

PRE CONTRACT INTEGRITY PACT

General

This pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on _____ day of the month of _____ 20__, between, on one hand, the Kendriya Vidyalaya Dhenkanal acting through Shri Akshay Kumar Mallick, Principal, Kendriya Vidyalaya Dhenkanal (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 M/s. _____ represented by Shri _____

Proprietor/Owner (hereinafter called the BIDDER which expression shall mean and include unless the context otherwise requires his successors and permitted assigns) of the Second Part.

WHEREAS the BIDDER is a private company/public company/Government undertaking/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the BUYER is a Ministry/Department of the Government of India/PSU performing its functions on behalf of the President of India.

NOW THEREFORE

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 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 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:

Commitment of the BUYER

- 1.1** The BUYER undertakes that no official of the BUYER, connected directly or indirectly with the 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 from the BIDDER, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.

- 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 appropriate Government office 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 process. In such a case while an enquiry is being conducted by the BUYER the proceedings under the contract would not be stalled.

Commitments of BIDDERS

3. 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 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, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
 - 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 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.

- 3.3** 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.
- 3.5** The BIDDER, either while presenting the bid or during pre-contract negotiations or before signing the 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 U1e details of services agreed upon for such payments.
- 3.6** The BIDDER will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 3.7** The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.8** 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 proposals 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.
- 3.9** The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.10** The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.11** 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.
- 3.12** 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.

4. Previous Transgression

- 4.1** 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.
- 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, if already awarded, can be terminated for such reason.

5. Earnest Money {Security Deposit}

- 5.1** While submitting commercial bid, the BIDDER shall deposit an amount _____ (to be specified in RFP) as Earnest Money/Security Deposit, with the BUYER through any of the following instruments:
- (i) Bank Draft or a Pay Order in favour of Principal Kendriya Vidyalaya Dhenkanal Payable at Dhenkanal
 - (ii) A confirmed guarantee by an Indian Nationalised Bank, promising payment of the guaranteed sum to the BUYER on demand within three working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the BUYER shall be treated as conclusive proof of payment.
 - (iii) Any other mode or through any other instrument (to be specified in the RFP)
- 5.2** The Earnest Money/Security Deposit shall be valid upto a period of five years or the complete conclusion of the contractual obligations to the complete satisfaction of both the BIDDER and the BUYER including warranty period, whichever is later.
- 5.3** No interest shall be payable by the BUYER to the BIDDER on Earnest Money/Security Deposit for the period of its currency.

6. Sanctions for Violations

- 6.1** Any breach of the aforesaid provisions by the BIDDER or any one 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 any one 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 is 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, if already signed, without giving any compensation to the BIDDER.
- iv. 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.
- v. 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 amountso payable from the money(s) due to the BIDDER.
- vi. To debar the BIDDER from participating in future bidding processes of the Government of India for a minimum period of five years, which may be further extended at the discretion of the BUYER.
- vii. 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.

6.2 The BUYER will be entitled to take ail or any of the actions mentioned at para 6.1 (i)to(vii) of this Pact also on the Commission by the BIDDER or any one 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.

6.3 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 Monitor(s) appointed for the purposes of this Pact.

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 help/full cooperation 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 Delhi.

9. 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.

10. Validity

- 10.1 The validity of this integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the - .BUYER and the 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.

11. The parties hereby sign this Integrity Pact at _____
on _____

BUYER

BIDDER

Name of the Officer

CHIEF EXECUTIVE OFFICER

Designation

Deptt./MINISTRY/PSU

Witness

Witness

1. _____

1. _____

Provisions of these clauses would need to be amended/ deleted in line with the policy of the BUYER in regard to involvement of Indian agents of foreign suppliers.

