

## INTEGRITY PACT

Between

**Bharat Petroleum Corporation Ltd (BPCL)** hereinafter referred to as 'The Principal',

And

M/s ..... hereinafter referred to as "The Contractor"

### **Preamble**

The Principal intends to award, under laid down organization procedures, contract/s for ..... The Principal values full compliance with all relevant laws and regulations, and the principal of economic use of resources, and of fairness and transparency in its relations with its Bidders/s and Contractor/s.

In order to achieve this goal, the Principal cooperates with the renewed international Non-Governmental Organization "Transparency International" (TI). Following TI' national and international experience, The Principal will appoint an external independent Monitor 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) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:

- i) No employee of the Principal, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept, for him/herself or third person, any material or immaterial benefit which he/ she is not legally entitled to.
- ii). the principal will, during the tender process treat all Bidders with equity and reason. The Principal will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential/ additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
- iii). The Principal will exclude from the process all know prejudiced persons.

(2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti- Corruption Laws of India, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.

### **Section 2 – Commitments of the Bidder/ Contractor**

(1) The Principal commits itself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

- i). The Bidder/ Contractor will not, directly or through any other person or firm, offer promise or give to any of the Principal's employees involved in the tender process or the execution of the contract or to any third person any material or immaterial 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.
  - ii). The Bidder/ Contractor will not enter with other Bidder 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 bid or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
  - iii). The Bidder/ Contractor will not commit any offence under the relevant Anti-corruption Laws of India, further The Bidder/ Contractor will not use improperly, for purpose 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 proposal and business details, including information contained or transmitted electronically.
  - iv). The Bidder/ Contractor will, when presenting his bid, disclose any and all payment he has made is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- (2) The Bidder/ Contractor will not instigate third person(s) to commit offences outlined above or be an accessory to such offences.

### **Section 3 – Disqualification from process and exclusion from further contracts**

If the Bidder, before contract award has committed a transgression through a violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Principal is entitled to disqualify the Bidder from the tender process or to terminate the contract, if already signed, for such reason.

- (1) If the Bidder/ Contractor have committed a transgression through a violation of Section 2 such as to put his reliability or credibility into question, the Principal is entitled also to exclude the Bidder/ Contractor from future contract award processes. The imposition and duration of the exclusive will be determined by the severity of the transgression. The severity will be determined by the circumstance of the case, in particular the number of transgression, the position of the transgressor within the company hierarchy of the Bidder and the amount of the damage. The exclusive will be imposed for a minimum of 6 months and maximum of 3 years.
- (2) A transgression is considered to have occurred if the Principal after due consideration of the available evidence, concludes that no reasonable doubt is possible.
- (3) The Bidder accepts and undertakes to respect and uphold the Principal's absolute right to resort to and impose such exclusive and further accepts and undertakes not to challenge or question such exclusive on any ground, including the lack of any hearing before the decision to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.
- (4) If the Bidder/ Contractor can prove that he has restored/ recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.

#### **Section 4 - Compensation for Damages**

(1) If the Principal has disqualified the Bidder from the tender process prior to the award according to section 3, the Principal is entitled to demand and recover from the Bidder liquidated damages equivalent to Earnest Money Deposit/ Bid Security.

(2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contract according to section 3, the Principal shall be entitled to demand and recover from the Contractor liquidated damages equivalent to Security Deposit/ Performance Bank Guarantee.

(3) The Bidder agrees and undertakes to pay the said amounts without protest or demur subject only to condition that if the Bidder/ Contractor can prove and establish that the exclusion of the Bidder from the tender process or the termination of the contract after the contract award has caused no damage or less damage than the amount of the extent of the damage in the amount proved.

#### **Section 5 – Previous Transgression**

(1) The bidder declares that no previous transgression occurred in the last 3 years with any other Company in any country conforming to the TI approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.

(2) If the Bidder makes incorrect statement on this subject, he can be terminated for such reason.

#### **Section 6 – Equal treatment of all Bidder/ Contractor/ Subcontractors**

(1) The Bidder/ Contractor undertake to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

(2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and Subcontractors.

(3) The Principal will disqualify from the tender process all bidders who do not sign this 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, Subcontractor, or of an employee or a representative or a representative or an associate of a Bidder, contractors or Subcontractor which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Vigilance Office.

#### **Section 8 – External Independent Monitor/ Monitors (three in number depending on the size of the contract) (to be decided by the Chairperson of the Principal)**

(1) The Principal appoints competent and credible external independent Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

(2) The Monitor is not subject to instructions by the representatives of the parties and performs his functions neutrally and independently. He reports to the Chairperson of the Board of the Principal.

(3) The Contractors accepts that the Monitor has the right to access without restriction to all Project documentation of the Principal including that provided by the Contractor. The Contractor

will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to this project documentation. The same is applicable to Subcontractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/ Contractor/ Subcontractor with confidentiality.

(4) The Principal will provide to the Monitor 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 Principal and the Contractor. The parties offer to the Monitor the option to participate in such meetings.

(5) As soon as the Monitor notices, or believes to notice, a violation of this agreement, he will so inform the Management of the Principal and request the Management to discontinue or heal the violation, or to take other relevant action. The Monitor can in this regard submit non-binding recommendation. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action. However, the Independent External Monitor shall give an opportunity to the bidder/ contract to present its case before making its recommendations to the Principal.

(6) The Monitor will submit a written report to the Chairperson of the Board of the Principal within 8 to 10 weeks from the date of reference or intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.

(7) Monitor shall be entitled to compensation on the same terms as being extended to/ provided to Outside Expert Committee members/ Chairman as prevailing with Principal.

(8) If the Monitor has reported to the Chairperson of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India, and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Commissioner, Government of India.

(9) The word "Monitor" would include both singular and plural.

### **Section 9 – Pact Duration**

This Pact being when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the respective contract, and for all other Bidders.

6 Months after the contract has been awarded. 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 Chairperson of the Principal.

### **Section 10 – Other provisions**

(1) This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Mumbai Terminals. The Arbitration clause provided in the main tender document/ contract shall not be applicable for any dispute arising under Integrity Pact.

(2) Change and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

(3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

(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.

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For the Principal

Place .....

Date.....

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For the Contractor

Witness 1: .....

Witness 2: .....