

## INTEGRITY PACT

### General

This Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_\_ day of the month of \_\_\_\_\_ between on one hand, **Telecommunication Consultants India Limited (TCIL)** acting Through, \_\_\_\_\_ (Hereinafter called the "BUYER" which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part and \_\_\_\_\_ (Name of the company) represented by \_\_\_\_\_ /Authorised Signatory (Name & Designation of the officer) (hereinafter called the "BIDDER" /"SELLER" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

WHEREAS THE BUYER invites bid against Tender/RFO/EOI/RFP/RFQ for the \_\_\_\_\_ (Name of the Stores/Equipment/Services, Ref No: date) and the "BIDDER" /"SELLER" is willing to submit bid for the same and

WHEREAS the BIDDER is a Private Company/Public Company/Government Undertaking/Partnership Firm/Proprietorship Firm/Registered Export Agency, constituted in accordance with the relevant law in the matter and the BUYER is a Public Sector Undertaking.

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To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to :-

Enabling the BUYER to obtain the desired said stores/equipment/Services at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure the contract(s) by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BUYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:-

**1. Commitments of the BUYER**

1.1 The BUYER undertakes that no official of the BUYER, connected directly or indirectly with the contract(s), will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the BIDDER, either for themselves or for any person, organization or third party related to the contract(s) in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract(s).

1.2 The BUYER will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular BIDDER in comparison to other BIDDERS.

- 1.3 All the officials of the BUYER will report to the CMD, TCIL any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
2. In case any such preceding misconduct on the part of such official(s) is reported by the BIDDER to the BUYER with full and verifiable facts and the same is prima facie found to be correct by the BUYER, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the BUYER and such a person shall be debarred from further dealings related to the contract(s) process. In such a case while an enquiry is being conducted by the BUYER the proceedings under the contract(s) would not be stalled.
3. **Commitments of BIDDERS**

The BIDDER commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract(s) or in furtherance to secure it and in particular commit itself to the following :-

- 3.1 The BIDDER will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract(s) in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract(s).
- 3.2 The BIDDER further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration,

reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the BUYER or otherwise in procuring the contract(s) or forbearing to do or having done any act in relation to the obtaining or execution of the contract(s) or any other contract(s) with TCIL for showing or forbearing to show favour or disfavour to any person in relation to the contract(s) or any other contract(s) with TCIL.

3.3 Foreign BIDDERS shall disclose the name and address of agents and representatives and Indian BIDDERS shall disclose their foreign principals or associates.

3.4 BIDDERS shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/ contract(s).

3.5 The BIDDER further confirms and declares to the BUYER that the BIDDER has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the BUYER or any of its functionaries, whether officially or unofficially to the award of the contract(s) to the BIDDER, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

3.6 The BIDDER, either while presenting the bid or during pre-contract negotiations or before signing the contract(s) shall disclose any payment he has made, is committed to or intends to make to officials of the BUYER or their family members, agents brokers or any other intermediaries in connection with the contract(s) and the details of services agreed upon for such payments.

- 3.7 The BIDDER will not collude with other parties interested in the contract(s) to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract(s).
- 3.8 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.9 The BIDDER shall not use improperly, for purposes of competition or personal gain, or pass on to others any information provided by the BUYER as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier.

The BIDDER shall not pass any information provided by the BUYER as part of business relationship to others and not to commit any offence under PC/IPC Act.

- 3.10 The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.11 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.12 If the Bidder or any employee of the BIDDER or any person acting on behalf of the BIDDER, either directly or indirectly, is a relative of any of the officers of the BUYER, or alternatively, if any relative of an officer of the BUYER has financial interest/stake in the BIDDER's firm, the same shall be disclosed by the BIDDER at the time of filing of tender.

The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.

- 3.13 The BIDDER shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the BUYER.
- 3.14 The BIDDER will not bring any Political, Governmental or Diplomatic influence to gain undue advantage in its dealing with BUYER.
- 3.15 The BIDDER will promptly inform the Independent External Monitor (of BUYER) if he receives demand for a bribe or illegal payment benefit and
- (i) If comes to know of any unethical or illegal practice in BUYER.
  - (ii) If he makes any payment to any BUYER Associate.
- 3.16 The BIDDER will undertake to demand from all sub-contractors a commitment in conformity with this Integrity Pact in case of further sub-contracting by the bidder. The BIDDER will undertake the responsibility of the adaptation of IP by all their sub contractor(s).
- 3.17 The Bidder will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelisation in the bidding process.

#### **4. Previous Transgression**

- 4.1 The BIDDER declares that no previous transgression occurred in the previous years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify BIDDER's exclusion from the tender process.
- 4.2 The BIDDER agrees that if it makes incorrect statement on this subject, BIDDER can be disqualified from the tender process or the contract(s), if already awarded, can be terminated for such reason.

#### **5 Sanctions for Violations**

- 5.1 Any breach of the aforesaid provisions by the BIDDER or anyone employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) shall entitle the BUYER to take all or anyone of the following actions, wherever required:-
- i) To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the BIDDER. However, the proceedings with the other BIDDER(s) would continue.
  - ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond (after the contract(s) is/are signed) shall stand forfeited either fully or partially, as decided by the BUYER and the BUYER shall not be required to assign any reason therefore.

- iii) To immediately cancel the contract(s), if already signed, without giving any compensation to the BIDDER.
- iv) To recover all sums already paid by the BUYER, and in case of an Indian BIDDER with interest thereon at 5% higher than the prevailing Base Rate of State Bank of India, while in case of a BIDDER from a country other than India with interest thereon at 5% higher than the LIBOR. If any outstanding payment is due to the BIDDER from the BUYER in connection with any other contract(s), such outstanding payment could also be utilized to recover the aforesaid sum and interest.
- v) To encash the advance Bank Guarantee and performance bond/warranty bond, if furnished by the BIDDER, in order to recover the payments, already made by the BUYER, along with interest.
- vi) To cancel all or any other Contracts with the BIDDER. The BIDDER shall be liable to pay compensation for any loss or damage to the BUYER resulting from such cancellation/rescission and the BUYER shall be entitled to deduct the amount so payable from the money(s) due to the BIDDER.
- vii) To debar the BIDDER from participating in future bidding processes of TCIL for a minimum period of five years, which may be further extended at the discretion of the BUYER.
- viii) To recover all sums paid in violation of this Pact by BIDDER(s) to any middleman or agent or broker with a view to securing the contract(s).



- ix) In cases where irrevocable Letters of Credit have been received in respect of any contract(s) signed by the BUYER with the BIDDER, the same shall not be opened.
  - x) Forfeiture of Performance Bond in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
  - xi) Any other action as decided by CMD, TCIL based on the recommendation by Independent External Monitors (IEMs).
- 5.2 The BUYER will be entitled to take all or any of the actions mentioned at Para 5.1(i) to (xi) of this Pact also on the Commission by the BIDDER or anyone employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER), of an offence as defined in Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act 1988 or any other statute enacted for prevention of corruption.
- 5.3 The decision of the BUYER to the effect that a breach of the provisions of this Pact has been committed by the BIDDER shall be final and conclusive on the BIDDER. However, the BIDDER can approach the Independent External Monitor (s) appointed for the purposes of this Pact.
- 5.4 For any breach of the provisions of Clauses 1.1 to 1.3 by the Buyer, action as mentioned at Clause 2 shall be applicable.

## **6. Independent External Monitor (IEMs)**

- 6.1 The BUYER has appointed Independent External Monitors (IEMs) for this Pact in consultation with the Central Vigilance Commission. Names and email addresses of the IEMs are given on TCIL Website.

- 6.2 The task of the IEMs shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 6.3 The IEMs shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently. They report to the CMD, TCIL.
- 6.4 Both the parties accept that the IEMs have the right to access all the documents relating to the project/procurement, including minutes of meetings.
- 6.5 As soon as the IEM notices, or has reason to believe, a violation of this Pact, he will so inform the CMD, TCIL. The IEM can in this regard submit nonbinding recommendations. If TCIL has not, within the reasonable time, taken visible action to proceed against such offence, the IEM may inform directly to the Board of Directors, TCIL.
- 6.6 The BIDDER(s) accepts that the IEM has the right to access without restriction to all Project documentation of the BUYER including that provided by the BIDDER. The BIDDER will also grant the IEM, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The IEM shall be under obligation to treat the information and documents of the BIDDER/ Subcontractor(s) with confidentiality.
- 6.7 The BUYER will provide to the IEM sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations

between the parties. The parties will offer to the IEM the option to participate in such meetings.

6.8 The IEM will submit a written report to the CMD, TCIL within 10 days from the date of reference or intimation to him by the BUYER/BIDDER and, should the occasion arise, submit proposals for correcting problematic situations.

6.9 The word 'IEM' would include both singular and plural.

## **7. Facilitation of investigation**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the BUYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER and the BIDDER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

## **8. Law and Place of jurisdiction**

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the BUYER (i.e. New Delhi).

## **9. Other Legal Actions**

9.1 The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

9.2 The arbitration clause provided in the tender document/contract shall not be applicable for any issue/dispute arising under Integrity Pact.

- 9.3 Bidder signing the IP shall not approach the courts while representing the matter with IEMs and the bidder shall wait for their decisions in the matter.

## **10. Validity**

- 10.1 The validity of this Integrity Pact shall be from the date of its signing till final completion of the project that is the complete execution of the contracts to the satisfaction of both the BUYER and BIDDER/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract.
- 10.2 Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 10.3 If any claim is made /lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by CMD, TCIL.
- 10.4 Changes and supplements need to be made in writing.
- 10.5 If the Contractor is in a partnership or a consortium, this agreement must be signed by all partners or consortium members.

11. The parties hereby sign this Integrity Pact at Delhi on \_\_\_\_\_

**BUYER (TCIL)**

**BIDDER ( )**

<i>Signature:</i>	<i>Signature:</i>
<i>Name:</i>	<i>Name:</i>
<i>Designation:</i>	<i>Designation:</i>
<i>Address:</i>	<i>Address:</i>
M/s. Telecommunications Consultants India Ltd.	
<b><i>Witness 1:</i></b>	<b><i>Witness 1:</i></b>
<i>Signature:</i>	<i>Signature:</i>
<i>Name:</i>	<i>Name:</i>
<i>Designation:</i>	<i>Designation:</i>
<i>Address:</i>	<i>Address:</i>
<b><i>Witness 2</i></b>	<b><i>Witness 2:</i></b>
<i>Signature:</i>	<i>Signature:</i>
<i>Name:</i>	<i>Name:</i>
<i>Designation:</i>	<i>Designation:</i>
<i>Address:</i>	<i>Address:</i>