory defects or use of material that is inappropriate or of inferior quality and, in this case, does not imply co-liability of the CONTRACTING PARTY or its agents and representatives, in accordance with art. 70 of Law 8666 of 1993.

17. SEVENTEENTH CLAUSE – LEGAL AND FISCAL OBLIGATIONS

17.1. All taxes, duties, charges and contributions of any nature, including those which are para-fiscal, levied by Federal, State and Municipal governments, which relate to the provision of the purpose of this Contract, whether they have been considered in the bid or not, will be the responsibility of the CONTRACTOR, including with respect to payments and the respective charges, except:

- a) The Federal Taxes and Contributions (CONSIRF), which will be charged to the CONTRACTING PARTY, pursuant to IN SRF 480, of 2004 and its amendments;
- b) The Tax on Services of Any Kind - ISSQN that under Section II of Paragraph 2 of Article 6 of Complementary Law 116, of 2003, will be fully retained and paid by the CONTRACTING PARTY.

17.2. If the CONTRACTOR is served notice, subpoenaed or notified by the competent authority for failure to comply with the provisions of Item 16.1 and this results in joint liability of the CONTRACTING PARTY, the same may withhold payments due, in an amount equal to

the charges not paid by the CONTRACTOR until the latter settles the accounts payable, in which case no interest on or adjustment to the retained payments will be forthcoming.

17.3. Any compensation for damages caused by the actions or omissions of their agents or representatives to the CONTRACTING PARTY or a third party, as well as for breaches or violations of provisions in the laws, regulations, or rules in force, as a result of the execution of the purpose of the contract will be the sole responsibility of the CONTRACTOR.

17.4. If the CONTRACTING PARTY obtains tax exemption, this exemption will not be extended to the CONTRACTOR.

18. EIGHTEENTH CLAUSE – DURATION AND EXECUTION BY LOT

18.1. For lots “A”, “B”, and “C”, the term of the contract is 10 (ten) months from its signing and may, in the interest of the CONTRACTING PARTY, be extended in accordance with the provisions of art. 57, paragraph I, of Law 8.666, of 1993.

18.1.1 The deadline for the delivery of the material specified above is 8 (eight) months from the date of issuance of the Delivery Order.

18.2. For lots “D” and “E”, the term of the contract is 18 (eighteen) months from its signing and may, in the interest of the CONTRACTING PARTY, be extended in accordance with the provisions of art. 57, paragraph I, of Law 8.666, of 1993.

18.2.1. The deadline for the delivery of the material specified above is 9 (nine) months from the date of issuance of the Delivery Order.

18.3. Calculation of deadlines:

- a) Following the issuance of the Delivery Order, the CONTRACTOR shall deliver the shipments according to the schedule outlined in the Delivery Order, which will comply with the conditions set forth in the Term of Reference; and,
- b) Time required for actions which are solely the responsibility of the CONTRACTING PARTY shall not be counted toward the deadline for delivery of the material. However, the time required for actions, corrections, procedural measures, or any others which are the responsibility of the CONTRACTOR, either directly or indirectly, will be accounted toward the deadline. It is emphasized that delays caused

by the remediation of damage and defects attributable to the material will be counted toward the deadline of the CONTRACTOR. The interval between shipments may be amended, provided this is authorized by the CONTRACTING PARTY.

19. NINETEENTH CLAUSE– CONTRACT GUARANTEES

19.1. To assure the faithful fulfillment of contract obligations, the CONTRACTOR will provide guarantees in an amount equal to 5% (five percent) of the value of the contract, to be proven within 20 (twenty) business days, from the signing of this Contract, under penalty of applicable sanctions, including the termination of the contract.

19.2. The guarantee may be provided in any of the following forms:

- a) Deposit of collateral in currency or Government Bonds;
- b) Insurance policy; or,
- c) Bank securities.

19.3. No guarantee will be accepted which does not cover all the risks or losses which may be incurred in the course of the execution of the contract, such as liability for fines.

19.4. In the case of currency, the deposit must be made to the Caixa Economica Federal Bank, by means of a deposit credited to the account of the CONTRACTING PARTY.

19.5. If Government Bonds are opted for, these must be in book-entry form, by means of registration in a central system of liquidation and custody authorized by the Banco Central do Brasil (Central Bank of Brazil), and assessed by their commercial values, as defined by the Ministry of Finance.

19.6. The guarantee, if provided in the form of bank securities or an insurance policy, must be valid for the duration of this Contract.

19.7. In the case of a guarantee in the form of bank securities, this must include an express waiver by the underwriter of the benefits of Article 827 of the Brazilian Civil Code.

19.8. In the event of changes in the value of the Contract, or of the extension of the same, the guarantee shall be revised or renewed under the same conditions already provided.

19.9. If the value of the guarantee is used, in full or in part, by the CONTRACTING PARTY as compensation for any losses incurred in the course of the execution of the contract due to the actions of the CONTRACTOR, the latter shall make restitution thereof within 10 (ten) business days from the date it is notified in writing.

19.10. Upon execution of this Contract, and verification of the faithful discharge of all the obligations of the CONTRACTOR, the guarantee provided by the same will be released or returned and, when in currency, duly adjusted for inflation, minus any deductions for values owed to the CONTRACTING PARTY.

19.11. This guarantee shall expire no less than sixty (60) days after the expiration of the term of this Contract.

20. TWENTIETH CLAUSE – WARRANTY AND INSURANCE

20.1. The rail track shall be guaranteed for a period of 5 (five) years from the date of signing the Acknowledgement of Receipt (TRR), against any defect attributable to the manufacturer, even if the same has not been verified at the time of inspection upon receipt.

20.2. During the warranty period, if any rail track presents manufacturing defects, it will be taken out of service, tests will be performed to ascertain the defect, and the track will be made available to the supplier for verification, upon written notice.

20.3. The tests which ascertained the defect must also be made available to the CONTRACTOR.

20.4. The CONTRACTOR shall have a period of 30 (thirty) days from the date of notification, assuming all costs and logistics, to perform the necessary tests and submit the results to the CONTRACTING PARTY.

20.5. If the tests prove the existence of the defect, the CONTRACTOR shall have a period of 60 (sixty) days to honor the warranty by replacing the rail track, delivering it on a one track per defective track ratio to a port defined by the CONTRACTING PARTY or, at the CONTRACTING PARTY's sole discretion, to indemnify the CONTRACTING PARTY in an amount equivalent to the current value of each defective track, plus the cost of shipping the track to the same location for delivery stipulated in this Contract. In the case of losses incurred by the CONTRACTING PARTY due to the defective rails provided, the

CONTRACTING PARTY may assess the loss and bill it to the CONTRACTOR, ensuring legal defense and adversarial proceedings. Such losses may arise from factors such as the additional costs for domestic transport, the costs of welding of the track, and losses throughout the construction and operations, among others that have been proven to have been directly caused by the defects found in the tracks.

20.6. In case of variance in the test results, further tests will be carried out by an institution defined by mutual agreement between the CONTRACTING PARTY and the CONTRACTOR.

20.7. The results of these tests will be considered final by both parties.

21. TWENTY-FIRST CLAUSE – UNFORESEEABLE CIRCUMSTANCES OR FORCE MAJEURE

21.1. If, due to unforeseeable circumstances or force majeure, the CONTRACTOR be temporarily prevented from fulfilling their contractual obligations, this shall be reported immediately, in writing, to the CONTRACTING PARTY. The existence of such circumstances being verified by the CONTRACTING PARTY, the delivery of the material will be suspended, by written notice. If the fact lasts more than 60 (sixty) days, the CONTRACTING PARTY may unilaterally terminate the CONTRACT. In this case, the CONTRACTING PARTY shall only pay for the rail track already received, and no compensation of any kind shall be made to the CONTRACTOR.

21.2. For the purposes of this Contract, the definitions of unforeseeable circumstances or force majeure will be those stated in current Brazilian law and jurisprudence.

22. TWENTY-SECOND CLAUSE – CONTRACT ALTERATION

22.1. Any alterations to the Contract will be undertaken in accordance with the provisions of Article 65 of Law No. 8.666, of 1993.

22.2. The CONTRACTOR is hereby obligated to accept, under the same contractual conditions, any additions or subtractions which become necessary, up to a maximum of 25% (twenty-five percent) of the initial value of the contract.

22.3. Subtractions resulting from an agreement signed by both parties to this contract may exceed the limit of 25% (twenty-five percent).

23. TWENTY-THIRD CLAUSE – CAUTIONARY MEASURES

23.1. Pursuant to Article 45 of Law No. 9784, of 1999, the Government may, given justification, adopt cautionary measures, including the withholding of payment, as a form of prevention of damages which may be difficult or impossible to remedy.

24. TWENTY-FOURTH CLAUSE – OMISSIONS

24.1. All other cases or situations not addressed in the clauses of this Contract shall be decided by the CONTRACTING PARTY, pursuant to the provisions of Law No. 10.520, of 2002, Decree No. 5.450, of 2005, Decree No. 3.555, of 2000, Law No. 8.078, of 1990 – Consumer Protection Code, Decree No. 3.722, of 2001, Complementary Law No.123, of 2006, and of Law No. 8.666, of 1993, alternatively, as well as those of all other applicable regulations and federal administrative directives, which are an integral part of this Contract, irrespective of its transcriptions.

25. TWENTY-FIFTH CLAUSE – SUBCONTRACTING

25.1. The subcontracting of the totality of the purpose is forbidden.

25.2. Partial subcontracting will be allowed, in accordance with the Term of Reference, of up to 10% (ten percent) of the total value of the contract, for the following services:

- a) Shipping;
- b) Insurance;
- c) Port operations; and
- d) Customs brokerage.

25.3. This subcontracting will be permitted due to the specific nature of these services which are essential for the supply of the rail track under the conditions specified. The subcontracted companies must meet the requirements and conditions set forth in item 10 of the Term of Reference, thus the registers of fiscal and labor compliance must be provided merely for reference purposes.

25.4. The CONTRACTOR shall take full responsibility for possible outsourcing of services before the CONTRACTING PARTY and must have the express prior consent of the latter.

25.5. Subcontracting does not extinguish or reduce the liability of the CONTRACTOR, including to third parties, for any wrongdoing and does not extend liability to the CONTRACTING PARTY or its agents and representatives, in accordance with Articles 69 and 70 of Law 8.666, of 1993.

25.6. The CONTRACTING PARTY reserves the right to reject, in whole or in part, the services provided through subcontracting which fail to comply with the stipulations in the contract documents and specifications and standards.

25.7. The CONTRACTOR shall submit the documentation which proves the legal accreditation and fiscal compliance of the subcontractor, in accordance with Paragraph 2 of Art.10 of Decree 7.581, of 2011.

26. TWENTY-SIXTH CLAUSE – PENALTIES

26.1. The CONTRACTOR commits an administrative violation under Law 8.666, of 1993 and Law 10,520, of 2002, when it:

- a) Fails completely or partially to fulfill any of the obligations arising from the contract;
- b) Delays the execution of the purpose of the contract;
- c) Commits fraud in the execution of the Contract;
- d) Behaves in a disreputable manner;
- e) Commits tax fraud; and
- f) Does not honor the bid tendered.

26.2. The CONTRACTOR who commits any of the offenses detailed in the above subsection shall be subject, irrespective of civil and criminal liability, to the following penalties:

- a) **Warning** for slight faults, defined as those not involving significant harm to the CONTRACTING PARTY;
- b) **Fine for Arrears** of 0.33% (thirty-three hundredths of a percent) per day of undue delay on the value of the defaulted portion, for up to 30 (thirty) days; and,
- c) **Compensatory Fine** of 15% (fifteen percent) of the total value of the contract, in the event of complete default on the Contract.

26.3. In case of partial default, the compensatory fine, in the same percentage as the subsection above, item c shall be applied proportionally to the defaulted obligation:

- a) **Suspension** from bidding and from contracting with the CONTRACTING agency or entity for a period of up to 2 (two) years; and,
- b) **Declaration** of unfitness to bid or contract with the Government, so long as the motives for punishment stand or until rehabilitation is undertaken before the same authority which imposed the fine, which will be granted when the CONTRACTOR reimburses the CONTRACTING PARTY for the damages caused.

26.4. The CONTRACTOR shall also be subject to the penalties of Art. 87, III and IV of Law 8.666, of 1993, that:

- a) Has been convicted of intentional tax fraud in the payment of any taxes;
- b) Has committed illegal acts in order to frustrate the objectives of the bidding;
- c) Is demonstrably unfit to contract with the government due to wrongful acts.

26.5. The application of any of the above penalties will be in an administrative process that will ensure adversarial proceedings and legal defense to the CONTRACTOR, in compliance with the procedure set forth in Law 8.666, of 1993, and alternatively in Law 9.784, of 1999.

26.6. The competent authority, in the application of the penalties, will take into account the gravity of the conduct of the offender, the educational character of the sentence, as well as damage to the CONTRACTING PARTY, pursuant to the principle of proportionality.

27. TWENTY-SEVENTH CLAUSE –TERMINATION

27.1. This Contract may be terminated in the cases provided in Article 78 of Law 8.666, of 1993, with the consequences set out in Article 82 of the same law, irrespective of the penalties provided in the preceding clause.

27.2. The cases of contract termination will be formally justified, ensuring the right of the CONTRACTOR to full and prior defense.

27.3. The CONTRACTING PARTY may, by unilateral writ, terminate this Contract upon the occurrence of any of the following conditions:

- a) Default, irregularity or sluggishness in compliance with any provision of this Contract;
- b) Undue delay in the fulfillment of the obligations assumed herewith;
- c) Suspension of the fulfillment of this Contract without cause and prior notice to the CONTRACTING PARTY;
- d) Subcontracting, ceding or transferring of all or part of the purpose of this Contract, without prior authorization from the CONTRACTING PARTY;
- e) Repeated unauthorized absences during the execution of this Contract;
- f) Declaration of bankruptcy, filing for bankruptcy, initiation of civil disobedience proceedings, death of the contractor, the dissolution of the partnership, alteration of the Articles of Incorporation, purpose, or structure of the CONTRACTOR which impairs the fulfillment of the Contract; and,
- g) The occurrence of force majeure or unforeseeable circumstances which regularly impedes the execution of the Contract.

27.4. The CONTRACTOR recognizes the rights of the CONTRACTING PARTY in the case of administrative termination under Article 77 of Law 8.666 of 1993.

27.5. The Statement of Termination, whenever possible, should indicate:

- a) Balance of contractual events already completed or partially completed;
- b) List of payments made and provided for; and,
- c) Indemnity and fines.

28. TWENTY-EIGHTH CLAUSE – WAIVER

28.1. The failure to exercise any right that accrues to the CONTRACTING PARTY, in case of default on any obligations undertaken by the CONTRACTOR herein, shall not be construed as a waiver, and such rights may be exercised at any time.

29. TWENTY-NINTH CLAUSE – GENERAL PROVISIONS

29.1. The CONTRACTOR shall be fully and inexcusably responsible for the fulfillment of the Contract, assuming full, complete and sole responsibility for the technical quality of the tracks.

29.2. Communiqués and notices, issued by CONTRACTOR as a result of this Contract shall be valid only if addressed and sent in writing to the CONTRACTING PARTY, to the care of the manager of the contract.

29.3. The CONTRACTOR undertakes not to provide to third parties any information or data relating to the purpose of this Contract.

29.4. There shall be no cession, subrogation, or subleasing of the purpose of this Contract.

29.5. The records of the work performed by the CONTRACTOR are the property of the CONTRACTING PARTY. These include elements such as: measurements, calculations, spreadsheets, reports, and the results of characterization tests, memos, and computer programs developed, sections, drafts, including floppy disks, CDs, sketches, and any other related documents, which will be delivered the CONTRACTING PARTY, upon completion of the services.

30. THIRTIETH CLAUSE – PUBLICATION

30.1. The CONTRACTING PARTY shall provide for publication of the summary of this Contract, in accordance with the provisions of Law 8.666 of 1993.

31. THIRTY-FIRST CLAUSE – JURISDICTION AND VENUE

31.1. The contracting parties stipulate the jurisdiction and venue of the Federal Circuit Court of Brasília, to the exclusion of any other, regardless of precedence, to resolve any issues arising from this Contract and its implementation.

Thus, being of one and just accord, the parties affix their signatures hereto on 3 (three) copies of a single likeness and effect, in the presence of the witnesses listed below:

Brasília,... of 2013.

VALEC – ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A.

OSÍRIS DOS SANTOS
Director of Engineering

JOSIAS SAMPAIO CAVALCANTE JÚNIOR
Director President

CONTRACTOR

Name and Position

Witnesses:

Name: _____

CPF: _____

Name: _____

CPF: _____

VALEC

**Engenharia, Construções
e Ferrovias S.A.**

PREGÃO PRESENCIAL nº 009/2013

ANNEX V – MODEL OF THE DELIVERY ORDER

VALEC

DELIVERY ORDER Nº _____					DATE:
Contractor:					CNPJ
Description: Lot XX - Delivery of XXXX tons of UIC-60E2 rail track for Railway XXX					
Contract			Manager	Nomination	
DESCRIPTION					
ITEM	RAILWAY	QUANTITY PER SHIPMENT (t)	SHIPMENTS	OVERALL QUANTITY (t)	DELIVERY ADDRESS
TIMELINE OF THE SHIPMENTS					
VALUE PER TON:					
TOTAL VALUE:					
Special Conditions:					
_____ Signature of the Contract Manager					
Contact					

**ANNEX VI
ACKNOWLEDGEMENT OF RECEIPT AND
ACKNOWLEDGEMENT OF FINAL RECEIPT**

CONTRACT N.º xxx/xx

PROCESS N.º xxx/xx

**ACKNOWLEDGEMENT OF RECEIPT,
MADE OUT BETWEEN VALEC-
ENGENHARIA, CONSTRUÇÕES E
FERROVIAS S.A AND XXXXXXXXXXXX**

VALEC - ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A., a federal government-owned company, a public service concessionaire connected to the Ministry of Transportation, headquartered at Setor de Edifícios Públicos Sul – SEP/SUL, Quadra 713/913, Bloco E, Edifício CNC Trade, Asa Sul, CEP: 70390-135, in the city of Brasília, Federal District, entered in the National Registry of Legal Entities of the Ministry of Finance under n. ° 42.150.664/0001-87, hereinafter referred to as the **CONTRACTING PARTY**, herein represented by Contract Manager XXXXXXXXXXXX XXXXXXXX and company XXXXXXXXXXXXXXXXXXXX, headquartered at XXXXXXXXXXXXXXX, entered in the National Registry of Legal Entities under n. ° XXXXXX, hereinafter referred to as the **CONTRACTOR**, herein represented by XXXXXX, whereas, upon ascertainment by the **CONTRACTING PARTY**, through the person responsible for the monitoring and supervision thereof, of the partial rendering of the services by the **CONTRACTOR** in accordance with the requirements set forth in the contract and the technical specifications thereof, the parties decide by mutual consent to issue this **ACKNOWLEDGEMENT** of the receipt of **SHIPMENT number XX/XX of the services specified in Contract no.XXX/XX in the amount of XXXXX tons of UIC 60E2 rail track.** The Acknowledgement of Final Receipt shall be issued within a Maximum of 15 (fifteen) days from the date of signature of the last Acknowledgement of Receipt. Being thus of one and just accord, the Parties affix their signatures to this Acknowledgement, in three copies of a single likeness in the presence of the undersigned witnesses.

Brasília, xx xxxx, xxxx

XXXXXX

Contract Manager

Valec – Engenharia, Construções e Ferrovias S.A.

XXXXXX

CONTRACTOR

WITNESSES:

NAME:

CPF:

NAME:

CPF:

CONTRACT N.º xxx/xx
PROCESS N.º xxx/xx

**ACKNOWLEDGEMENT OF FINAL
RECEIPT, MADE OUT BETWEEN
VALEC-ENGENHARIA, CONSTRUÇÕES
E FERROVIAS S.A AND XXXXXXXXXXXX**

VALEC - ENGENHARIA, CONSTRUÇÕES E FERROVIAS S.A., a federal government-owned company, a public service concessionaire connected to the Ministry of Transportation, headquartered at Setor de Edifícios Públicos Sul – SEP/SUL, Quadra 713/913, Bloco E, Edifício CNC Trade, Asa Sul, CEP: 70390-135, in the city of Brasília, Federal District, entered in the National Registry of Legal Entities of the Ministry of Finance under n.º 42.150.664/0001-87, hereinafter referred to as the CONTRACTING PARTY, herein represented by Contract Manager XXXXXXXXXXXX XXXXXXXX and company XXXXXXXXXXXXXXXXXXXX, headquartered at XXXXXXXXXXXX, entered in the National Registry of Legal Entities under n.º XXXXX, hereinafter referred to as the CONTRACTOR, herein represented by XXXXX, whereas, upon ascertainment by the CONTRACTING PARTY, through the person responsible for the monitoring and supervision thereof, of the partial rendering of the services by the CONTRACTOR in accordance with the requirements set forth in the contract and in the technical specifications thereof, the parties decide by mutual consent, pursuant to art.73, subsection I, paragraph "a" of Law 8666 of June 21, 1993 , to issue this ACKNOWLEDGEMENT of FINAL RECEIPT of the Services set forth in **Contract no.XXX/XX, on the date of the signing of this document. At the end of XXX shipments, XXXXX tons of UIC 60E2 rail track were received.** Being thus of one and just accord, the Parties affix their signatures to this Acknowledgement, in three copies of a single likeness in the presence of the undersigned witnesses.

Brasília, xx xxxx, xxxx

XXXXX
Contract Manager
Valec – Engenharia, Construções e Ferrovias S.A.

XXXXX
CONTRACTOR

WITNESSES:

NAME:

NAME:

CPF:

CPF:

CLOSING

This volume of the Request For Proposal for the **International Onsite Bidding nº 009/2013** contains 159 (one hundred fifty-nine) numerically ordered pages.

Brasília/DF, August 1, 2013.

PEDRO PAULO SILVA RIBEIRO
Superintendent of Biddings and Contracts