



Telecommunications Consultants India Ltd.

(A Govt. of India Enterprise)

Telecommunications Consultants India Limited, Guru Kripa Bhawan, 1st
2 Sto Ramnik Path, Baikunth Nagar, Nr- Padoshan, P.O.- Lalgutuwa, P.S.-
anchi-835303-



Corrigendum No-04

Date of publishing: -26.06.2024

NIT NO:	TCIL/CIVIL/PD(JH)/NESTS/2024/03 DATED 20.06.2024
Name of work:-	Construction Eklavya Model Residential School (EMRS) at Block Pathna, Distt Sabihganj in the state of Jharkhand

Sl. No	Descriptions of Clause no.	Existing Clause	Modified Clause
1	VOL-1- 4.3 PERFORMANCE AMOUNTAND SECURITY DEPOSIT	Performance Security can be submitted in the following modes: 1) Performance Bank Guarantee (PBG) / e-PBG (as per format given in Section-.....) 2) Fixed Deposit Receipts (FDR) 3) Bankers Cheque	Performance Security can be submitted in the following modes: 1) Performance Bank Guarantee (PBG) / ePBG (as per format given)- ANNEXURE-9 2) Fixed Deposit Receipts (FDR) 3) Bankers Cheque 4) Insurance Surety Bond (as per format given as below) ANNEXURE-14
2	SCC- 4.2MOBILIZATIONPERIODAND PERIODOFCOMPLETION	The Works are to be performed within a period of 24(Twenty Four) months from 10th day of the date of issue of Letter of Intent (LOI).	The Works are to be performed within a period of 18 (Eighteen) months from 10th day of the date of issue of Letter of Intent (LOI).
3	2.23.3: NAME & CONTACT DETAILS OF NODAL OFFICER (IP) IN TCIL:	Shri Niraj Verma, Chief Vigilance Officer E-mail ID: cvotcil@tcil.net.in	Shri PRAMOD KUMAR CHOUDHARY, Chief Vigilance Officer E-mail-ID : cvotcil@tcil.net.in

4	1.9 JV/ Consortium		Format upload (as per format given as below) ANNEXURE-15
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GM(Civil)/ PD (JH)
TCIL, Project office,
Guru Kripa Bhawan, 1st Floor,
Baikunth Nagar, Kathal More,
Ranchi-835303, Jharkhand

ANNEXURE-14

FORMAT OF INSURANCE SURETY BOND FOR PERFORMANCE GUARANTEE / PERFORMANCE SECURITY (To be stamped in accordance with Stamp Act of India)

(TO BE ISSUED BY A DELHI BRANCH)

M/s Telecommunications Consultants India Ltd.,
TCIL Bhawan, Greater Kailash-I
New Delhi – 110 048 (INDIA)

Surety Bond No: _____

This BOND is made as a deed AMONG the following parties

The "Supplier" as contractor..... (name and address)

The "Surety Insurer" as guarantor (name and address) and "Purchaser" as Telecommunications Consultants India Limited, (TCIL), TCIL Bhawan, Greater Kailash -I, New Delhi 110048

WHEREAS TELECOMMUNICATIONS CONSULTANTS INDIA LIMITED, having its office at TCIL Bhawan, Greater Kailash-I, New Delhi – 110 048 (INDIA) (hereinafter referred to as "TCIL" which expression shall unless repugnant to the content or meaning thereof include all its successors, administrators and executors) has accepted the bid of the Supplier in relation to the Tender/RFP/EOI Number datedand having entered into an agreement dated _____ / issued Purchase Order No. _____ dated _____ with/on M/s _____ (hereinafter referred to as "The Supplier" which expression unless repugnant to the content or meaning thereof, shall include all the successors, administrators, and executors).

WHEREAS the Supplier having unequivocally accepted to supply the materials and/or Services as per terms and conditions given in the Agreement dated _____ / Purchase Order No. _____ dated _____ and TCIL having agreed that the Supplier shall furnish to TCIL a Surety Bond for the faithful performance of the entire contract, to the extent of xx% (xx percent) of the value of the Purchase Order / Agreement i.e. for Rs _____.

1. We, _____ ("The Surety Insurer") which shall include OUR successors, administrators and executors irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the said Agreement/PO by the said Supplier and unconditionally and irrevocably undertake to pay forthwith to the TCIL an amount of Rs.*** ** (Rupees *** ** only (hereinafter referred to as the "Surety Bond") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Supplier, if the Supplier shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Agreement/PO.
2. Hereby, we undertake to pay up to but not exceeding _____ (say _____ only) upon receipt by us of TCIL's first written demand accompanied by TCIL's declaration stating that the amount claimed is due by reason of the Supplier having failed to perform as per the Purchase Order / Agreement and despite any contestation on the part of above named supplier. Any such written demand made by the TCIL stating that the supplier is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Agreement/PO shall be final, conclusive and binding on the surety Insurer, notwithstanding any differences between the TCIL and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other TCIL.
3. TCIL shall have the fullest liberty without affecting in any way the liability of the Surety Insurer under this Surety Bond from time to time to vary any of the terms and conditions in the said Agreement/PO or to extend time for fulfillment and compliance with all or any of the terms

and conditions contained in the said Agreement/PO by the said supplier or to postpone for any time and from time to time any of powers exercisable by it against the said supplier and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Agreement/PO, and the Surety Insurer shall not be released from its liability under these presents by any exercise by the TCIL of the liberty with reference to the matters aforesaid or by any change in the constitution of the TCIL or the Supplier or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect or releasing the Surety Insurer from its such liability. In the event of extension of time for performance of the contract, the Surety Insurer shall be liable to extend the validity of the present Insurance Surety Bond without any demur, condition or protest.

4. WE hereby acknowledge and understand that it shall not be necessary for TCIL to proceed against the said supplier before proceeding against the Surety Insurer and the Surety Bond herein contained shall be enforceable against the Surety Insurer, notwithstanding any other security which the TCIL may have obtained from the said supplier or any other person and which shall, at the time when proceedings are taken against the Surety Insurer hereunder, be outstanding or unrealized.
5. We, the Surety Insurer, further undertake not to revoke this Surety Bond during its currency except with the previous express consent of TCIL in writing.
6. The Surety Insurer declares that it has power to issue this Surety Bond and discharge the obligations contemplated herein, the undersigned is duly authorized and has full power to execute this Surety Bond for and on behalf of the Surety Insurer.
7. The Surety Bond shall not be affected by any change in the constitution or winding up of the Bidder or the Surety Insurer or any absorption, merger or amalgamation of the Bidder or the Surety Insurer with any other person.
8. This Surety Bond will expire on _____ including 30 days of claim period and any claims made hereunder must be received by us on or before expiry date after which date this Surety Bond will become of no effect whatsoever whether returned to us or not.
9. The parties acknowledge and agree that neither this Surety Bond nor any obligations hereunder are transferable or assignable.
10. The Surety Insurer declares that this Insurance Surety Bond is issued as per applicable rules and regulations of Insurance Regulatory Development Authority of India (IRDAI).

**Authorized Signature
Manager**

Seal of Insurer Surety
Contact details

Name & Signature of witness
Address of witness

Signature of the authorized Surety Insurer
Name
Signed in Capacity of
Full address of Branch
Tel No. of Branch
Fax No. / Email of Branch

Notes:

- 1) The Insurance Surety Bond shall be from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI).
- 2) The Insurance Surety Bond should be on non-judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s).
- 3) The executing officer of Surety Bond will indicate his name, designation, and Power of Attorney No. on last page of the Surety Bond

ANNEXURE-15
MEMORANDUM OF UNDERSTANDING
(*Format when backend partner is in consortium)
(To be signed by all Consortium Partners)

This Memorandum of Understanding (MoU) is made on ____ day of _____ at New Delhi by and between:

M/s Telecommunications Consultants India Limited, a Company registered under the Indian Companies Act 1956, with its registered and corporate office at TCIL Bhawan, Greater Kailash-1, New Delhi – 110048, hereinafter referred to as “**TCIL**”, which expression shall include its successors and its permitted assigns, of one part.

AND

_____ **CONSORTIUM** consisting of M/s _____ (**Vendor Name**), registered under the _____ Act, with its registered office at _____ (**Lead Member**), M/s _____ (**Vendor Name**), registered under the _____ Act, with its registered office at _____ (**Consortium Partner**) and M/s _____ (**Vendor Name**), registered under the _____ Act, with its registered office at _____ (**Consortium Partner**) hereinafter the said consortium shall be referred to as “_____”, which expression shall include its successors and permitted assigns, of the other part.

“TCIL” and “_____” are individually referred to as “Party” and collectively as “Parties”.

WHEREAS TCIL, a Government of India Enterprise under the Ministry of Communications and Information Technology, is a leading company in Telecommunications and Information Technology and has to its credit successful execution of many consultancy and turnkey projects in the fields of Telecom, IT and Civil both in India and abroad and it also acts as procurement consultant/agent/executing agency/implementing agency for number of Government of India enterprises/undertaking.

WHEREAS _____ (Name of Lead Member) is in the business of _____.

WHEREAS _____ (Name of Consortium Partner) is in the business of _____.

WHEREAS _____ (Name of Consortium Partner) is in the business of _____.

WHEREAS _____ (Client Name) (herein after called “_____”) issued TENDER No. _____ dated _____ for ‘_____, hereinafter referred to as “_____ (Client Name) tender” /”Work”/”Project”.

WHEREAS TCIL published EOI No. _____ dated _____ (hereinafter referred as TCIL EOI) for selection of back-end partner for _____ (Client Name) tender.

AND WHEREAS M/s _____ & M/s _____ has entered into a Consortium Agreement / Memorandum of Agreement dated _____ (**Annexure A**) and a Role & Responsibility Matrix dated _____ (**Annexure B**) for the purpose of forming a consortium to participate in TCIL EOI wherein it is mentioned that _____ shall act as the Lead Member & _____ shall act as consortium partner and the Lead Member is authorized to sign the MOU with TCIL and accordingly they have submitted their offer for _____ in response to TCIL EOI & pursuant to the same were selected by TCIL as back-end partner for _____ (Client name) Tender.

Now, therefore, it is agreed between the Parties as under:

1. The Parties wish to work together with the understanding that TCIL shall act as the bidder (lead bidder) and _____ (consortium name) (partner for _____) for participating in the _____ (client name) Tender.

**Please note that the term “Lead bidder” shall be mentioned only when TCIL shall bid in consortium with backend partner.*

2. _____(consortium name) shall not participate directly or indirectly whether in consortium or separately in _____(client name) Tender and shall not quote rates to any other party participating/pre-qualified for _____(client name) Tender directly or indirectly through its subsidiary, partnership, ownership, individual firm etc.
3. On award of the work of the _____(client name) Tender to TCIL, TCIL will enter into a detailed agreement with _____(consortium name) based on the terms & conditions of this MoU, TCIL EOI and _____(client name) Tender.
4. The term of this MoU shall be for ____ months (“Term”) from the date of signing of this MoU (“Effective Date”) or till the completion of the project & release of all payments thereof whichever is later. All obligations hereunder shall only apply during the Term of this MoU and to such obligations and commitments in relation to the Tender/Work/Project under the scope of TCIL EOI & _____(Client name) tender, as may have been undertaken by the Parties during the Term with validity exceeding the Term. The Term of this MoU can be extended by mutual agreement between the Parties, depending upon the requirement.
5. After mutual consultation, a joint team consisting of representatives of the parties will be formed for various activities like, technical discussions, deciding the preparation of final Bid/offer, terms & conditions and demonstration of functionality required in the _____(Client name) Tender/Work/Project.
6. TCIL and _____(consortium name) hereby mutually agree that both of them shall remain as irrevocable members of this tie-up for the complete execution and completion of _____(client name) Tender/Work/Project (as per scope of TCIL EOI & _____(Client name) tender).
7. Expenses towards bid preparation would be borne by the individual Parties viz. TCIL and ____ (consortium name) for their respective work. TCIL will not reimburse any such expenses to ____ (consortium name) towards preparation and submission of the bid.
8. All technical, financial and commercial terms and conditions of the Tender, except pricing, risk purchase, limitation of liability, advance payment & termination, will apply on back-to-back basis between TCIL and ____ (consortium name), for their respective part/scope of work. However, if ____ (consortium name) or any of its member fails to fulfill its part of the work to the satisfaction of TCIL, then TCIL shall have the right to terminate the contract with _____(consortium name) and get the same executed departmentally or by other agencies at the risk and cost of _____(consortium name).
9. Both M/s _____(Lead Member name) and M/s _____(Consortium Partner name) shall be jointly and severally responsible for compliance of all the terms and conditions of the tender document, this MOU and TCIL’s contract with main client relating to performance of this MOU. Any non-compliance by either party of the Consortium shall be treated as a breach of this MOU.
10. Both M/s _____(Lead Member name) and M/s _____(Consortium Partner name) shall be jointly and severally liable to TCIL to compensate any losses or damages if so suffered by TCIL for any breach of this agreement and/or action initiated by the main client for non-performance of the contract.
11. In case of failure of either of M/s _____(Lead Member name) or M/s _____(Consortium Partner name), the total responsibility shall shift upon remaining party.
12. Notwithstanding anything contained in any other agreement, document, correspondence, arrangement between the parties in respect of _____(Client name) Tender/ Works / Projects, the _____(consortium name) understands, agrees and undertakes that:
 - a) _____(consortium name) participated in TCIL EOI and that all terms & conditions of the TCIL EOI shall apply to _____(consortium name).

- b) Prices quoted by ____ (consortium name) shall remain firm and fixed till the execution of the Tender.
 - c) the payments terms between TCIL & ____ (consortium name) are on back-to-back basis and the payment shall be released by TCIL only if and when received by TCIL from ____ (Client name) and subject to terms & conditions of agreement (as stipulated in 3 above) and submission of complete required documents.
 - d) ____ (consortium name) will not demand or make any claim under any law with respect to the pending payment till the time corresponding payment is received by TCIL from ____ (Client name). TCIL shall not be responsible in any manner whatsoever for any delay in releasing the payments or withholding of payments by ____ (Client name).
 - e) the (day) date of delivery of goods and/or rendering of services by the ____ (consortium name) shall be the date of realization of payment from the client once the goods and/or services are accepted by the client.
 - f) if in the instant contract, ____ (consortium name) is acting only as trader / reseller / distributor/authorized agents and/or is engaged in a WORKS contract, no benefits under MSME Act 2006 and PPP Policy 2012 as per MSE Guidelines issued by Ministry of MSME would be applicable to it on account of acceptance of back to back payment terms as above. By agreeing to the terms of ____ (client name) Tender, the ____ (consortium name) agrees to forgo its rights under this Act and Policy.
 - g) ____ (consortium name) hereby agrees to ensure timely GST compliances as per the statutory requirements. All the costs pertaining to any GST non-compliance including but not limited to any loss of eligible input tax credit due to non-payment/non-filing of GST return and applicable interest/penalties shall be borne/indemnified by ____ (consortium name). Further ____ (consortium name) hereby agrees that TCIL reserves the right for reimbursement of any such cost incurred out of the aforesaid non-compliance(s). (consortium name) will provide payment of GST proof i.e. GSTR-1, GSTR-3B, cash ledger and challan for taking GST payment from TCIL against invoices.
 - h) Any deductions by the ____ (Client name) towards LD/penalties/contingencies shall be borne by ____ (consortium name) in terms of TCIL EOI.
 - i) At any given point of time, ____ (consortium name) may not assign or delegate its rights, duties or obligations under this MOU without prior written consent of TCIL.
 - j) On award of work of the Tender/Work/Project, ____ (consortium name) shall provide its GeM Seller id to TCIL (not applicable for “works” contract or non-Indian vendor).
 - k) In the event of breach of any of the terms & conditions of this MOU or in case of any default of any terms & conditions of this MOU, on the part of ____ consortium and/or M/s ____ (Lead Member name) and/or M/s ____ (Consortium partner Name), TCIL reserves the right to take necessary steps / action as per available documents, including but not limited to, termination of contract, forfeiture of Performance Security / EMD, blacklisting / banning etc. and execute the work at their risk & cost.
13. TCIL and ____ (consortium name) agree to keep confidential all information shared with each other and disclose to third party only after taking prior written consent of each other. This clause excludes information available in public domain. The confidentiality provisions of this MoU shall remain in full force and effect during the term of this MoU and 12 months thereafter.
 14. Any sum of money (including refundable security deposit) due and payable to the ____ (consortium name) and/or ____ (Lead bidder name) and/or ____ (Consortium partner name), under this contract or any other contract entered between the parties herein whether continuing or completed may be appropriated by TCIL and set off against any claim of TCIL of any nature whatsoever, arising under this contract or any other contract entered into between the parties, herein whether continuing or completed.
 15. Nothing in this MoU shall constitute, create or give effect or recognize a JV, partnership or business entity of any kind.
 16. This MoU shall be construed and governed by the laws of India and the parties hereby submit to the exclusive jurisdiction of the Delhi Courts of Law.
 17. Any matter which is not stipulated in the MoU, shall be settled in good faith by discussion among the parties in the spirit of understanding and cooperation.

18. **Dispute Resolution:**

1. The parties to this agreement/contract agree that they shall resolve all disputes or differences whatsoever arising between them under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU through a “Conciliation and Settlement Mechanism (CSM)” and the detailed guidelines/procedure for such CSM is annexed hereto as Annexure-A (*Section-19 to made part of MOU*). That it is understood and agreed between the parties that the CSM annexed as Annexure-A with the present agreement forms and shall be treated as part and parcel of the present agreement.
2. If the parties fail to resolve such disputes through the conciliation proceedings, then and only then, a party shall refer the dispute to arbitration as mentioned in the following manner:
 - a. All disputes or differences whatsoever arising among the parties under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU shall be referred to and decided by a sole arbitrator, who shall be appointed by the CMD, TCIL only. The arbitration shall be conducted in accordance with Arbitration and Conciliation Act of 1996, as amended from time to time, and the venue of the arbitration shall be in New Delhi.
 - b. Notwithstanding the generality of the above, it is a term of this contract that no person other than a person appointed by CMD, TCIL as aforesaid, should act as arbitrator and if for any reason that is not possible or any party does not agree to such appointment of Arbitrator by CMD, TCIL for whatsoever reason, then the matter is not to be referred to arbitration at all and such disputes shall be resolved under the mechanism provided by the state in form of Courts of Law/Ordinary Civil Courts for resolution of such disputes under applicable Laws.
3. The courts at New Delhi shall have exclusive jurisdiction in respect to any dispute pertaining to this agreement.
4. The parties shall continue to perform their respective obligations as per the Agreement during the pendency of proceedings under this clause.

**Please Note that in case of agreement/MoU with Government Organization, the following clause shall be applicable:*

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Center Enterprise (CPSEs)/Port Trusts inter se and also between CPSEs and Govt. Depts/ organizations (excluding disputes relating to Railways, Income Tax, Customs & Excise Dept), such dispute or difference shall be taken up by either party for its resolution through AMRCD as mentioned in DPE OM No. 05/003/2019-FTS-10937 dated 14th December 2022 and the decision of AMRCD on the said dispute will be binding on both the parties

19. During its Term, this MOU will be terminated in the event of
 - a. Client withdrawing the Tender provided it does not create any financial obligation on TCIL.
 - b. Tender not awarded to TCIL
 - c. Mutual agreement between the “Parties”
 - d. As per TCIL EOI
20. Notices and other communications under this MoU shall be in writing and communicated through post, courier, fax, email or any other recognized mode of such communication. All such notices and communications shall be directed to the address as mentioned in the MoU.
21. By signing this MoU, the “Parties” acknowledge that it correctly records the understanding they have reached with regard to the Project.
22. EOI document, technical / financial bid, any further negotiations, all correspondences with or from _____(consortium name) till EOI finalization shall be an integral of this MOU.

IN WITNESS WHEREOF, each party hereto has caused this MoU to be executed in duplicate to be effective as of the Effective Date, by its duly authorized representative.

For Telecommunications Consultants India Ltd

For _____ Private Limited

Signature:

Signature:

Name:

Name:

Designation:

Designation:

Date:

Date:

Witness:

Witness:

Memorandum of Understanding
(*Format when backend partner is a single bidder)

This Memorandum of Understanding (MoU) is made on ____th day of _____ at New Delhi by and between:

M/s Telecommunications Consultants India Limited, a Company registered under the Indian Companies Act 1956, with its registered and corporate office at TCIL Bhawan, Greater Kailash-1, New Delhi – 110048, hereinafter referred to as “**TCIL**”, which expression shall include its successors and its permitted assigns, of one part.

AND

M/s _____ (vendor name), registered under the Indian Companies Act 1956/2013 (whichever is applicable), with its registered office at _____, hereinafter referred to as “_____”, which expression shall include its successors and permitted assigns, of the other part.

“TCIL” and “_____” are individually referred to as “Party” and collectively as “Parties”.

WHEREAS TCIL, a Government of India Enterprise under the Ministry of Communications and Information Technology, is a leading company in Telecommunications and Information Technology and has to its credit successful execution of many consultancy and turnkey projects in the fields of Telecom, IT and Civil both in India and abroad and it also acts as procurement consultant/agent/executing agency/implementing agency for number of Government of India enterprises/undertaking.

WHEREAS _____ (vendor name) is in the business of _____.

WHEREAS _____ (Client Name) (herein after called “_____”) issued TENDER No. _____ dated _____ for ‘_____, hereinafter referred to as “_____ (Client Name) tender” /”Work”/”Project”.

WHEREAS TCIL published EOI No. _____ dated _____ (hereinafter referred as TCIL EOI) for selection of back-end partner for _____ (Client Name) tender.

AND WHEREAS _____ (Vendor Name) submitted their offer and pursuant to the same was selected by TCIL as back-end partner for _____ (Client Name) Tender.

Now, therefore, it is agreed between the Parties as under:

1. The Parties wish to work together with the understanding that TCIL shall act as the bidder (lead bidder) and ____ (vendor name) (partner for _____) for participating in the ____ (client name) Tender.
**Please note that the term “Lead bidder” shall be mentioned only when TCIL shall bid in consortium with backend partner.*
2. ____ (vendor name) shall not participate directly in ____ (client name) Tender and shall not quote rates to any other party participating/pre-qualified for ____ (client name) Tender directly or indirectly through its subsidiary, partnership, ownership, individual firm etc.
3. On award of the work of the _____ (client name) Tender to TCIL, TCIL will enter into a detailed agreement with ____ (vendor name) based on the terms & conditions of this MoU, TCIL EOI and _____ (client name) Tender.
4. The term of this MoU shall be for __ months (“Term”) from the date of signing of this MoU (“Effective Date”) or till the completion of the project & release of all payments thereof whichever is later. All obligations hereunder shall only apply during the Term of this MoU and to such obligations and commitments in relation to the Tender/Work/Project under the scope of TCIL EOI & _____

(Client name) tender, as may have been undertaken by the Parties during the Term with validity exceeding the Term. The Term of this MoU can be extended by mutual agreement between the Parties, depending upon the requirement.

5. After mutual consultation, a joint team consisting of representatives of the parties will be formed for various activities like, technical discussions, deciding the preparation of final Bid/offer, terms & conditions and demonstration of functionality required in the _____ (Client name) Tender/Work/Project.
6. TCIL and _____ (vendor name) hereby mutually agree that both of them shall remain as irrevocable members of this tie-up for the complete execution and completion of _____ (client name) Tender/Work/Project (as per scope of TCIL EOI & _____ (Client name) tender).
7. Expenses towards bid preparation would be borne by the individual Parties viz. TCIL and _____ (vendor name) for their respective work. TCIL will not reimburse any such expenses to _____ (vendor name) towards preparation and submission of the bid.
8. All technical, financial and commercial terms and conditions of the Tender, except pricing, risk purchase, limitation of liability, advance payment & termination, will apply on back-to-back basis between TCIL and _____ (vendor name), for their respective part/scope of work. However, if _____ (vendor name) fails to fulfill its part of the work to the satisfaction of TCIL, then TCIL shall have the right to terminate the contract with _____ (vendor name) and get the same executed departmentally or by other agencies at the risk and cost of _____ (vendor name).
9. Notwithstanding anything contained in any other agreement, document, correspondence, arrangement between the parties in respect of _____ (Client name) Tender/ Works / Projects, the _____ (vendor name) understands, agrees and undertakes that:
 - l) _____ (vendor name) participated in TCIL EOI and that all terms & conditions of the TCIL EOI shall apply to _____ (vendor name).
 - m) Prices quoted by _____ (vendor name) shall remain firm and fixed till the execution of the Tender.
 - n) the payments terms between TCIL & _____ (vendor name) are on back to back basis and the payment shall be released to _____ (vendor name) by TCIL only if and when received by TCIL from _____ (Client name) and subject to submission of complete documents and invoices etc. by it.
 - o) _____ (vendor name) will not demand or make any claim under any law with respect to the pending payment till the time corresponding payment is received by TCIL from _____ (Client name). TCIL shall not be responsible in any manner whatsoever for any delay in releasing the payments or withholding of payments by _____ (Client name).
 - p) the (day) date of delivery of goods and/or rendering of services by the _____ (vendor name) shall be the date of realization of payment from the client once the goods and/or services are accepted by the client.
 - q) if in the instant contract, _____ (vendor name) is acting only as trader / reseller / distributor/authorized agents and/or is engaged in a WORKS contract, no benefits under MSME Act 2006 and PPP Policy 2012 as per MSE Guidelines issued by Ministry of MSME would be applicable to it on account of acceptance of back to back payment terms as above. By agreeing to the terms of _____ (client name) Tender, the _____ (vendor name) agrees to forgo its rights under this Act and Policy.
 - r) _____ (vendor name) hereby agrees to ensure timely GST compliances as per the statutory requirements. All the costs pertaining to any GST non-compliance including but not limited to any loss of eligible input tax credit due to non-payment/non-filing of GST return and applicable interest/penalties shall be borne/indemnified by _____ (vendor name). Further _____ (vendor name) hereby agrees that TCIL reserves the right for reimbursement of any such cost incurred out of the aforesaid non-compliance(s). _____ (vendor name) will provide payment of GST proof i.e. GSTR-1, GSTR-3B, cash ledger and challan for taking GST payment from TCIL against invoices.
 - s) Any deductions by the _____ (Client name) towards LD/penalties/contingencies shall be borne by _____ (vendor name) in terms of TCIL EOI.

- t) At any given point of time, _____ (vendor name) may not assign or delegate its rights, duties or obligations under this MOU without prior written consent of TCIL.
 - u) On award of work of the Tender/Work/Project, _____ (vendor name) shall provide its GeM Seller id to TCIL (not applicable for “works” contract or non-Indian vendor).
 - v) In the event of breach of any of the terms & conditions of this MOU or in case of any default of any terms & conditions of this MOU, on the part of the _____ (vendor name), TCIL reserves the right to take necessary steps / action as per available documents, including but not limited to, termination of contract, forfeiture of Performance Security / EMD, blacklisting / banning etc. and execute the work at their risk & cost.
10. TCIL and _____(vendor name) agree to keep confidential all information shared with each other and disclose to third party only after taking prior written consent of each other. This clause excludes information available in public domain. The confidentiality provisions of this MoU shall remain in full force and effect during the term of this MoU and 12 months thereafter.
11. Any sum of money (including refundable security deposit) due and payable to the _____ (vendor name), under this contract or any other contract entered between the parties herein whether continuing or completed may be appropriated by TCIL and set off against any claim of TCIL of any nature whatsoever, arising under this contract or any other contract entered into between the parties, herein whether continuing or completed.
12. Nothing in this MoU shall constitute, create or give effect or recognize a JV, partnership or business entity of any kind.
13. This MoU shall be construed and governed by the laws of India and the parties hereby submit to the exclusive jurisdiction of the Delhi Courts of Law.
14. Any matter, which is not stipulated in the MoU, shall be settled in good faith by discussion among the parties in the spirit of understanding and cooperation.

15. Dispute Resolution:

- 1. The parties to this agreement/contract agree that they shall resolve all disputes or differences whatsoever arising between them under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU through a “Conciliation and Settlement Mechanism (CSM)” and the detailed guidelines/procedure for such CSM is annexed hereto as Annexure-A (*Section 19 to be made part of MOU*) . That it is understood and agreed between the parties that the CSM annexed as Annexure-A with the present agreement forms and shall be treated as part and parcel of the present agreement.
- 2. If the parties fail to resolve such disputes through the conciliation proceedings, then and only then, a party shall refer the dispute to arbitration as mentioned in the following manner:
 - a. All disputes or differences whatsoever arising among the parties under and/or in connection with and/or in respect of this Tender/EOI/Agreement/Purchase Order/MoU shall be referred to and decided by a sole arbitrator, who shall be appointed by the CMD, TCIL only. The arbitration shall be conducted in accordance with Arbitration and Conciliation Act of 1996, as amended from time to time, and the venue of the arbitration shall be in New Delhi.
 - b. Notwithstanding the generality of the above, it is a term of this contract that no person other than a person appointed by CMD, TCIL as aforesaid, should act as arbitrator and if for any reason that is not possible or any party does not agree to such appointment of Arbitrator by CMD, TCIL for whatsoever reason, then the matter is not to be referred to arbitration at all and such disputes shall be resolved under the mechanism provided by the state in form of Courts of Law/Ordinary Civil Courts for resolution of such disputes under applicable Laws.
- 3. The courts at New Delhi shall have exclusive jurisdiction in respect to any dispute pertaining to this agreement.

4. The parties shall continue to perform their respective obligations as per the Agreement during the pendency of proceedings under this clause.

**Please Note that in case of agreement/MoU with Government Organization, the following clause shall be applicable:*

In the event of any dispute or difference relating to the interpretation and application of the provisions of commercial contract(s) between Central Public Center Enterprise (CPSEs)/Port Trusts inter se and also between CPSEs and Govt. Depts/ organizations (excluding disputes relating to Railways, Income Tax, Customs & Excise Dept), such dispute or difference shall be taken up by either party for its resolution through AMRCD as mentioned in DPE OM No. 05/003/2019-FTS- 10937 dated 14th December 2022 and the decision of AMRCD on the said dispute will be binding on both the parties

16. During its Term, this MOU will be terminated in the event of
- ii) Client withdrawing the Tender provided it does not create any financial obligation on TCIL.
 - iii) Tender not awarded to TCIL
 - iv) Mutual agreement between the “Parties”
 - v) As per TCIL EOI
17. Notices and other communications under this MoU shall be in writing and communicated through post, courier, fax, email or any other recognized mode of such communication. All such notices and communications shall be directed to the address as mentioned in the MoU.
18. By signing this MoU, the “Parties” acknowledge that it correctly records the understanding they have reached with regard to the Project.
19. EOI document, technical / financial bid, any further negotiations, all correspondences with or from _____(vendor name) till EOI finalization shall be an integral of this MOU.

IN WITNESS WHEREOF, each party hereto has caused this MoU to be executed in duplicate to be effective as of the Effective Date, by its duly authorized representative.

For Telecommunications Consultants India Ltd

For _____Private Limited

Signature:

Signature:

Name:

Name:

Designation:

Designation:

Date:

Date:

Witness:

Witness:

NOTE (For User Division):

The template of Pre-bid MoU documents [(1) with consortium, and (2) without consortium] are enclosed. Necessary changes/modifications as applicable should be made prior to floating in EOI/signing the MoU. The relevant MoU format may be made a part of EOI document, so that it can be signed on selection of vendor at pre-bid stage.

Annexure-A to Dispute Resolution Clause

Establishment of a Conciliation & Settlement Mechanism (CSM) for Contractual Disputes under the contract agreements with the Contractors / Concessionaires / Consultants in TCIL.

1. Objective:

The TCIL has been entering into various contract agreements with the Contractors/ Concessionaires/ Consultants for implementing projects and obtaining services in various modes. Several disputes have been arising under these contract agreements. The associated legal costs and diversion of manpower of both parties are enormous. The early resolution/ settlement of claim, preferably through an out-of-court settlement process, is in the interest of all the stakeholders.

2. The Standing Operating Procedure (SoP)

The procedure given hereunder will be implemented for resolving disputes through conciliation mechanism:

- 1) If any commercial/contractual dispute arises between TCIL and Bidder/MoU partner/Vendor/Contractor, then any of the party shall send a reference about the dispute containing a written brief identifying the subject of the dispute to the CMD, TCIL along with a copy of such reference to other party for resolution of dispute through conciliation.
- 2) CMD, TCIL or his authorized representative shall, within seven days of receipt of such a reference, nominate an officer of TCIL to act as the conciliator and shall arrange to issue necessary intimation to both the parties.
- 3) Within three days of appointment of conciliator by CMD, TCIL both the parties shall intimate to the conciliator, the name of their respective officer(s) who shall be representing such a party in the conciliation proceedings. The maximum number of such officer(s) shall not be more than three and no legal practitioner/advocate shall be part of such a team.
- 4) Thereafter, both the teams of the parties shall meet on the dates as fixed by the conciliator, discuss the agenda and explore the possibilities of conciliation/settlement. First such meeting shall be held within Seven (7) days of the nomination of the conciliation team by both the parties. The venue for conducting conciliation proceedings will be TCIL Bhawan, Greater Kailash-I, New Delhi 110048.
- 5) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

- 6) The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.
- 7) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.
- 8) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.
- 9) The teams thereafter can meet any number of times under the guidance and supervision of Conciliator and will try to find a solution that is acceptable to both the parties. The conciliation may be successful or partially successful. On the points of dispute or part of a dispute wherein parties have agreed for a common ground, the officers representing each party shall seek approval of their respective company/entity. After that a settlement deed shall be drafted and signed by the authorized representatives of the parties. When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively and this shall not be challenged by any of the party in any court or under any law. The parties shall unequivocally affirm, declare and confirm in the settlement agreement that they have signed the agreement without any coercion, duress, inducement and were fully competent to sign the said agreement.
- 10) The conciliator shall endorse and authenticate the settlement agreement and furnish a copy thereof to each of the parties.
- 11) The conciliation process shall be concluded within 60 days of nomination of its representatives by the second party. However, the parties, with mutual consent can extend this period and then the conciliation proceedings shall be concluded in this extended period.
- 12) If no settlement is arrived between the parties in the time mentioned in clause 5) above, then the conciliation proceedings shall be deemed to have been failed.
- 13) The conciliator shall intimate the appointing authority the final outcome of the conciliation proceedings.

3. Resort to arbitral or judicial proceedings:

The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject-matter of the conciliation proceedings

except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

4. Admissibility of evidence in other proceedings.

- 1) The parties shall not rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings,—
 - (a) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;
 - (b) admissions made by the other party in the course of the conciliation proceedings;
 - (c) Proposals made by the parties or conciliator;
 - (d) The fact that the other party had indicated his willingness to accept a proposal for settlement made by the other party.

5. Confidentiality.

Notwithstanding anything contained in any other law for the time being in force, the parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

6. Termination of conciliation proceedings.

The conciliation proceedings shall be terminated on happening of any of the conditions below:-

- 1) by the signing of the settlement agreement by the parties, on the date of the agreement; or
- 2) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or
- 3) by a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- 4) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration; or
- 5) by the lapse of time or extended time as provided in clause 2(12) above