

ANNEX-VI: PRE-INTEGRITY PACT

(On Non-Judicial Stamp Paper of appropriate value)

GENERAL

This Pre-Contract Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____ 20...., between one hand, ITER-India (IPR), represented by -----, Project Director ITER-India (herein after called the “BUYER”, and will also known as INDA which expression shall mean and include unless the context otherwise requires, his successors in office and assigns) of the first part M/s _____, represented by _____ (herein after called the “BIDDER”, which expression shall mean and include unless the context otherwise requires, his successors in office and assigns) of the second part.

Whereas the BUYER proposes to procure Logistics Services and the BIDDER is willing to offer/has offered the Services and proposes to procure, and

2. Whereas the BIDDER is a private company/public company/partnership/LLP, constituted in accordance with the relevant law in the matter and the BUYER is ITER-India (IPR) performing its functions under the Administrative Control of Department of Atomic Energy, Govt. of India.

3. OBJECTIVES

3.1 Now, therefore, the Buyer and the BIDDER agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence / unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

3.2 Enabling the BUYER to obtain the desired 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

3.3 Enabling the BIDDER to abstain from bribing or any corrupt practice in order to secure the Task order/contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Buyer will commit to prevent corruption, in any form, by their officials by following transparent procedures.

4. COMMITMENTS OF THE BUYER

4.1 The BUYER Commits itself to the following:-

4.2 The BUYER undertakes that no official of the BUYER, connected directly or indirectly with the Task Order/Contract, 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 either from BIDDER for themselves or for any person, organization or third party related to the Task Order/Contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the Task Order/Contract.

4.3 The BUYER will, during the Pre-Task Order/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.

4.4 All the officials of the BUYER will report to the Project Director, ITER-India (IPR) any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

5. In case of 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 Task Order/Contract Process. In such a case while an enquiry is being conducted by the BUYER the proceedings under the contract would not be stalled.

6. COMMITMENTS OF BIDDER/BIDDERS

6.1 The BIDDER commit himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any Pre-Task Order/Contract stage or Post-Task Order Contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:-

6.2 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 in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Task Order/Contract.

6.3 The BIDDER further undertakes that he 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 or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Government.

6.4 The BIDDER will not collude with other parties interested in the Task Order /Contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

6.5 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

6.6 The BIDDER further confirms and declares to the BUYER that the BIDDER is the original logistics service provider and 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 Task Order/Contract 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.

6.7 The BIDDER, either while presenting the bid or during Pre-Task Order/Pre-Contract negotiations or before signing the Task Order/Contract, shall disclose any payments 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 and the details of services agreed upon for such payments.

6.8 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 tenders and business details, including information contained in any electronic data carrier. The BIDDER also undertakes to exercise due and adequate care lest any such information is divulged.

6.9 The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.

6.10 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

7. PREVIOUS TRANSGRESSION

7.1 The BIDDER declares that no previous transgression occurred in the last three 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.

7.2 If the BIDDER makes incorrect statement on this subject, BIDDER can be disqualified from the contract/tender process or the contract, if already awarded, can be terminated for such reason.

8. EARNEST MONEY/SECURITY DEPOSIT

8.1. Every BIDDER/BIDDER, while submitting commercial bid, shall deposit an amount of **INR 10 Lakh** as the Earnest Money/Security Deposit (as applicable), with the buyer through Bank Draft or a Pay Order in IPR A/c ITER-India,

8.2. The Earnest Money shall be valid up till signing of Partnership Agreement and Security Deposit will remain valid up to the complete conclusion of contractual obligations to complete satisfaction of both the BIDDER and the BUYER, whichever is later.

8.3 In the case of empanelled bidder a clause would also be incorporated in the Article pertaining to Security Deposit in the Task Order/Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Security Deposit in case of a decision by the BUYER to forfeit the same without assigning any reason whatsoever for imposing sanction for violation of this pact.

8.4 The provisions regarding Sanctions for Violation in Integrity Pact include forfeiture of Security Deposit in case of a decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

8.5 No interest shall be payable by the BUYER to the BIDDERS on the Earnest Money Deposit/ Security Deposit for the period of its currency.

9. COMPANY CODE OF CONDUCT

9.1 BIDDERS are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.

10. SANCTIONS FOR VIOLATION

10.1 Any breach of the aforesaid provisions by the BIDDER (S) or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the BUYER to take all or any one of the following actions, wherever required:-

- (i) To immediately call off the contract process/pre-contract negotiations without assigning any reason or giving any compensation to the BIDDER(S). However, the proceedings with the other BIDDER(S) would continue.
- (ii) The Earnest Money Deposit/Security Deposit shall stand forfeited fully, as decided by the Buyer and the Buyer shall not be required to assign any reason therefore.
- (iii) To immediately cancel the Task Order/Contract, if already signed, without giving any compensation to the Bidder.
- (iv) To recover all sums already paid by the BUYER, and which will be applicable with interest thereon at 2% higher than the prevailing Prime Lending Rate.
- (v) To encash EMD/Security Deposit in order to recover the payments, already made by the Buyer, along with interest.
- (vi) To cancel all or any other Task Order/Contracts with the BIDDER.
- (vii) To debar the BIDDER (S) from entering into any bid 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.
- (ix) If the BIDDER(S) or any employee of the BIDDER(S) or any person acting on behalf of the BIDDER(S) either directly or indirectly, is closely related to any of the officers of the BUYER, or alternatively, if any close relative of an officer of the BUYER has financial interest/stake in the BIDDER'S firm, the same shall be disclosed by the BIDDER(S) at the time of filing of tender. Any failure to disclose the interest involved shall entitle the BUYER to rescind the contract without payment of any compensation to the BIDDER(S). The term 'close relative' for this purpose would mean spouse whether residing with the Government servant or not, but not include a spouse separated from the Government servant by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law; any

other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.

(x) The BIDDER(S) 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, and if he does so, the BUYER shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The BIDDER shall be liable to pay compensation for any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.

10.2 The decision of the BUYER to the effect that a breach of the provisions of this Integrity Pact has been committed by the BIDDER(S) shall be final and binding on the BIDDER(S).

11. EXAMINATION OF BOOKS OF ACCOUNTS

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

12. 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. Gandhinagar/Ahmedabad (Gujarat).

13. OTHER LEGAL ACTIONS

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.

Signature of the authorised person of the BIDDER

Place:

Name:

Title:

Date:

Official Seal