

INTEGRITY PACT

[To be executed on plain paper and submitted along with Technical Bid/Tender document for tenders having a value of Rs.2.5 Crores or more. To be signed by the bidder and same signatory competent / authorized to sign the relevant contract]

Tender No.....

This Integrity Pact is made at.....on this..... day of.....

Between

Odisha Power Generation Corporation Ltd. (OPGC), a company registered under the Companies Act 1956 and having its registered office at Zone-A, 7th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar- 751023, Odisha (India) hereinafter referred to as “Principal”, which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the ONE PART

And

_____, description of the party along with address), hereinafter referred to as “Bidder/ Contractor” which expression unless repugnant to the context or meaning hereof shall include its successors or assigns of the OTHER PART

(The Principal and the Bidder/ Contractor together are collectively referred to as the “Parties” and individually as a “Party” in this Pact).

Preamble

The Principal intends to award, under laid-down organizational procedures, contract/s for... .. (“Contract”) The Principal values full compliance with all relevant laws of the land, rules and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidder(s)/ Contractor(s).

In order to achieve these goals, the Principal enter into an Integrity Pact (“**Pact**”) with the Bidder(s)/ Contractor(s) for the tender process and execution of the Contract and will appoint Independent External Monitor(s), who will monitor the tender process and the execution of the Contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Principal

1.1 The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-

1.1.1 No employee/Director/management representative of the Principal, personally or through family members or through third party, will in connection with the tender process for, or the execution of a Contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.

1.1.2 The Principal will, during the tender process treat all Bidder(s)/ Contractor(s) with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information (other than the clarifications sought for by the Bidder(s)/Contractors with respect to the bidder specific information required to be provided only to the concerned Bidder(s)/Contractor(s),) and will not provide to any Bidder(s)/Contractor(s) confidential / additional information through which the Bidder(s) /Contractor(s) could obtain an advantage in relation to the tender process or the contract execution.

1.1.3 The Principal will exclude from the tender process or execution of the Contract all known prejudiced persons including those employees/ Directors/management representatives of the Principal who have family relationships with the employees or Directors of the Bidder(s)/Contractor(s).

1.2 If the Principal obtains information on the conduct of any of its employees/ Directors/ management representative which is a penal offence under the Indian Penal Code 1860 and Prevention of Corruption Act 1988 or any other statutory penal enactment, or if there be a substantive suspicion in this regard, the Principal will inform its Chief Vigilance Officer for further enquiry and initiation of disciplinary actions against the person(s) concerned.

Section 2 – Commitments of the Bidder(s)/ Contractor(s)

2.1 The Bidder(s)/ Contractor(s) commit itself to take all measures necessary to prevent corruption. The Bidder(s) / Contractor(s) commits itself to observe the following principles during its participation in the tender process and during the contract execution.

2.1.1 The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to the Principal or to any of the Principal's employees/ Directors/ management representative involved in the tender process or the execution of the Contract or to any third person any material, immaterial or any other benefit which he / she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the Contract.

2.1.2 The Bidder(s)/ Contractor(s) will not enter with other Bidder(s) into any illegal or 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 cartelization in the bidding process.

2.1.3 The Bidder(s)/ Contractor(s) will not commit any penal offence under the relevant IPC/ PC Act and any other such similar applicable Acts; further the Bidder(s)/ Contractor(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

2.1.4 The Bidder(s)/ Contractor(s) will, when presenting his bid, disclose any and all payments he has made, and is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.

2.1.5 The Bidder(s) / Contractor(s) will not, directly or through any other person or firm, approach any Government officials, ministers, political persons public servants, or any external agencies in an effort to influence the bidding decision making process or to attain any undue favours to the Bidder(s) / Contractors(s).

2.1.6 The Bidder(s)/Contractor(s) shall exclude, from the tender process or execution of the Contract all known prejudiced persons including those employees / Directors /management representatives of the Bidder(s) / Contractor(s) who have family relationships with the employees or Directors of the Principal.

2.1.7 The Bidder(s)/Contractor(s) shall disclose the circumstances, arrangements, undertakings or relationships that constitute, or may reasonably be considered to

constitute, an actual or potential conflict of interest with its obligations specified in the tender process or under any contract which may be negotiated or executed with the Principal. Bidder(s)/Contractor(s) and their employees, agents, advisors and any other person associated with the Bidder(s)/Contractor(s) must not place themselves in a position which may, or does, give rise to conflict of interest (or a potential conflict of interest) between the interests of the Principal or any other interests during the tender process or through operation of the Contract.

2.1.8 The Bidder(s)/Contractor(s) will not indulge in any corrupt , fraudulent, coercive undesirable or restrictive practice in the tender process or the execution of the Contract.

2.2 The Bidder(s)/ Contractor(s) or its sub contractors or its agents will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 – Disqualification from tender process, termination of the Contract and exclusion from future contracts

If the Bidder(s)/ Contractor(s), during the tender process or before award of the Contract or during the execution of the Contract has committed a transgression through a violation of Section 2 above, or acts in any other manner such as to put its reliability or credibility in question, the Principal may disqualify the Bidders(s)/ Contractor(s) from the tender process or decide not to award the Contract or terminate the awarded Contract or blacklist the Bidder(s)/Contractor(s) and seek damages as specified in Section 4.

Section 4 – Compensation for Violations

4.1 If the Principal has disqualified the Bidder(s)/ Contractor(s) from the tender process prior to the award of the Contract according to Section 3 or 5, the Principal is entitled to demand and recover the damages by encashment of the Earnest Money Deposit/ Bid Security deposited by the Bidder(s)/ Contractor(s) while making submission in the tender process.

4.2 If the Principal has terminated the Contract according to Section 3 or 5, or if the Principal is entitled to terminate the Contract according to section 3 or 5, the Principal is entitled to demand and recover from the Contractor liquidated damages equivalent to ---% of the Contract value or the amount equivalent to Security

Deposit/Performance Bank Guarantee, whichever is higher, in addition to the Liquidated Damages already agreed to by the Bidder(s)/ Contractor(s) in the Contract..

Section 5 – Previous Transgression

5.1 The Bidder(s)/ Contractor(s) declares that no previous transgressions occurred in the last three (3) years with any other organization in any country conforming to the anti-corruption approach or with any other Public Sector Enterprise in India that could justify its exclusion from the tender process or the execution of the Contract.

5.2 If the Bidder/ Contractor has made incorrect statement/disclosure on this subject or hides such information, the Principal is entitled to disqualify the Bidder/Contractor from the tender process or the execution of the Contract, if already awarded, may terminate the Contract and claim compensation as mentioned in section 4.

Section 6 – Equal treatment of all Bidders/ Contractors/ Sub-contractors

6.1 The Bidder(s)/ Contractor(s) undertake(s) to demand from his sub-contractors a commitment consistent with this Integrity Pact. This commitment shall be taken only from those sub-contractors whose contract value is more than 20% of Bidder's/ Contractor's contract value with the Principal.

6.2 The Principal will enter into individual Integrity Pacts with identical conditions as this one with all Bidders and Contractors for the tender process.

6.3 Only those Bidder(s)/ Contractor(s) who have entered or expressed intention of entering into Integrity Pact with the Principal shall be eligible to participate in the tender process or execution of the Contract.

6.4 The Principal will disqualify the Bidder(s)/ Contractor(s) from the tender process who do not execute the Integrity Pact or violate its provisions.

Section 7 – Criminal Charges against violating Bidders/ Contractors/ Subcontractors

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, or of an employee or a representative or an associate of a Bidder, Contractor or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office of the State in which the Principal has its Registered Office.

Section 8 –Independent External Monitor(s)

8.1 The Principal will appoint one or more competent and credible Independent External Monitor(s) (“**Monitor**”) for monitoring the implementation of this Pact. The task of the Monitor will be to review independently and objectively, whether and to what extent the Parties comply with the obligations of the Integrity Pact.

8.2 The Monitor shall not be subject to instructions by the representatives of the Parties and shall perform his functions neutrally and independently. The Monitor shall report to the OPGC Board.

8.3 The Bidder(s)/ Contractor(s) accepts that the Monitor has the right to access without restriction to all the document related to the tender process or the execution of the Contract of the Principal including that provided by the Bidder(s)/ Contractor(s). The Bidder(s)/ Contractor(s) shall grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to the document in its possession related to the tender process or execution of the Contract. The same is applicable to Sub-contractor(s) of the Bidder(s)/ Contractor(s). The Monitor is under contractual obligation to treat the information and documents of the Bidder(s)/ Contractor(s) / Subcontractor(s) with strict confidentiality.

8.4 The Principal will provide to the Monitor sufficient information about all meetings among the Parties related to the tender process or the execution of the Contract provided such meetings could have an impact on the contractual relations between the Principal and the Bidder/ Contractor. The Parties shall offer to the Monitor the option to participate in such meetings.

8.5 As soon as the Monitor notices, or believes to have noticed, a violation of the Integrity Pact, he will so inform the Managing Director of the Principal and request him to take corrective action, or heal the situation, or to take other relevant action.

The Monitor may in this regard submit non-binding recommendations. Beyond these actions, the Monitor shall have no right to demand from the Parties that they act in a specific manner, refrain from action or tolerate action.

8.6 If the Monitor reports to the Managing Director of the Principal, a substantiated suspicion of an offence under relevant IPC / PC Act, the Managing Director of the Principal shall within reasonable time, taken visible action to proceed against such offence.

8.7 The number of Independent External Monitor(s) shall be decided by OPGC.

8.8 The word 'Monitor' would include both singular and plural.

Section 9 – Pact Duration

9.1 This Pact shall become effective from the date when both the Parties have executed it or the Parties have shown their intent to enter into the Pact, whichever is earlier. This Pact will expire for the Contractor after it meets all the obligations of the Contract and for all other Bidders 6 months after the Contract has been awarded.

9.2 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 as above, unless it is discharged/ determined by the Principal.

Section 10 – Other Provisions

10.1 This agreement is subject to Indian Laws and jurisdiction shall be registered office of the Principal, i.e. Bhubaneswar.

10.2 Changes and supplements to the Pact as well as notices of termination of the Pact to be sent to any Party shall be made in writing by mutual agreement between the Parties.

10.3 If the Bidder/ Contractor is a partnership or a consortium, this Pact shall be signed by all partners or consortium members.

10.4 Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

10.5 Only those Bidder(s)/ Contractor(s) who have expressed their intention through submission in the tender process or have entered into this Pact with the Principal will be eligible to participate in the bidding.

For & On behalf of the Principal
(Office Seal)

For & On behalf of the Bidder/ Contractor
(Office Seal)

Place-----

Date-----

Witness: _____
(Name & Address) _____

Witness: _____
(Name & Address) _____