

Tender Document

For

Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.)

Tender No: TCIL/05/527/253/2010/ACD/JAISALMER-III

Issued on: 01.02.2011

PART – 1 - Technical Bid

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Telecommunications Consultants India Ltd.

(A Govt. of India Enterprise)

Civil Division

TCIL Bhawan, Greater Kailash-I

New Delhi – 110048 (India)

IS/ISO 9001



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PART- 1

TECHNICAL BID

SECTION-1**Tender No.: TCIL/05/527/253/2010/ACD/ Jaisalmer- III****01.02.2011****NOTICE INVITING TENDER**

Sealed tenders are invited from eligible bidders for **Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.)**

1	Name of the work	Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.)
2	Estimated value of work	Rs. 5.75 Crore
3	Cost of tender document	Rs 5000/- (Rs. Five thousands only) payable in the form of D.D./banker's cheque in favor of 'Telecommunication Consultant India Limited' payable at New Delhi.
4	Earnest Money Deposit	0.4% of the estimated value of work payable in the form of D.D./banker's cheque in favor of 'Telecommunication Consultant India Limited' payable at New Delhi / bank guarantee in prescribed format.
5	Performance Guarantee Amount	5 % of the Contract value – to be deposited at the time of signing the agreement
6	Security Deposit	5% of the Contract value- To be deducted from corresponding running bills.
7	Stipulated period of completion	12 months
8	Defect liability period	One year from the certified date of completion
9	Validity of Bid	120 days from the last date of receipt of tender.
10	Date, time and place of submission of tenders	14.02.2011 up to 15:00 hrs at the office of General Manager (Civil), TCIL Bhawan, Greater Kailash-1, New Delhi-110048
12	Date of opening of technical bid of the Tender	14.02.2011 at 16.00 hrs. at the office of General Manager (Civil), TCIL Bhawan, Greater Kailash-1, New Delhi-110048

- | | | |
|----|---|---|
| 13 | Date of opening of price bids of the Tender | To be notified separately to technically qualified parties. |
| 14 | Rate of liquidated damage | 2% per week or its part (The part shall be counted as one full week) up to a maximum of 10% of the awarded value of contract. |
| 15 | Officer to be contacted
(Name and Address) | <ol style="list-style-type: none"> 1. Sh. S.P. Sharma Executive Director (Civil) 2. Sh. Atul Kumar Jain General Manager(Civil)
TCIL Bhawan, 3rd Floor, G.K. 1 New Delhi-48 3. Sh. S.R. Gupta, Project Director (Rajasthan), Dev Nagar, Tonk Road, Jaipur M-8003090478 |

Tender documents shall be available from the office of General Manager (Civil), 3rd Floor, TCIL Bhawan GK-I, New Delhi - 110 048 on payment of non-refundable fee of INR 5,000 (INR Five Thousand only) by Demand Draft in favor of “**Telecommunications Consultants India Ltd.**”, Payable at New Delhi.

Tenderers requesting tender documents through post should include an additional amount of INR 50. Mailing of tender will be wholly at the risk of the Tenderer.

Last date of sale of **tender documents is 14.02.2011 upto 2 p.m.**

Complete tender documents are also available on TCIL’s website, address given below:

<http://www.tcil-india.com>

The documents downloaded by the parties from the website shall be valid for participation in the tender process. Those making use of the tender documents downloaded from the website shall have to pay the fee of the document in the form of a demand draft along with the tenders. Tenders received without the requisite fee shall be considered as invalid ab-initio.

Last date for seeking clarification, if any : 5 (five) days prior to the date of opening.

Bidders are advised to check the TCIL website regularly for amendments, if any.

ELIGIBILITY CRITERIA

Bidder must provide necessary supporting documents as proof in respect of the eligibility criteria mentioned below:

1. Average Annual Financial Turnover during last 3 years ending 31st March 2010 should be at least 50% of the estimated cost of the work.
(Please submit copies of audited balance sheets of last 3 years).

2. Experience of having successfully completed similar works during last 7 years ending 31st October 2010 should be either of the following:
- a) 3 (Three) similar works each costing not less than 40% of the estimated cost.
Or
 - b) 2 (Two) similar works each costing not less 50% of the estimated cost.
Or
 - c) One similar work costing not less 80% of the estimated cost.

Similar work means “Building works / Water Supply / Sewerage Works / Other Civil Infrastructure Works”.

(Please submit copies of Completion certificates from client mentioning the nature of work, value of work and time period. In case of govt. Deptt./Semi Govt./Autonomous Bodies, the certificates shall be considered valid only if it is issued / counter signed by an officer not below the rank of Executive Engineer. In case of other clients, the certificate should be issued by the MD/Director of the company).

3. Bidder should not be blacklisted / debarred by any Government / Semi Government Department / PSU.
(Please attach an undertaking (self certification on bidders letter head) that the bidder is not blacklisted by any Government Department / PSU).

- Note: 1. In case of award of contract, the bidder will be required to register themselves under Sales Tax, Income Tax, EPF, Service Tax and any other Statutory requirements.**
- 2. Application in consortium is permitted subject to a maximum of two partners. Qualification and credential of each partner shall be added for the purpose of eligibility criteria. The member of the consortium, meeting at least 50% of the experience criteria shall be considered as the “lead partner”. However each consortium partner shall be responsible jointly and severally. A consortium agreement must be submitted along with the Technical Bid.**
- 3. Bidder must be capable to provide the required machineries and equipments along with experienced man power. A list of available equipments and man power is required to be provided along the technical bid. Bidder shall be required to submit an undertaking that all the required machineries, equipments, technical man power, skilled, semi skilled and non skilled manpower shall be provided by him in accordance to the directions of engineer in charge / employer.**
- 4. Bidder will be required to sign and submit the integrity pact document as per Annexure 10.**

EVALUATION

The evaluation will be done on the total bid value. The bidder is required to quote for all the items of the BOQ. Partial bid is liable to be rejected.

Earnest Money equivalent to 0.4% of the estimated cost of the tender by Demand Draft in favor of "Telecommunications Consultants India Ltd." payable at New Delhi or Bank Guarantee in the prescribed format from a Scheduled Bank from its branch at Delhi/New Delhi shall be submitted along with the tender.

EMD shall be required to be deposited by the empanelled parties also.

Tenders received without EMD/inadequate EMD shall be summarily rejected.

Two-part bid system shall be adopted i.e. Technical Offer and Price Offer.

Tender documents fee (when documents are downloaded from website) and EMD shall be part of Technical Offer.

The tenders shall be submitted in the Office of General Manager (Civil), TCIL, 3rd Floor, TCIL Bhawan, G.K.-I, New Delhi-110048 on **or before 15:00 hrs, on 14.02.2011.**

In the first stage, the Technical Offers shall be **opened at 16:00 hrs, on 14.02.2011** in the presence of Tenderers or their authorized representatives present at the time of tender opening.

The Price Offers of only those parties who qualify in the first stage shall be opened at time and date to be notified separately.

TCIL reserves the right to accept or reject any or all the tenders without assigning any reason.

General Manager (Civil)

END OF SECTION-1

SECTION-2

Tender No.: TCIL/05/527/253/2010/ACD/Jaisalmer-III

01.02.2011

INSTRUCTIONS TO BIDDERS

2.1 SCOPE OF BID

- 2.1.1 The Telecommunication Consultants India Limited (TCIL), hereinafter referred to as the Employer, invites Bids for Works (as defined in these documents and referred to as "the works") mentioned in the table given in Annexure- 1.
- 2.1.2 The successful bidder is expected to complete the Works within the stipulated period of completion of the Works, reckoned after considering the mobilization period as mentioned in the referenced clause.
- 2.1.3 Throughout these bidding documents, the terms "Bid" and "Tender" and their derivatives (Bid / tender, bidder / tenderer, bidding/tendering, etc) are Synonymous.

2.2 COST OF BIDDING

The bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible and liable for those costs regardless of the conduct or outcome of the bidding process.

2.3 SITE VISIT

The Bidder, at his own cost, responsibility and risk, is encouraged to visit, examine and familiarize himself with the Site of Works and its surroundings including source of earth, water, building aggregates etc. and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense. He may contact the person whose contact details are given in the annexure-1.

2.4 CONTENT OF BIDDING DOCUMENTS

The bidding documents are those stated below and should be read in conjunction with any Addenda, if issued.

- 2.4.1 Notice Inviting Tender
- 2.4.2 Instructions to Bidders
- 2.4.3 General (Commercial) Conditions of Contract
- 2.4.4 Special Conditions of Contract

2.4.5 Scope of Work and Technical Specifications

2.4.6 Price Offer

2.4.7 Annexures

Annexure-1	Details of the Applicant
Annexure-2	Financial Information
Annexure-3	Details of Similar Works completed
Annexure-4	Project / Work under Execution
Annexure-5	Details of Plant and Machinery Available
Annexure-6	Details of Man Power Available
Annexure-7	Affidavit
Annexure-8	Format of EMD
Annexure-9	Format of Performance Bank Guarantee (PBG)
Annexure-10	Integrated Pact

The bidder is expected to examine carefully the contents of all the above documents. Failure to comply with the requirements of Bid submission will be at the bidder's own risk. Bids, which are not complete as per the requirements of the bidding documents, will be rejected.

2.5 CLARIFICATION OF BIDDING DOCUMENTS

A prospective bidder requiring any clarification of the bidding documents may notify the Employer in writing or by fax to the employer through its authorized representative as indicated in the annexure- 1. The Employer will respond to any request for clarification, which he receives more than 5(five) days prior to the deadline for submission of Bids. Copies of the Employer's response will be forwarded to all the bidders, including a description of the enquiry, but without identifying its source.

2.6 AMENDMENT OF BIDDING DOCUMENTS

- 2.6.1 At any time prior to the deadline for submission of Bids, the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective bidder, modify the bidding documents by issuing Addenda.
- 2.6.2 Any Addendum thus issued shall be uploaded on TCIL website and no separate communication will be made with the bidders. The bidders are therefore advised to visit TCIL website regularly for the updates relating to this tender.
- 2.6.3 To give prospective bidders reasonable time in which to take Addenda into account in Preparing their Bids, the Employer shall extend if necessary the deadline for submission of Bids.

2.7 LANGUAGE OF BID

All documents relating to the Bid shall be in English language only.

2.8 DOCUMENTS COMPRISING THE BID

The Bid submitted by the bidder shall comprise the following:

- Bid Form
- Earnest Money Deposit;
- Price Bid or Bill of Quantities;
- Any other document required to be submitted by the bidders in accordance with these Instructions to bidders.

2.9 BID PRICES

2.9.1 The quantities indicated in the Bill of Quantities are tentative and variations (plus or minus side) can be expected as per provisions mentioned in General Conditions of Contract.

2.9.2 The Bidder shall adopt the Percentage Rate Method or Item Rate Method or a combination of two as specified in the detailed price bid.

- Percentage Rate Method requires the bidder to quote a percentage above / below/ at par of the schedule of rates specified in the detailed price bid.
- Item Rate Method requires the bidder to quote rates and prices for all items of the Works described in the price bid (Bill of quantities).
- The bidder shall fill in rates and prices for all items of work indicated in the Bill of Quantities. Items for which no rate or price is entered by the bidder will not be paid for by the Employer when performed and shall be deemed as covered by other rates and prices in the Bill of Quantities. Corrections if any, shall be made by crossing out, initialing and rewriting.

2.9.3 All duties, taxes, octroi and other levies or statutory obligations etc. enforced by the governing body are payable by the Contractor under the Contract, or for any other cause, shall be included in the rates and prices and the total Bid price submitted by the bidder, and the evaluation and comparison of Bids by the Employer shall be made accordingly.

2.9.4 Any alteration in any of the clauses/drawings/documents forming part of the tender shall make the tenderer disqualified.

2.9.5 Any concession in State or Central taxes during the contract period shall be passed to the Employer's account.

2.9.6 The rates and prices quoted by the Bidder shall be fixed for the Duration of the Contract and shall not be subject to adjustment.

2.9.7 Conditional tenders shall be summarily rejected.

2.10 BID VALIDITY

2.10.1 Bids shall remain valid for a period of 120 days (one hundred and twenty days) after the deadline for Bid submission as specified in Annexure-I. Bid valid for a shorter period may be rejected by the Employer as non-responsive.

2.10.2 In exceptional circumstances, prior to the expiry of the original time limit, the Employer may request the bidders to extend the period of validity for a specified additional period. The request and the bidder's responses shall be made in writing. A bidder may refuse the request without getting his Earnest Money forfeited. A bidder agreeing to the request will not be required or permitted to modify his bid.

2.11 EARNEST MONEY DEPOSIT

2.11.1 The bidder shall furnish, as part of his Bid, an Earnest Money Deposit (EMD) of the amount as shown in Section -1 for this particular work. This Earnest Money Deposit shall be in the form of Demand Draft/ banker's cheque/ bank guarantee in prescribed format only in favour of "Telecommunication Consultants India Limited." payable at New Delhi. Bids without proper EMD shall be summarily rejected.

2.11.2 The Earnest Money Deposit of the unsuccessful bidders will be returned within 30 days from the award of the contract.

2.11.3 The Bank Guarantee should be valid for a period of 6 months from the date of opening of technical bid.

2.11.4 The Earnest Money Deposit may be forfeited;

2.11.4.1 If the bidder withdraws or modifies his Bid after the Bid opening and during the period of Bid validity.

2.11.4.2 If the bidder does not accept the correction of his Bid prices, pursuant to Clause 2.22

2.11.4.3 In the case of a successful bidder, if he fails within the stipulated limit to;

(i) Mobilise the work, or

(ii) Sign the Agreement or

(iii) Submit Performance Bank Guarantee

2.12 FORMAT AND SIGNING OF BID

2.12.1 The bidder shall submit original copy of the documents comprising the Bid as described. Each page of the documents being submitted should be duly stamped and signed by the authorised person. A notarised power of attorney shall be required to be submitted along with the technical bid in favour of the authorised signatory, in case of bidder be a legal entity other than a sole propriety firm.

2.12.2 The Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the bidder. All pages of the Bid where entries or amendments have been made shall be initialled by the person or persons signing the Bid.

2.12.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer or as necessary to correct errors made by the bidder, in which case corrections shall be initialled by the person or persons signing the Bids.

2.13 SEALING AND MARKING OF BIDS

2.13.1 The bidder shall seal the technical bid, financial bid and EMD in separate envelopes. All three envelopes shall be placed in a cover envelope, duly marking the envelopes accordingly.

2.13.2 Technical bid envelope will comprise the following:

- a. EMD
- b. Tender Fee
- c. Original tender document except price bid duly signed and stamped by the Authorized Signatory as a token of acceptance of all the terms & conditions of the tender with duly filled in Annexure No.1 to Annexure No.7
- d. Attested Copies of work experience certificates
- e. Copies of audited balance sheets for last three years
- f. Undertaking about non-blacklisting of bidder
- g. Copies of other certificates, as required and considered to be necessary to assess the technical capabilities of the bidder.
- h. Any other documents as mentioned or required.
- i. Documentary evidence in respect of eligibility criteria specified against each condition mentioned at Section 1.

2.13.3 The price bid envelope will consist the price bid (bill of quantities) duly filled. Letters about Discount or loading (if any) shall only be placed in the price bid envelope otherwise the same shall not be taken in to account.

2.13.4 The inner and outer envelopes shall

- (a) Be addressed to the Employer at the following address:
General Manager (Civil)
Telecommunication Consultants India Limited
3rd Floor, TCIL Bhawan, Greater Kailash-1
New Delhi-110048

and

(b) bear the following identification:

Bid for **“Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.)**

DO NOT OPEN BEFORE 16.00 hrs on 14.02.2011.

2.13.5 The inner envelopes shall indicate the name and address of the bidder to enable the Bid to be returned unopened in case either it is declared “late” pursuant to referenced clause or is not accompanied by EMD as specified , or for any other reason.

2.13.6 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.

2.13.7 Tenders may be sent by tenderers by courier/ speed post , with the envelope marked as mentioned in clause no. 2.14.3 above. Alternatively, tenders may also be deposited by the tenderers in the tender box placed at near work station no.2329, 3rd floor, TCIL Bhawan, Greater Kailash-1, New Delhi-48.

2.14 DEAD LINE FOR SUBMISSION OF THE BID

2.14.1 Bids must be received by the Employer at the address of General Manager (Civil) TCIL specified above not later than 15:00 hrs on 14.02.2011. In the event of the specified date for the submission of Bids being declared a holiday, the Bids will be received up to the appointed time on the next working day.

2.14.2 The Employer may extend the deadline for submission of Bids by issuing an amendment, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subjected to the new deadline.

2.15 LATE BIDS

2.15.1 Any Bid received by the Employer after the deadline prescribed will be summarily rejected and returned unopened to the bidder.

2.16 MODIFICATION AND WITHDRAWAL OF BIDS

2.16.1 The bidder may modify or withdraw his Bid by giving notice in writing before the deadline prescribed.

2.16.2 Each bidder’s modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance, and with the outer and inner envelopes additionally marked “MODIFICATIONS” or “WITHDRAWAL”, as appropriate.

2.16.3 No Bid may be modified after the deadline for submission of Bids.

2.16.4 Withdrawal or modification of a Bid by the Bidder on his own between the deadline for submission of Bids and the expiry of the original period of Bid validity specified in the Form of Bid may result in the forfeiture of the Earnest Money Deposit. However, this shall not apply to modification carried out during negotiation.

2.17 BID OPENING

- 2.17.1 The Employer will open the Bids including modification made in the presence of the bidders or their representatives who choose to attend at the 16.00 hrs on 14.02.2011 in the office of General Manager (Civil) TCIL, TCIL Bhawan, Greater Kailash-1, New Delhi In the event of the specified date for the opening of Bids being declared a holiday, the Bids will be opened at the appointed time and location on the next working day.
- 2.17.2 Envelopes marked “WITHDRAWAL” shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted shall not be opened.
- 2.17.3 The bidders’ names, Bid modifications and withdrawals, the presence or absence of Earnest Money Deposit, and such other details as the Employer may consider appropriate, will be announced by the Employer at the time of the opening.
- 2.17.4 After the bid is opened, the Employer shall prepare a statement of submitted bids along with received EMDs, particularly for the bidders who wished to refrain from attending the bid opening. This list shall then be binding on bidders who remained absent.
- 2.17.5 The Employer shall prepare minutes of the Bid opening, including the information disclosed to those present.
- 2.17.6 On the basis of submitted credentials/ documents/ information, TCIL will evaluate the technical capability of the bidder in accordance to the minimum eligible criteria and will select technically qualified bidders.
- 2.17.7 The price bids of the technically qualified bidders shall be opened at a later date, to be notified separately to only technically qualified bidders.
- 2.17.8 At the time of price bid opening, The bidders’ names, Bid modifications and withdrawals, any bid price, discount or alternative bid price will be announced by the Employer at the time of the opening. Any Bid price, discount, or alternative Bid price which is not read out and recorded, at bid opening will not be taken into account in Bid evaluation.
- 2.17.9 After the price bid is opened, the Employer shall prepare a statement of submitted bid amount, attested/signed as well as non-attested/non-signed corrections in the tender over their signatures, particularly for the bidders who wished to refrain from attending the bid opening. This list shall then be binding on bidders who remained absent.

2.18 PROCESS TO BE CONFIDENTIAL

2.18.1 Information relating to the examination, clarification, evaluation, and comparison of Bid and recommendations for the award of Contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful bidder has been announced. Any effort by bidder to influence the Employer's processing of Bids or award decisions may result in the rejection of his Bid.

2.19 CLARIFICATION OF BIDS

2.19.1 To assist in the examination, evaluation and comparison of Bids, the Employer may, at his discretion, ask any bidder for clarification of bidder's Bid, including breakdown of unit rates. The request for clarification and the response shall be in writing but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids.

2.20 EXAMINATION OF BIDS AND DETERMINATION OF RESPONSIVENESS

2.20.1 Prior to the detailed evaluation of Bids, the Employer will determine whether each Bid

- (a) meets the eligibility criteria;
- (b) has been properly signed;
- (c) is accompanied by the required Earnest Money Deposit;
- (d) is complete to the requirements of the bidding documents;
- (e) Provides any clarification and/or substantiation that the Employer may require.

2.21 Complete Bid is one, which conforms to all the terms, conditions and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with bidding documents, the Employer's rights or the bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive Bids.

2.21.1 If a bid is not complete, it will be rejected by the Employer and may not subsequently be made responsive/complete by correction or withdrawal of the non-conforming deviation or reservation.

2.22 CORRECTION OF ERRORS

2.22.1 Bids determined to be complete will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:

Where there is a discrepancy between the amounts in figures and in words the amount in words will govern; and

Where there is a discrepancy between the unit rate and the line item total, resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern.

2.22.2 The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the bidder, shall be considered as binding upon the bidder. If bidder does not accept the corrected amount of Bid, his Bid will be rejected, and the Bid Security may be forfeited.

2.23 EVALUATION AND COMPARISON OF BIDS

2.23.1 The Employer shall evaluate and compare the Bids which are determined to be substantially responsive.

2.23.2 In evaluating the Bids, the Employer shall determine for each Bid, the Evaluated Bid Price by adjusting the Bid Price as follows:-

Making any correction for errors or

Making an appropriate adjustment for any other discounts or other price modifications offered.

2.23.3 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Employer, shall not be taken into account in Bid evaluation.

2.23.4 The estimated effect of the price adjustment conditions of the General Conditions of Contract, applied over the period of performance of the Contract, shall not be taken into account in Bid evaluation.

2.23.5 If the Bid of the successful bidder is seriously unbalanced in relation to the Employer's estimate of the cost of work to be performed under the Contract, the Employer may require the bidder to produce detailed price analysis for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed.

2.24 AWARD OF CONTRACT

The Employer will award the Contract to the bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid Price.

2.25 EMPLOYERS' RIGHT TO ACCEPT ANY BID AND TO REJECT ANY OR ALL BIDS

The Employer does not bind himself to accept the lowest tender and reserves the right to accept or reject any Bid and to cancel the bidding process and reject all Bids, at any time prior to the award of Contract, without thereby incurring any liability to the

affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the Employer's action.

2.26 NOTIFICATION OF AWARD AND SIGNING OF AGREEMENT

- 2.26.1 The bidder whose Bid has been accepted will be notified of the award by the Employer, prior to expiry of the Bid Validity period by facsimile, confirmed by registered letter. This letter (hereinafter and in the General Conditions of Contract called the "Letter of Acceptance") will specify the sum that the Employer will pay for the completion of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 2.26.2 The notification of award will constitute the formation of the Contract.
- 2.26.3 On acceptance of the tender, the successful tenderer shall inform the Project Director/Employer, the name of the person/representative responsible for taking the instructions from the Project Director or his authorized representative.
- 2.26.4 The Agreement will incorporate all agreements between the Employer and the successful bidder. It will be signed by the Employer and sent to the successful bidder within 10 days (ten) following the notification of award along with the Letter of Acceptance. Within 10 days (ten) of receipt, the successful bidder will sign the Agreement and complete all the related formalities & deliver it to the Employer.
- 2.26.5 After the award of work to the successful bidder and signing of the Agreement, the Employer will promptly notify the other bidders that their Bids have been unsuccessful and their EMD shall be returned accordingly.

-END OF SECTION 2-

SECTION - 3**Tender No.: TCIL/05/527/253/2010/ACD/Jaisalmer-III****01.02.2011****GENERAL (COMMERCIAL) CONDITIONS OF THE CONTRACT****3.1 DEFINITIONS AND INTERPRETATIONS****3.1.1 Definitions**

In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them except where the Contract otherwise requires:

- (a) “Owner” shall be the nodal agency appointed by Govt. of Rajasthan i.e. Rajasthan Urban Infrastructure Finance Development Corporation (RUIFDCO) in this case
- (b) “Employer” shall mean Telecommunication Consultants India Limited i.e. TCIL.
- (c) “Project Director/Engineer-in-charge / Engineer shall mean the officer/ agency appointed by Employer for the purpose.
- (d) “Contractor / Agency” shall mean the tenderer selected by the Employer for the performance of the work and shall include the successors and permitted assigns of the Contractor.
- (e) “Contract” means the Conditions i.e General and special conditions, the technical Specifications, the Drawings, the Bill of Quantities, the Bid, the Letter of Acceptance, the Contract Agreement and such further documents as may be expressly incorporated in the Letter of Acceptance or Contract Agreement.
- (f) “Specifications” means the relevant specification of the Works included in the Contract and any modification thereof or addition thereto as approved by the Employer on behalf of owner.
- (g) “Drawings” means all Drawings, calculations and technical information provided by the Employer to the Contractor under the Contract and all Drawings, calculations, samples, patterns, models, operation and maintenance manuals and other technical information of a like nature submitted by the contractor and approved by the Employer on behalf of the Owner.
- (h) The term ‘SOR’ or price bid means the schedule of rates as mentioned in falling under detailed notice inviting tender of the main contract.

- (i) “Tender/Bid” means the Contractor’s priced offer to the Employer for the performance and completion of the Works and remedying of any defects therein in accordance with the provisions of the Contract, as accepted by the Letter of Acceptance. The word Tender is synonymous with “Bid” and the words “Tender Documents” with “Bidding Documents”.
- (j) “Works” means the Permanent Works and the Temporary Works or either of them as appropriate.
- (k) “Letter of Intent” shall mean intimation by a letter/fax of intent that the tender has been accepted in accordance with the provisions contained in the said letter/fax.
- (l) “Letter of Acceptance” means the formal acceptance by the Employer.
- (m) “Contract Price” means the sum stated in the Letter of Acceptance as payable to the Contractor for performance and completion of the Works and remedying of any defects therein in accordance with the provision of the Contract.
- (n) “Cost” means all expenditure properly incurred or to be incurred, whether on or off the Site, including overhead and other charges properly allowable thereon but does not include any allowance for profit.
- (o) “Day” means a day of 24 hours from midnight to midnight irrespective of the number of hours worked in that day.
- (p) “Working Day” means any day, which is not declared to be holiday or rest day by the Employer.
- (q) “Week” means a period of any consecutive seven days.
- (r) “Writing” means any hand - written, or printed / typed communication, including fax.
- (s) “Headings” in the clauses/conditions of tender document is for the convenience only and shall not be used for interpretation of the clause/condition.

3.1.2 Language for all the Drawings, titles, notes, communications, instructions, dimensions, etc. shall be English only.

3.2 Headings and Marginal Notes

The headings and marginal notes in these conditions are indicative only and shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof or of the Contract.

3.3 Interpretation

Words imparting persons or parties shall include firms and corporations and any organization having legal capacity.

3.4 Singular and Plural

Words imparting the singular only also include the plural and vice versa where the context so requires.

3.5 Notices, Consents, Approvals, Certificates and Determinations

Wherever in the Contract , provision is made for giving or issue of any notice, consent, certificate or determination by any person, unless otherwise specified such notice, consent, approval, certificate or determination shall be in writing and the words ‘notify’, ‘certify’ or ‘determine’ shall be construed accordingly.

3.6 Scope of Work

It is as per the specifications, bill of quantities and the drawings/instructions issued from time to time. The drawings attached may not be the final drawings. The work is to be performed as per the specifications /directives from time to time by the Project Director.

3.7 PROJECT DIRECTORS AND PROJECT DIRECTOR’S REPRESENTATIVE

3.7.1 Project Director’s Duties and Authority

Project Director appointed by TCIL reserves the right in checking / tests checking of the operation of the contract in respect of quality, testing, and measurement of Works either directly or through a separate agency or both.

- (a) The Project Director may exercise the authority specified in or necessarily to be implied from the Contract and is not required to obtain the specific approval of the Employer before exercising any such authority. Provided further that any requisite approval shall be deemed to have been given by the Employer for any such authority exercised by the Project Director.

3.7.2 Project Director’s Representative

The Project Director's Representative shall be appointed by and be responsible to the Project Director and shall carry out such duties and exercise such authority as may be delegated to him by the Project Director.

3.7.3 Project Director's Authority to Delegate

The Project Director may from time to time delegate to his Representative any/all of the duties and authorities vested in the Project Director and he may at any time revoke such delegation. Any such delegation or revocation shall be in writing and shall not take effect until a copy thereof has been delivered to the Contractor.

Any communication given by Project Director's Representative to the Contractor in accordance with such delegation shall have the same effect as though it had been given by the Project Director, provided that;

- (a) any failure of the Project Director's Representative to disapprove any work, materials or Plant shall not prejudice the authority of the Project Director to disapprove such work, materials or Plant and to give instructions for the rectification thereof; and
- (b) if the Contractor questions any communication of the Project Director's Representative he may refer the matter to the Project Director who shall confirm, reverse or vary the contents of such communication.

3.7.4 Appointment of Assistants

The Project Director or his Representative may appoint any number of persons to assist him in carrying out of his duties. He shall notify to the Contractor the names and duties of such persons. Such assistants shall have no authority to issue any instructions to the Contractor save in so far as such instructions may be necessary to enable them to carry out their duties and to secure their acceptance of materials, Plant or workmanship as being in accordance with the Contract, and any instructions given by any of them for those purposes shall be deemed to have been given by the Project Director's Representative.

3.7.5 Instructions in Writing

Instructions given by the Project Director shall be in writing, provided that if for any reason the Project Director considers it necessary to give any such instruction orally, the Contractor shall comply with such instruction. Confirmation in writing of such oral instruction given by the Project Director, whether before or after carrying out of the instruction, shall be deemed to be an instruction within the meaning of this Sub-Clause. Provided further that if the Contractor, within 5 days, confirms in writing to the Project Director any oral instruction of the Project Director and such confirmation is not contradicted in writing within 7 days by the Project Director, it shall be deemed to be an instruction of the Project Director.

The provisions of this Sub-Clause shall equally apply to instructions given by the Project Director's Representative and any Assistant of the Project Director or the Project Director's Representative appointed pursuant to Sub-Clause 3.7.4.

3.7.6 Project Director to Act Impartially

Wherever, under the Contract, the Project Director is required to exercise his discretion by;

- (a) giving his decision, opinion or consent, or
- (b) expressing his satisfaction or approval, or
- (c) determining value, or
- (d) otherwise taking action, which may affect the rights and obligations of the Employer or the Contractor,

He shall exercise such discretion impartially within the terms of the Contract and having regard to all the circumstances. Any such decision, opinion, consent, expression of satisfaction, approval, determination of value or action may be opened up, reviewed or revised as provided in Clause 3.7.

3.8 CONTRACT DOCUMENTS

3.8.1 Language and Law

- (a) The language in which the Contract documents shall be drawn up is English.
- (b) The country, the law of which shall apply to the Contract and according to which the Contract shall be construed is India. For any dispute the jurisdiction of the court shall be the High Court of Delhi

3.8.2 Priority of Contract Documents

The several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the Project Director who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows:

- (a) The Contract Agreement ;
- (b) The Letter of Acceptance;
- (c) The Tender;
- (d) Special Conditions;
- (e) Priced Bill of Quantities;

- (f) Specifications;
- (g) General Conditions;
- (h) Drawings;
- (i) Any other document forming part of the Contract.

3.8.3 Custody and Supply of Drawings and Documents

The Drawings shall remain in the sole custody of the Project Director, but **two copies** thereof shall be provided to the Contractor free of charge. The Contractor shall make at his own cost any further copies required by him. Unless it is strictly necessary for the purpose of the Contract, the Drawings, Specifications and other documents provided by the Employer or the Project Director shall not, without the consent of the Project Director, be used or communicated to a third party by the Contractor. Upon issue of Defects Liability Completion Certificate, the Contractor shall return to the Project Director all Drawings, Specifications, and other documents provided under the Contract.

One copy of the specifications provided to the Contractor shall be kept by the Contractor on the Site and the same shall at all reasonable times be available for inspection and use by the Project Director and any other person authorized by the Project Director in writing.

3.8.4 Disruption of Progress

The Contractor shall give notice to the Project Director, whenever survey works is likely to be delayed or disrupted unless any further instruction is issued by the Project Director within a reasonable time. The notice shall include details of the instruction required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.

If, by reason of any failure or inability of the Project Director to issue, within a time reasonable under the circumstances, any instruction for which notice has been given by the Contractor in accordance with this Sub-Clause, the Contractor suffers delay, then the Project Director shall, determine any extension of time to which the Contractor is entitled.

If the failure or inability of the Project Director to issue instructions is caused in whole or in part by the failure of the Contractor to submit Drawings, Specifications or other documents which he is required to submit under the Contract, the Project Director shall take such failure by the Contractor into account when making his determination for extension of time.

3.8.5 Supplementary Instructions

The Project Director shall have the authority to issue to the Contractor, from time to time, such supplementary instructions as shall be necessary for the purpose of proper and adequate performance and completion of the Works and remedying of any defects therein. The Contractor shall carry out and be bound by the same.

3.9 GENERAL OBLIGATIONS

3.9.1 Contractor's General Responsibilities

The Contractor shall, with due care and diligence (to the extent provided for by the Contract), perform and complete the Works and remedy any defects therein in accordance with the provisions of the Contract. The Contractor shall provide all superintendence, labor, materials, Equipment and all other things, whether of temporary or permanent nature, required in and for such remedying of any defects, so far as the necessity for providing the same is specified in or is reasonably to be inferred from the Contract. The Contractor shall promptly notify the Project Director of any error, omission, fault or any other defect in the specifications for the Works which he discovers when reviewing the Contract documents or in the process of performance of the Works.

The Contractor shall take the full responsibility for the adequacy, stability and safety of all Site operations and methods of survey, provided that the Contractor shall not be responsible (except as stated hereunder or as may be otherwise agreed) for the design or specification of Works, not prepared by the Contractor. Where the Contract expressly provides that part of the Works shall be designed by the Contractor, he shall be fully responsible for that part of Works, notwithstanding any approval by the Owner / Project Director.

In the event the Contractor defaults in any of the obligations mentioned in the Contract, the Project Director / Employer reserves the right to fulfill the same at the risk and cost of the Contractor.

3.9.2 Contract Agreement

The Contract Agreement shall be prepared and completed in the form annexed to these Conditions with such modifications as may be necessary.

3.9.3 Inspection of Site

The Contractor shall be deemed to have inspected and examined the Site and its surroundings and collected information available in connection therewith and to have satisfied himself (so far as is practicable, having regard to considerations of cost and time) before submitting his Bid, as to:

- (a) the form and nature thereof, including the sub-surface conditions,
- (b) the hydrological and climatic conditions,

- (c) the extent and nature of work and materials necessary for the performance and completion of the Works and remedying of any defects therein, and
- (d) the means of access to the Site and the accommodation he may require.

And in general, shall be deemed to have obtained all necessary information as above mentioned, as to risks, contingencies and all other circumstances which may influence or affect his Bid.

3.9.4 Sufficiency of Tender

The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the tender and of the rates and prices stated in the Bill of Quantities, all of which shall, except in so far as it is otherwise provided in the Contract, cover all his obligations under the Contract (including those in respect of the supply of goods, materials, Plant or services) and all matters and things necessary for the proper performance and completion of the Works and remedying of any defects therein.

The rate quoted against each item of work shall be for the complete finished item of work and shall be inclusive of all taxes, duties, levies, Works Contract / turnover tax /service tax etc. and all costs and expenses which may be required in and for performance and full protection of the work as described together with all general risks / liabilities and obligations set forth or implied in the documents on which the tender is based.

The rates quoted against each item in the Schedule of Quantities shall be deemed to cater for all minor constructional details which are not specifically mentioned, but are fairly and obviously intended and are essential for the full and final completion of the Works and the Contractor is not entitled to make any extra claim on this account.

3.9.5 Work to be in Accordance with Contract

Unless it is legally or physically impossible, the Contractor shall perform and complete the Works and remedy any defects therein in strict accordance with the Contract to the satisfaction of the Owner / Project Director. The Contractor shall comply with and adhere strictly to the Project Director's instructions on any matter, whether mentioned in the Contract or not, touching or concerning the Works. The Contractor shall take instructions only from the Project Director, or from the Project Director's representative.

3.9.6 Program to be submitted

The Contractor shall, within the time stated in Annexure after the date of the Letter of Acceptance, submit to the Project Director for his consent a program in such form and detail as the Project Director shall reasonably prescribe, for the performance of the Works. The Contractor shall, whenever required by the Project Director, also provide in

writing for his information a general description of the arrangements and methods, which the Contractor proposes to adopt for the performance of the Works.

If at any time it should appear to the Project Director / Owner that the actual progress of the Works does not conform to the program to which consent has been given, the Contractor shall produce at the request of the Project Director, a revised program showing the modifications to such program necessary to ensure completion of the Works within the time for completion and shall make all necessary efforts by way of additional input of labor or material or both, as the case may be.

3.9.7 Project Director at Liberty to Object

The Project Director shall be at liberty to object to and require the Contractor to remove forthwith from the Works any person provided by the Contractor who, in the opinion of the Employer / Project Director, misconducts or is incompetent or negligent in the proper performance of his duties, or whose presence on Site is otherwise considered by the Project Director to be undesirable, and such person shall not be again allowed upon the Works without the consent of the Project Director. Any person so removed from the Works shall be replaced as soon as possible and no claim whatsoever shall be entertained on this account.

3.9.8 Setting Out

The Contractor shall be responsible for;

- (a) the accurate setting - out of the Works in relation to original points, lines and levels of reference given by the Project Director in writing,
- (b) the correctness of the position, levels, dimensions and alignment of all parts of the Works, and
- (c) The provision of all necessary instruments, appliances and labor in connection with the foregoing responsibilities.

If, at any time during the performance of the Works, any error appears in the position, levels, dimensions or alignment of any part of the Works, the Contractor, on being required to do so by the Project Director, shall at his own cost rectify such error to the satisfaction of Project Director, unless such error is based on incorrect data supplied in writing by the Project Director.

The checking of any setting – out or of any line or level by the Project Director shall not in any way relieve the Contractor of his responsibility for the accuracy thereof and the Contractor shall carefully protect and preserve all bench – marks, sight - rails, pegs and other things used in setting – out of the Works.

3.9.9 Safety, Security and Protection of the Environment

The Contractor shall, throughout the performance and completion of the Works and the remedying of any defects therein;

- (a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site (so far as the same is under his control) and the Works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons, and
- (b) provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when and where necessary or required by the Project Director or by any duly constituted authority, for the protection of the Works or for the safety and convenience of the public or others, and
- (c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods or operation.

In case of the failure on the part of the Contractor on above accounts, the consequences of the same shall be borne by the Contractor. Alternatively, the Project Director may take reasonable steps to comply with the above at the risk and cost of the Contractor.

3.9.10 Responsibility to Rectify Loss or Damage

If any loss or damage happens to the Works, or any part thereof, or materials or Plant for incorporation therein, during the period for which the Contractor is responsible for the care thereof, from any cause whatsoever, other than the risks as defined, the Contractor shall at his own cost, rectify such loss or damage so that the Works conform in every respect with the provision of the Contract to the satisfaction of the Project Director. The Contractor shall also be liable for any loss or damage to the Works occurred by him in the course of any operation carried out by him for the purpose of complying with his obligations under referenced Clauses.

3.9.11 Employer's Risks

- (a) The Employer's risks are ;
 - (i) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - (ii) rebellion, revolution, insurrection, or military or usurped power, or civil war,
 - (iii) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,

- (b) loss or damage due to the use or occupation by the Employer of any Section or part of the Works, except as may be provided for in the Contract,
- (c) Any operation of the forces of nature (insofar as it occurs on the Site) such as earthquakes, tornado, lightning and unprecedented floods etc. against which an experienced Contractor could not reasonably have been expected to take precautions.

3.9.12 Fossils

All fossils, coins, articles of value or antiquities and structures and other remains or things of geological or archaeological interest discovered on the Site of the Works shall be deemed to be absolute property of the Employer and the Contractor shall take reasonable precautions to prevent his workmen or any other person from removing or damaging any such article or thing and shall, immediately upon discovery thereof and before removal, acquaint the Project Director or Project Director's representative of such discovery and carry out the Project Directors instructions for dealing with the same.

During excavation if any underground services are noticed and the same is needed to be removed / relocated, the cost of removal / relocation shall be determined by the Project Director and reimbursed to the Contractor after getting approval of the Employee.

3.9.13 Patent Rights

The Contractor shall indemnify the Employer from and against all claims and proceedings for or on account of infringement of any patent rights, design, trademark or name or other protected right in respect of any Contractor's Equipment, materials or Plant used for or in connection with or for incorporation in the Works and from and against all damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, except where such infringement results from the compliance with the design or specification provided by the Project Director.

3.9.14 Contractor to Keep Site Clear

During the performance of the Works, the Contractor shall keep the Site reasonably free from all unnecessary obstructions and shall store or dispose of any Contractor's equipment and surplus materials and clear away and remove from the Site any wreckage, rubbish or temporary Works no longer required.

3.9.15 Clearance of Site on Completion

Before the issue of any Taking - Over Certificate, the Contractor shall clear away and remove from that part of the Site to which such Taking-Over Certificate relates all Contractor's equipment, surplus material, rubbish and temporary Works of every kind, and leave such part of the Site and Works clean and in a workmanlike condition to the

satisfaction of the Owner / Project Director, provided that the Contractor shall be entitled to retain on Site, until the end of the Defects Liability Period, such materials, Contractor's Equipment, and temporary Works as are required by him for the purpose of fulfilling his obligations during the Defects Liability Period.

3.9.16 Labor

The Contractor shall make his own arrangements for the engagement of all labor, local or other.

The Contractor shall, if required by the Project Director, deliver to the Project Director's representative, or at his office, a return in detail in such form and at such intervals as the Project Director may prescribe showing the supervisory staff and the number of the several classes of labor from time to time employed by the Contractor on the Site and such information respecting constructional Plant as the Project Director's Representative may require.

The Contractor shall file all labor returns in detail to the respective authorities / statutory bodies as prescribed under law applicable at the work Site and inform the Employer / Project Director with copies of such returns directly filed.

The Contractor shall abide by the local laws and regulations governing labor applicable from time to time. During continuance of the Contract, the Contractor shall abide at all times by all existing labor enactments and rules made there under, regulations, notifications and by-laws of State or Central Government or local authority, and any other labor law (including rules), regulations, by-laws that may be passed or notification that may be issued under any labor law in future either by the State or the Central Government or the local authority. Salient features of some of the major labor laws that are applicable to construction industry are given hereafter. The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of the contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary to cause or observe, or for non observance of the provisions stipulated in the notifications in the amendments / by- laws / acts / rules / regulations / including amendments, if any, on the part of the Contractor, the Project Director / Employer shall have the right to deduct any amount due to the Contractor. The Employer / Project Director shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered/likely to be suffered by the Employer.

The employees of the Contractor and the Sub - Contractors in no case shall be treated as the Employees of the Employer at any point of time.

Salient features of some of the major labor laws applicable to establishments engaged in building and other construction Works are as given below:

(a) Workmen Compensation Act, 1923

The Act provides for compensation in case of injury by accident arising out of and during the course of employment.

(b) Payment of Gratuity Act, 1972

Gratuity is payable to the employee under the Act on satisfaction of certain conditions on separation if an employee has completed 5 years service or more or on death at the rate of 15 days wages for every completed year of service. The Act is applicable to all establishments employing 10 or more employees.

(c) Employees P. F. and Miscellaneous Provision Act, 1952

The Act provides for monthly contributions by the Employer plus workers @ 10% or 8.33%. The benefits payable under the Act are:

- i) Pension or family pension on retirement or death as the case may be.
- ii) Deposit linked insurance on the death in harness of the worker.
- iii) Payment of P. F. accumulation on retirement /death etc.

(d) Maternity Benefit Act, 1951

The Act provides for leave and some other benefits to women employees in case of confinement or miscarriage etc.

(e) Contract Labor (Regulation & Abolition) Act, 1970

The Act provides for certain welfare measures to be provided by the Contractor to contract labor and in case the Contractor fails to provide, the same are required to be provided by the Principal Employer by Law. The Principal Employer is required to take certificate of registration and the Contractor is required to take a license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if the employer employs 20 or more contract labor.

(f) Minimum Wages Act, 1948

The Employer is supposed to pay not less than the Minimum Wages fixed by appropriate Government as per provision of the Act if the employment is a scheduled employment. Construction of Buildings, Roads, and Runways are scheduled employments.

(g) Payment of Wages Act, 1936

It lies down as to by what date the wages are to be paid, when it will be paid, and what deductions can be made from the wages of the workers.

(h) Equal Remuneration Act, 1979

The Act provides for payment of equal wages for work of equal nature to Male and Female workers and for not making discrimination against Female employees in the matters of transfers, training and promotions etc.

(i) Payment of Bonus Act, 1965

The Act is applicable to all establishments employing 20 or more workmen. The Act provides for payment of annual bonus subject to a minimum of 8.33% of the wages and maximum of 20% of wages to employees Drawing Rs 3500/- P.M. or less. The Bonus to be paid to employees getting Rs 2500/- P.M. or above upto Rs. 3500/- P.M. shall be worked out by taking wages as Rs 2500/- per month only. The Act does not apply to certain establishments. The newly setup establishments are exempt for five years in certain circumstances. Some of the State Governments have reduced the employment size from 20 to 10 for the purpose of applicability of the Act.

(j) Industrial Disputes Act, 1947

The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lock out becomes illegal and what are the requirements for laying off or retrenching the Employees or closing down the establishment.

(k) Industrial Employment (Standing Orders) Act, 1946

It is applicable to all establishments employing 100 or more workmen (employment size reduced by some of the States and Central Government to 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and get the same certified by the designated Authority.

(l) Trade Unions Act, 1926

The Act lays down the procedure for registration of trade unions of workmen and Employers. The trade unions registered under the Act have been given certain immunities from civil and criminal liabilities.

(m) Child Labor (Prohibition & Regulation) Act, 1986

The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulation of employment of

children in all other occupations and processes. Employment of Child Labor is prohibited in Building and Construction Industry.

- (n) Inter - State Migrant Workmen's (Regulation of Employment & Conditions of Service) Act, 1979

The Act is applicable to an establishment which employs 5 or more inter - state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment in another state). The inter - state migrant workmen, in an establishment to which this act becomes applicable, are required to be provided certain facilities such as housing, medical aid, traveling expenses from home upto the establishment and back, etc.

- (o) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act, 1996

All the establishments who carry on any building or other construction work and employs 10 or more workers are covered under this Act. All such establishments are required to pay cess at rate not exceeding 2% of the cost of construction as may be notified by the Government. The Employer of the establishment is required to provide safety measures at the building or construction work and other welfare measures, such as Canteens, First - aid facilities, Ambulance, Housing accommodation for workers etc. The employer to whom the Act applies has to obtain a registration certificate from the Registering officer appointed by the Government.

However the Contractor shall follow various acts with latest amendments.

3.10 Details to be Confidential

The Contractor shall treat the details of the Contract as private and confidential, save insofar as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer or the Project Director. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the decision of the Employer whose award shall be final.

3.11 Drawings and Photographs of the Works

The Contractor shall not disclose details of Drawings furnished to him and Works on which he is engaged without the prior approval of the Project Director in writing. No photographs of the Works or any part thereof or Plant employed thereon shall be taken or permitted by the Contractor to be taken by any of his employees without the prior approval of the Project Director in writing and no such photographs shall be published or otherwise circulated without the approval of the Project Director in writing.

3.12 The Apprentices Act, 1961

The Contractor shall duly comply with the provisions of the latest Apprentices Act, the rules made there under and the orders that may be issued from time to time under the said Act and the said rules and on his failure or neglect to do so, he shall be subject to all liabilities and penalties provided by the said Act and the said rules.

3.13 Inspection of Operations

The Employer/Project Director, and any person authorized by him, shall at all reasonable times have access to the Site and to all Workshops and places where materials or Plant are being manufactured, fabricated or prepared for the Works and the Contractor shall afford every facility for and every assistance in obtaining the right to such access.

3.14 SUSPENSION OF WORK

3.14.1 Suspension of Work

The Contractor shall, on the instructions of Project Director suspend the progress of the Works or any part thereof for such time and in such manner as the Project Director may consider necessary and shall, during such suspension, properly protect and secure the Works or such part thereof so far as is necessary in the opinion of the Project Director. Unless such suspension is:

- (a) otherwise provided for in the Contract, or
- (b) necessary by reason of some default of or breach of Contract by the Contractor for which he is responsible, or
- (c) Necessary for the proper performance of the Works or for the safety of the Works or any part thereof save to the extent that such necessity arises from any act or default by the Project Director or the Employer or from any of the risks defined in referenced clauses will apply.

3.14.2 Project Director's Determination Following Suspension

Where, pursuant to Sub-Clause 3.14.1, this Sub-Clause applies, the Project Director shall, after due consultation with the owner and the Contractor, determine any extension of time to which the Contractor is entitled under Sub – Clause 3.15.4.

3.15 COMMENCEMENT AND DELAYS

3.15.1 Commencement of Works

The Contractor shall commence the Works within the period specified in the tender after the receipt by him of an order in writing to this effect from the Project Director and shall proceed with the Works with due expedition and without delay except as may be expressly sanctioned or ordered by the Project Director or be wholly beyond the Contractor's control.

3.15.2 Possession of Site

The project Director will give to the Contractor possession of so much of the Site as may be required to enable the Contractor to commence and proceed with the construction of the Works in accordance with the program if any, and otherwise in accordance with such reasonable proposals of the Contractor as he shall by giving notice in writing to the Project Director. The Project Director will from time to time as the Works proceed, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the performance of the Works with due dispatch in accordance with the said program or proposals, as the case may be.

If the Contractor suffers delay from failure on the part of the Employer to give possession in accordance with the terms of this Clause the Project Director shall on the request of the Contractor grant an extension of time for the completion of the Works after taking due approval from the Employer.

3.15.3 **Time for Completion**

The whole of the Works and, if applicable, any Section required to be completed within a particular time as stated in the Bid, shall be completed within the time stated for completion of the whole of the Works or the Section, calculated from the Commencement Date, or such extended time as may be allowed.

3.15.4 **Extension of Time for Completion**

In the event of

- (a) the amount or nature of extra or additional work, or
- (b) any cause of delay referred to in these Conditions, or
- (c) exceptionally adverse climatic conditions, or
- (d) any delay, impediment or prevention by the Employer, or
- (e) other special circumstances which may occur, other than through a default of or breach of Contract by the Contractor or for which he is responsible,

being such as fairly to entitle the Contractor to extension of time for completion of the Works or any Section or part thereof, the Project Director shall after due approval of the

Employer, determine the period of such extension and shall notify the Contractor in writing accordingly, with a copy to Employer. **No extension of time shall be admissible on account of rains.**

Provided further that the Project Director is not bound to make any determination unless the Contractor has

- (a) within 7 days after such event has arisen notified the Project Director, and
- (b) within 7 days, or such other reasonable time as may be agreed by the Project Director, after such notification submitted to the Project Director detailed particulars of any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time.

The contractor may be given provisional time of extension till the time extension case is finally approved.

3.15.5 **Penalty for Delay**

If the Contractor fails to comply with the time for completion, then the Contractor shall pay to the Employer the relevant sum as penalty for such default in the manner as follows:

Overall penalty shall be levied at the rate of 2% per week of delay from the stipulated date of completion. The total amount of penalty shall not exceed 10% (ten percent) of the contract value as per the agreement. The amount so deducted from RA bill(s) as mentioned in (a) above, shall finally be adjusted while calculating the overall delay in completion of the work.

The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due or to become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the Works, or from any other of his obligations and liabilities under the Contract.

If the intended completion date is extended after penalty have been paid, after accounting for the valid grounds for the extension of time, if any, the amount so deducted as penalty shall be returned.

3.16 **DEFECTS LIABILITY**

3.16.1 **Defects Liability Period**

In the conditions the expression "Defects Liability Period" shall mean the defects liability period named in the Section - 1 attached, calculated from the date of completion of whole of Works and not the Sections certified by the Project Director.

During the entire Defects Liability Period, the Contractor is required to maintain the minimum work force to be determined by the Project Director.

If contractor fails to rectify the defects with in 7 days from the date of written information to him then in that case the defects shall be rectified at the risk and cost of contractor.

3.16.2 Contractor's Failure to Carry Out Instructions

In case of default on the part of the Contractor in carrying out such instruction within a reasonable time, the Project Director shall be entitled to employ and pay other persons to carry out the same and if such work is work which, in the opinion of the Project Director, the Contractor was liable to do at his own cost under the Contract, then all costs consequent thereon or incidental thereto shall, after due consultation with the Contractor, be determined by the Project Director and shall be recoverable from the Contractor by the Project Director, and may be deducted by the Employer from any monies due or to become due to the Contractor and the Project Director shall notify the Contractor accordingly, with a copy to the Employer.

3.17 CONTRACTOR TO SEARCH

3.17.1 Contractor to Search

If any defects, shrinkage or other fault in the Works appears at any time prior to the end of the Defects Liability Period, the Project Director may instruct the Contractor, to search under the directions of the Project Director for the cause thereof. If such defect, shrinkage or other fault is one for which the Contractor is liable, the cost of the work carried out in searching as aforesaid shall be borne by the Contractor and he shall in such case remedy such defect, shrinkage or other fault at his own cost in accordance with the provisions of referenced clause.

3.18 ALTERATIONS, ADDITIONS AND OMISSIONS

3.18.1 Variations

The Project Director shall have power:

- (a) to make alteration in, omissions from, additions to, or substitutions for the original specifications, Drawings, designs and instructions that may appear to him to be necessary or advisable during the progress of the work, and
- (b) to omit a part of the Works in case of non availability of a portion of a Site or for any other reasons and the Contractor shall be bound to carry out the Works in accordance with any instruction given to him in writing signed by the Project

Director and such alterations, omissions, additions or substituted work which the Contractor may be directed to do in the manner specified above on the same conditions in all respects including price on which he agreed to do the main work except as hereafter provided.

The time for completion of Works shall, in the event of any deviations resulting in additional cost over the tendered value sum being ordered, be extended, if requested by the Contractor, in the proportion, which the additional cost of the altered, additional or substituted work, bears to the original tendered value.

3.18.2 Valuation of Variations

Rates for such altered, additional or substituted work shall be determined by the Project Director as follows:

- (a) If the rate for which altered, additional or substituted item of work is specified in the Schedule of Quantities, the Contractor shall carry out the altered, additional or substituted items at the same rate. In the case of composite tenders, when two or more Schedules of Quantities may form part of the Contract, the applicable rate shall be taken from the schedule of quantities of that particular part in which the deviation is involved, failing that at lowest applicable rate for the same item of work in the other Schedules of Quantities.
- (b) If the rate for any altered, additional, or substituted item of work is not specified in the Schedules of Quantities, the rate for that item shall be derived from the rate for the nearest similar item specified therein. In case of composite tender where two or more schedule of quantities form part of the Contract, the rate shall be derived from the nearest similar item in the Schedules of Quantities of the particular part of the Works in which the deviation is involved failing that from the lowest of the nearest similar items in other Schedules of Quantities.
- (c) If the rate for any altered, additional or substituted item of work cannot be determined in the manner specified in sub-Para (a) & (b) above, the Contractor shall within 15 days of the date of receipt of the order to carry out the said work, inform the Project Director of the rate which he proposes to claim for such item of work, supported by analysis of the rate claimed, and the Project Director shall, within two months thereafter, after giving due consideration to the rate claimed by the Contractor, determine the rate on the basis of market rate(s). In the event of the Contractor failing to inform the Project Director within the stipulated period of time, the rate which he proposes to claim, the rate for such item shall be determined by the Project Director on the basis of rate analysis plus 10% for profits & overhead. The rates for analysis shall be BSR basic rate plus enhancement / market rate whichever is lower. The enhancement shall be worked out on the basis of wholesale price index. Market rates shall be determined by a committee, constituted by employer to rightly ascertain such

rates. As far as possible, the rate analysis shall be based on the standard data book and the current schedule of rates of the district public works division. The decision of the Employer on the rate so determined shall be final and binding on the Contractor. Any additional / substituted item if is available in the BSR then it will be paid on the rate of the prospective BSR of the year + approved tender premium, on which the schedule has been prepared.

3.18.3 Escalation

The rates shall remain firm during the period of contract and **no escalation shall be Paid.**

3.19 MEASUREMENT

Measurements of Work Done

The Project Director shall, except as otherwise provided, ascertain and determine by measurement the value of work done in accordance with the Contract.

The measurement of all items having financial value shall be entered in Measurement Books and/or Level Field book so that a complete record is obtained of all Works performed under the Contract.

All measurements and levels shall be taken by the Project Director or his authorized representative along with Contractor from time to time during the progress of the work and such measurements shall be signed and dated by the Project Director and countersigned by the Contractor or their representatives in token of their acceptance. If the Contractor objects to any of the measurements recorded, a note shall be made to that effect with reason and signed by both the parties.

If for any reason, the Contractor or his representative is not available and the work of recording measurements is suspended by the Project Director or his representative, the Project Director shall not entertain any claim from the Contractor for any loss or damages on this account. If the Contractor or his authorized representative does not remain present at the time of such measurements after the Contractor or his authorized representative has been given notice in writing three (3) days in advance or fails to countersign or to record objection within a week from the date of the measurement, then such measurements recorded in his absence by the Project Director or his representative shall be deemed to be accepted by the Contractor.

The Contractor shall, without extra charge, provide all assistance with every appliance, labor and other things necessary for measurements and recording levels.

Except where any general or detailed description of the work expressly shows to the contrary, measurements shall be taken in accordance with the procedure set forth in the specifications notwithstanding any provisions in the relevant Indian Standard Method of measurement or any general or local custom. In the case of items which are not covered by specifications, measurement shall be taken in accordance with relevant standard method of measurement issued by the Bureau of Indian Standards and if for any item no such standard is available then a mutually agreed method shall be followed.

The Contractor shall give not less than seven days notice to the Project Director or his authorized representative in charge of the work before covering up or otherwise placing beyond the reach of measurement any work in order that the same may be measured and correct dimensions thereof be taken before the same is covered up or placed beyond the reach of measurement and shall not cover up and place beyond the reach of measurement any work without consent in writing of the Project Director or his authorized representative in charge of the work who shall within the aforesaid period of seven days inspect the work, and if any work shall be covered up or placed beyond the reach of measurements without such notice having been given or the Project Director's consent being obtained in writing the same shall be uncovered at the Contractor's expense, or in default thereof no payment or allowance shall be made for such work or the materials with which the same was performed.

Project Director or his authorized representative may cause either themselves or through another officer of the TCIL to check the measurements recorded jointly or otherwise as aforesaid and all provisions stipulated herein above shall be applicable to such checking of measurements or levels.

It is also a term of this Contract that recording of measurements of any items of work in the Measurement Book and / or its payment in the interim, on account or final bill shall not be considered as conclusive evidence as to the sufficiency of any work or material to which it relates nor shall it relieve the Contractor from liabilities from any over measurement or defects noticed till completion of the Defects Liability Period.

3.20 SUB-LETTING OF WORKS

3.20.1 The Contractor may subcontract part of the construction work with the approval of the Employer in writing, up to 25 percent of the contract price but will not assign the Contract Subcontracting shall not alter the Contractor's obligations.

3.20.2 The Contractor shall not be required to obtain any consent from the Employer for:

- a. the sub-contracting of any part of the Works for which the Sub-Contractor is named in the Contract;
- b. the provision for labor, or labor component.

- c. the purchase of Materials which are in accordance with the standards specified in the Contract.

3.20.3 Beyond what has been stated in clauses 3.20.1 & 3.20.2, if the Contractor proposes sub-contracting any part of the work during execution of the Works, because of some unforeseen circumstances to enable him to complete the Works as per terms of the Contract, the Employer will consider the following before according approval:

- a) The Contractor shall not sub-contract the whole of the Works.
- b) The Contractor shall not sub-contract any part of the Work without prior consent of the Employer. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any his sub-Contractor, his agents or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents and workmen.

3.20.4 The Project Director should satisfy himself before recommending to the Employer whether

- a) The circumstances warrant such sub-contracting; and
- b) The sub-Contractor so proposed for the Work possess the experience, qualifications and equipment necessary for the job proposed to be entrusted to him in proportion to the quantum of Works to be sub-contracted.

3.21 Failure to Comply with Project Director's Decision

Where neither the Employer nor the Contractor has given notice of intention to commence arbitration of a dispute within the period stated in relevant clause and the related decision has become final and binding, either party may, if the other party fails to comply with such decision, and without prejudice to any other rights it may have, refer the failure to arbitration in accordance with the referenced clause.

3.22 NOTICES

3.22.1 Notice to Contractor

All the certificates, notices or instructions to be given to the Contractor by the Project Director under the terms of the Contract shall be sent by post or facsimile transmission to or left at the Contractor's principal place of business or such other address as the Contractor shall nominate for that purpose.

3.22.2 Notice to Project Director

Any notice to be given to the Employer or to the Project Director under the terms of the Contract shall be sent by post or facsimile transmission to or left at the respective address nominated for that.

3.22.2 Change of Address

Both parties may change a nominated address to another address in the country where the Works are being performed by prior notice to the other party, with a copy to the Project Director, and the Project Director may do so by prior notice to both parties.

3.22.3 CHANGES IN COST AND LEGISLATION

3.23.1 Increase or Decrease of Cost

The rates quoted by the contractor are firm and no escalation is payable on account of any increase in the prices of commodities , POL ,labor or any statutory obligation during the agreed or extended contract duration.

3.23.2 Subsequent Legislation

If during the concurrency of the contract there occur changes to any National or State Statue, Ordinance, Decree or other Law or any regulation or bye-law of any local or other duly constituted authority, or the introduction of any such State Statue, Ordinance , Decree, Law, regulation or bye-law which causes reduced cost to the Contractor, in the performance of the Contract, such reduction in cost shall, be determined by the Project Director and shall be deducted from the Contract Price and the Project Director shall notify the Contractor accordingly, with a copy to the Employer.

3.23.3 Other Changes in Cost

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other `Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

3.23.4 Taxation

The Price Bid by the Contractor shall include all custom duties, import duties, business taxes, income and other taxes that may be levied from time to time during the performance of the work awarded on the Contractor's Equipment, Plant, materials and supplies (permanent, temporary and consumable) acquired for the purpose of the Contract and on the services performed under the Contract. Nothing in the Contract shall relieve the Contractor from his responsibility to pay that may be levied in the Employer's country on profits made by him in respect of the Contract.

3.23.5 HEALTH AND SANITARY ARRANGEMENT FOR WORKERS

In respect of all labor directly or indirectly employed in the Works for the performance of the Contractor's part of this Agreement, the Contractor shall comply with or cause to be complied with all the rules and regulations of the local sanitary and other authorities or as framed by the Owner from time to time for the protection of health and sanitary arrangements for all workers.

The Contractor shall provide in the labor colony all amenities such as electricity, water and other sanitary and health arrangements. The Contractor shall also provide necessary surface transportation to the place of work and back to the colony for their personnel accommodated in the labor colony.

3.24 ARBITRATION

In case of any dispute between the parties the same shall be refer to Chairman & Managing Director of TCIL who shall appoint a Sole Arbitrator. The parties shall not object if the Sole Arbitrator appointed is an Officer of Telecommunications Consultants India Ltd.

The provision of Indian arbitration and conciliation Act 1996 shall apply for such arbitration and the venue shall be New Delhi. The arbitration award shall be binding upon both the parties.

3.25 SAFETY CODE

3.25.1 General

Contractor shall adhere to the safe construction practice and guard against hazardous, and unsafe working conditions and shall comply with Employer's safety rules as set forth herein.

3.25.2 Safety Regulations

- (a) In respect of all labor, directly or indirectly employed in the work for the performance of Contractor's part of this Agreement, the Contractor shall at his own expenses arrange for all the safety provisions as per safety codes of Indian Standards Institution, the Electricity Act and such other acts as applicable.
- (b) The Contractor shall observe and abide by all fire and safety regulations.

3.25.3 First Aid

- (a) Contractor shall maintain adequate First Aid facilities for its employees and labor. An MBBS doctor with assisting nurses and helper should be available throughout the pendency of the Contract.
- (b) Contractor shall make outside arrangements for Ambulance service and for the treatment of injuries. Names of those providing these services shall be furnished to Employer and their telephone numbers shall be prominently posted in Contractor's field office.
- (c) All critical industrial injuries shall be reported promptly to the Employer, and a copy of the Contractor's report covering each personal injury requiring the attention of a physician shall be furnished to the Employer.

3.25.4 **General Safety**

All necessary personal safety equipment as considered adequate by the Project Director should be kept available for the use of the persons employed on the Site and maintained in condition suitable for immediate use, and the Contractor shall take adequate steps to ensure proper use of equipment by those concerned.

3.25.5 **Preservation of Peace**

The Contractor shall take requisite precautions and use his best endeavors to prevent any riotous or unlawful behavior by or amongst his workmen and others employed on the Works and for the preservation of peace and protection of the inhabitants and security of property in the neighborhood of the Work. In the event of the Employer requiring the maintenance of a Special Police Force at or in the vicinity of the Site during the tenure of Works, the expenses thereof shall be borne by the Contractor and if paid by the Employer shall be recoverable from the Contractor.

Appendix- 1 to General Condition of Contract

SALIENT FEATURES OF SOME MAJOR LABOUR LAWS APPLICABLE TO ESTABLISHMENTS ENGAGED IN BUILDING AND OTHER CONSTRUCTION WORK.

- a) Workmen Compensation Act 1923: - The Act provides for compensation in case of injury by accident arising out of and during the course of employment
- b) Payment of Gratuity Act 1972: - Gratuity is payable to an employee under the Act satisfaction of certain conditions on separation if an employee has completed the prescribed minimum years (say, Three Years) of service or more or on death the rate of prescribed minimum on days' (say, 15 days) wages for every completed year of service. The Act is applicable to all establishments employing the prescribed minimum number (say, 10) or more employees
- c) Employees P.F. and Miscellaneous Provision Act 1952: The Act Provides for monthly contributions by the Employer plus workers at the rate prescribed (say, 10% or 8.33%). The benefits payable under the Act are:
 - i. Pension or family pension on retirement or death as the case may be.
 - ii. Deposit linked insurance on the death in harness of the -worker.
 - iii. Payment of P.F. accumulation on retirement/death etc.
- d) Maternity Benefit Act 1951: - The Act provides for leave and some other benefits to women Employees in case of confinement or miscarriage etc.
- e) Contract Labor (Regulation & Abolition) Act 1970: - The Act provides for certain welfare measures to be provided by the Contractor to contract labor and in case the Contractor fails to provide, the same are required to be provided, by the Principal Employer by Law. The principal Employer is required to take Certificate of Registration and the Contractor is required to take license from the designated Officer. The Act is applicable to the establishments or Contractor of Principal Employer if they employ prescribed minimum (say 20) or more contract labor.
- f) Minimum Wages Act 1948: - The Employer is to pay not less than, the Minimum Wages fixed by appropriate Government as per provisions of the Act if the employment is a scheduled employment. Construction of buildings, building, and runways are scheduled employment.
- g) Payment of Wages Act 1936: - It lays down as to by what date the wages are to be paid, when it will be paid and what deductions can be made from the wages of the workers.

- h) Equal Remuneration Act 1979: - The Act provides for payment of equal wages for work of equal nature to male and female workers and for not making discrimination against female employees in the matters of transfers, training and promotions etc.
- j) Payment of Bonus Act 1965: - The Act is applicable to all establishments employing prescribed minimum (say, 20) or more Workmen. The Act provides for payments of annual bonus within the prescribed range of percentage of wages to employees drawing up to the prescribed amount of wages, calculated in the prescribed manner. The Act does not apply to certain establishments. The newly set-up establishments are exempted for Three Years in certain circumstances. States may have different number of employment size.
- i) Industrial Disputes Act 1947: - The Act lays down the machinery and procedure for resolution of industrial disputes, in what situations a strike or lock-out becomes illegal and what are the requirements for laying off or retrenching the employees or closing down the establishment.
- k) Industrial Employment (Standing Orders) Act 1946: - It is applicable to all establishments employing prescribed minimum (say, 100, or 50). The Act provides for laying down rules governing the conditions of employment by the Employer on matters provided in the Act and gets these certified by the designated Authority.
- l) Trade Unions Act 1926: - The Act lays down the procedure for registration of trade unions of workmen and Employers. The Trade Unions registered under the Act have been given certain immunities from civil and criminal liabilities.
- m) Child Labor (Prohibition & Regulation) Act 1986: - The Act prohibits employment of children below 14 years of age in certain occupations and processes and provides for regulations of employment of children in all other occupations and processes. Employment of child labor is prohibited in building and construction industry
- n) Interstate Migrant Workmen's (Regulation of Employment & Conditions of Service) Act 1979:- The Act is applicable to an establishment which employs prescribed minimum (say, five) or more inter-state migrant workmen through an intermediary (who has recruited workmen in one state for employment in the establishment situated in another state). The Interstate migrant workmen, in an establishment to which this Act becomes applicable, are required to be provided certain facilities such as Housing, Medical-Aid, Traveling expenses from home up to the establishment and back etc
- o) The Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 and the Cess Act of 1996: - All the establishments who carry on any building or other construction work and employs the prescribed minimum (say, 10) or more workers are covered under this Act All such establishments

are required to pay Cess at the rate not exceeding 2% of the cost of construction as may be modified by the Government. The Employer of the establishment is required to provide safety measures at the building or construction work and other welfare measures, such as canteens, first aid facilities, ambulance, housing accommodations for workers near the work place etc. The Employer to whom, the Act applies has to obtain a registration certificate from the Registering Officer appointed by the Government.

- p) Factories Act 1948: - The Act lays down the procedure for approval of plans before setting up a factory, health and safety provisions, welfare provisions, working hours, annual earned leave and rendering information regarding accidents or dangerous occurrences to designated authorities. It is applicable to premises employing the prescribed minimum (say, 10) persons or more with aid of power or another prescribed minimum (say, 20) or more persons without the aid of power engaged in manufacturing process.

Appendix- 2 to General Condition of Contract

These conditions vary and add to the Conditions of Contract set out in General and Special Conditions of contracts including appendixes:

1. (a) The use of privately owned or privately hired machinery on contractor work can only be permitted after receipts of N.A.C from Project Director, TCIL New Delhi.
 - (b) Only those private machineries either owned or privately hired will be used on works which have been approved by the Project Director, TCIL New Delhi for this purpose i.e. machineries will be registered and approved for particular use by the Project Director, TCIL New Delhi
 - (c) Each private machinery will have an authorized log book issued by the concerned Project Director along with issue certificate of machinery by the Project Director, TCIL New Delhi.
 - (d) The maintenance and upkeep of hire machinery and tools and plants shall be responsibility of the contractor.
 - (e) The Project Director, TCIL New Delhi or his representative is empowered to check all privately hired/owned machinery & report direct to this office if any under specifications machinery is being used by the contractor.
2. The contractor shall not work after the sunset and before sunrise without specific permission of the authorize Engineer, and will inform about start of work at least 3 days in advance.
 3. The contractor shall follow the contract labor (regulation) Act and rules.
 4. The Government shall have right to cause an audit and the technical examination of the work and the final bills of the contractor including all supporting vouchers abstract etc. to made available within Three Years after payment of the final bill and if as a result of such audit and technical examination any sum is found to have been over paid in respect of any work done by the contractor under the contractor any work claimed by him under the contractor and found not to be have executed the contractor shall be liable to refund the amount of over payment. Besides, it shall be lawful for the department to recover the sum from him in the manner prescribed legally permissible and if is found that the contractor, in respect of any work executed by him has not been paid the amount of such under payment shall be duly by Government to the contractor.
 5. Any material not confirming to the specification collected at site shall have to be removed by the contractor within a period of three days of the instructions issued by the

Engineer -in- Charge in writing, failing which, such material shall be removed by the department at risk and cost of the contractor after expiry of three days period.

6. The material collected at site and paid provisionally shall remain under the watch and ward of the contractor till it is consumed fully on the work.
7. No work of the permanent nature shall be carried out during nights of Sunday's or any authorized holidays without permission in writing of the Engineer-In-Charge.
8. The contractor shall arrange his own land for the erection plants, storage and parking of Machineries stacking of material etc.
9. It shall be responsibility of the contractor himself to procure earth required for construction of Embankment from nearby field after temporary acquisition at his cost.
10. The work should be got executed with the equipments, as per P.W.D. specifications. Wherein the details of the type of equipments are given for various specifications and or policy circulars on the subject issued from time to time.
11. All the amendment made in rules of Municipal Act, PWD GF & AR by the Rajasthan State Finance Department w.e.f. 1.7.99. Vide order no. P.2/3 Fin/Exp.111/99 Dated 19.3.2001 & 23-3.2001 will be applicable in this contract.
15. Before allowing lying & consolidation of WBM in building works, the full quantity of screening required for particular kilometer and particular layer be collected at site and its measurement be recorded in measurement book, duly checked. Only after then, the contractor be allowed to carryout WBM Work.
13. Guidelines prescribed by Indian Standards will applicable for Q.C.'System.
 - a. Action should be taken in respect. Of every work and every item of work inspected, wherein and observation is made.
 - b. The work or the item of work which has been reported as 'Poor' should be got re-done whereas the work or item of work which has been reported as 'Average' should be rectified
 - c. In case of works under progress all works should be of a quality which should be graded as 'Good' and in case of completed works all works should be of quality which should be graded as 'Very Good'
 - d. As per the Revised Guidelines, The works in progress which has been graded as 'Poor' or will be re - inspected to see that the necessary rectified has been carried out. Action will be taken to black list the Contractor in respect of works found 'Poor' or 'Average' on completion Action for making the work as 'Very Good' shall also be taken in respect of works classified only as 'Good' on completion.

- e. Decision given by Engineer will be binding on contractor.
- 14 The local unskilled labor should be engaged on the work and labor from outside the state would not be engaged.
- 15 The Contractor will procure cement required for the execution of work from authorized plant at his level and furnish the cement testing certificate from Government agency/Regional Laboratory/Engineering College.
- 16 The contractor will set up a Quality Control Lab for regular testing of the materials and he shall ensure that all the testing of the materials/aggregate etc. is done regularly and as per the frequency proscribed in the quality control manual/MOST specification.
- 17 Testing of cement shall be done as per norms, for which equipment shall be made available at site by contractor in a laboratory, to be established at plant site by the contractor.
- 18 The contractor will establish a field testing laboratory at the site of work & will provide all the equipment to the field staff required for various quality control tests. He will also ensure that the quality control tests as conducted are conducted and entered in the register as per the norms fixed by MOST/Quality Control Manual.
- 19 The contractor shall process license of explosives from competent authority for execution of rock cutting with blasting.

- END OF SECTION 3 -

SECTION – 4

Tender No.: TCIL/05/527/253/2010/ACD/Jaisalmer-III 01.02.2011

SPECIAL CONDITIONS OF CONTRACT

Source of Funds

The Department of Local Bodies, Rajasthan has decided to undertake the works of construction and up-gradation of Slums of the ULB through funds received under integrated Housing and Slum Development Program (IHSDP), from the Government of India, Ministry of Housing and Urban Poverty Alleviation, State Government. The project/ referred work will be executed by TCIL as construction agency appointed by ULB Govt. of Rajasthan on behalf of the owner.

The share of funds of Government of the India, State Government and ULB is 80%: 10%: 10% respectively.

MOBILISATION PERIOD AND PERIOD OF COMPLETION

A mobilization period of 7 days (Seven) shall be given for the mobilization of men, machinery/ equipments and materials at site, to be reckoned from the date of issue of Letter of Acceptance (LOA) to start the work. The Works are to be performed within a period of 12 month (Twelve) after considering the mobilization period to proceed with the works.

4.3 GENERAL

The prices Bid by the Contractor shall include all duties taxes etc. and any other taxes that may be levied in accordance with the laws and regulations in being on the date 28 days prior to the latest date of submission of Bids.

4.4 PERFORMANCE SECURITY (PS) & SECURITY DEPOSIT (SD)

The performance security amount shall be 5% of the awarded value of contract and security deposit amount shall be of 5% of the awarded value of contract. Contractor will be required to submit Performance security amount in the form of demand draft or Bank guarantee in prescribed format before the signing of agreement. The security deposit amount shall be deducted from the running account bills of the Contractor.

The earnest money deposit at the time of tender submission can be adjusted against security deposit on the request of the contractor. Contractor may also choose to submit the full amount of performance security and security deposit in the form of bank guarantee in prescribed format of TCIL

4.5 DEFECTS LIABILITY PERIOD AND RELEASE OF PERFORMANCE AND SECURITY DEPOSIT

Performance Security and security deposit deducted shall be released, after defect liability period of one year from the date of issue of certificate of completion. Contractor shall be bound to rectify any defects in their performed Works during a defect liability period. In case the Contractor fails to remedy the defects to the full satisfaction of the Project Director / Employer, the Employer shall be at liberty to forfeit the available Security amount and get the defects remedied at the risk and cost of the Contractor.

4.6 MOBILISATION OF RESOURCES

The contractor shall provide all labor, machinery, equipments/ machineries, tools & plants and any other equipment to carry out the work in workmanlike manner and complete the same. No expenses for mobilization and de-mobilization at the completion of work in all respects shall be paid and are deemed to be included in the rates quoted.

It shall be your responsibility to get the approvals sanctioned prior to performance from TCIL/local authority for any modification/revision. Nothing extra shall be paid for getting them sanctioned and for carrying out the same.

4.7 VALIDITY OF BID

Bid submitted by the bidder shall remain valid for acceptance for a period of 120 days from the date of opening the Bid. The bidders shall not be entitled during the period of 120 days, to revoke or cancel Bid or vary any term thereof without written consent of the owner. In case of bidder revoking or canceling his Bid or varying any term in regard thereof, the bidder's Earnest Money Deposit shall be forfeited by the Employer.

4.8 TIME FOR COMPLETION

The time for completion of the work is twelve months from the date of award. **Time shall be the essence of the contract.**

4.9 SITE MEETING

Weekly Site meeting, to be attended by representatives of the Project Director and Contractor shall be held every Wednesday for progress monitoring and other issues. In the event of Wednesday being a holiday, the meeting will be held on the next working day.

4.10 LIST OF DOCUMENTS TO BE MAINTAINED AT SITE BY THE CONTRACTOR

- (i) Daily Works Register
- (ii) Level Book
- (iii) Measurement Book
- (iv) Site Instruction Book
- (v) Any other documents required by Project Directors to check progress of work etc. shall be maintained by Contractor at Site.

4.11 PART RATE PAYMENT

Payment for items of work, which is partly completed, shall be allowed at part rates derived from the Contract rates. Payment for altered, additional or substituted items of work ordered shall be allowed at provisional rates as may be fixed by the Employer till the rates are finally approved by the owner, if applicable.

4.12 INTERIM PAYMENT

All interim payments shall be treated as payments by way of advances against final payments and not as payments for the work done or be considered as an admission of the due performance of the Contract.

4.13 INCOME TAX

Income tax shall be deducted from all the payments made to Contractor as per the prevalent rate.

4.14 OTHERS CONDITIONS:

- 4.14.1 TCIL is acting as Employer on behalf of the owner. The funds for this work be provided by owner and the payments to the contractor shall be on back to back basis i.e. payments towards the running and final bills shall be paid to the contractor by TCIL only after the receipt of the same from the owner. However, on specific request by contractor, TCIL may release the advance payments equivalent to 50% amount of the executed works at site to the contractor from its own sources but such advance payments by TCIL will carry an interest rate of SBI base rate plus 5.25% on the paid amount till the receipt of such amount from the owner.

The contractor on submission of Bank Guarantee in the TCIL prescribed format shall be entitled to be paid during the progress of execution of the work upto 90% or the sum being paid by the Owner which ever is less of the assessed value of any material which are in the opinion of EIC non perishable, non fragile and non combustible and are in accordance with the contract and which have been brought on the site in connection therewith and are adequately stored and / or protected against damages by weather or other causes but which have not at the time of advance been incorporated in the work. When materials on account of which an advance have been made under this sub clause are incorporated in the work. The amount of such advance shall be recovered / deducted from the next payment made under any of the clauses of this contract. Such

advance shall carry an interest of SBI base rate + 5.25% on the amount paid till receipt of such amount from owner.

4.15 SERVICE TAX

Service tax shall be deducted from all the payments made to Contractor as per the prevalent rate, wherever applicable.

4.16 ALTERATION IN SCOPE OF WORK

The Project Director shall reserve the right to alter or delete the scope of work and the Contractor shall be bound to carryout the work. No claim or revision of rates whatsoever shall be entertained on this account.

4.17 INSURANCE CHARGES

TCIL shall take Contractor's all risk policy in accordance with the requirement and deduct 0.70 % of the contract value come the agency towards premium. Agency shall take other policy required for all Plant and Equipment / Work Man compensation etc. at his cost.

4.18 APPLICATION OF RISK AND COST CLAUSES:

The contractor is responsible to arrange all required manpower, materials, machineries, equipments and other resources to complete the entrusted job in time and also to complete all operations during defect liability and maintenance period, wherever applicable. The contractor has to perform the contract in an effective manner under the guidance and instructions of Employer. If, at any time, it appears that due to non performance of the contractor, the targets about completion of contract, in parts or full, may not be completed in scheduled time, Employer through Project Director or any other official may engage an alternate agency/ additional agency to complete the job as per satisfaction of owner at the risk and cost of contractor. Employer is also authorized to withdraw partial and full works from contractor in case of non performance by the contractor. Employer shall have powers to recover all such amount from the contractor from any amount of contractor available with the employer or through legal means.

4.19 OTHER CONTRACTOR

4.19.1 The Contractor shall cooperate and share the Site with other Contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as referred to in the Contract Data. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

4.19.2 The Contractor should take up the works in convenient reaches as decided by the Engineer to ensure there is least hindrance to the smooth flow of traffic including movement of vehicles and equipment of other Contractors till the completion of the Works.

4.20 PERSONNEL

4.20.1 The Contractor shall employ for the construction work and routine maintenance the technical personnel named in the Contract Data or other technical persons approved by the Engineer. The Engineer will approve any proposed replacement of technical personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel stated in the Contract Data.

4.20.2 If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the Works in the Contract.

4.20.3 The Contractor shall not employ any retired Gazetted officer who has worked in the Engineering Department of the State Government and has either not completed Three Years after the date of retirement or has not obtained State Governments permission to employment with the Contractor.

4.21 Employees and Contractors Risks

4.21.1 The Employer carries the risks which this Contract states are Employees risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

4.22 Employers Risks

4.22.1 The Employer is responsible for the excepted risks which are (a) in so far as they directly affect the execution of the Works in the Employees country, the risks of war, invasion, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil war, riot commotion or disorder (unless restricted to the Contractors employees), natural calamities and contamination from any nuclear fuel or nuclear waste or radioactive toxic explosive, or (b) a cause due solely to the design of the Works, other than the Contractor's design.

4.23 Contractor's Risks

4.23.1 All risks of loss of or damage to physical property and of personal injury and death which arise during and in consequence of the performance of the Contract other than the excepted risks, are the responsibility of the Contractor.

4.24 Insurance

4.24.1 TCIL shall take Contractor's all risk policy in accordance with the requirement and deduct 0.70 % of the contract value come the agency towards premium. Agency shall take other policy required for all Plant and Equipment / Work Man compensation etc. at his cost for the following events which are due to the contractors risk.

- a) Loss of or damage to the Works, Plant and Materials;
- b) Loss of or damage to Equipment;
- c) Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- d) Personal injury or death.
- e) Any other risk except covered under clause 4.17.

4.25 Site Investigation Reports

4.25.1 The Contractor, in preparing the Bid, may rely on any Site Investigation Reports referred to in the Contract Data, supplemented by any other information available to him, before submitting the bid.

4.26 Queries about the Contract Data

4.26.1 The Engineer will clarify queries on the Contract Data.

4.27 Contractor to Construct the Works

4.27.1 The Contractor shall construct and install and maintain the Works in accordance with the Specifications and Drawings.

4.27.2 The contractor shall construct the works with intermediate technology, i.e. by manual means with medium input of machinery required to ensure the quality of works as per specifications. The contractor shall deploy the equipment and machinery as given in Contract Data.

4.28 The Works to Be Completed by the Intended Completion Date

4.28.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Engineer, and complete them by the Intended Completion Date.

4.29 Approval by the Project Director

4.29.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Director, who is to approve them.

4.29.2 The Contractor shall be responsible for design of Temporary Works.

4.29.3 The Engineer's approval shall not alter the Contractors responsibility for design of the Temporary Works.

4.29.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

4.29.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Engineer before their use.

4.30 Safety

4.30.1 The Contractor shall be responsible for the safety of all activities on the Site.

4.31 Discoveries

4.31.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Engineer of such discoveries and carry out the Engineers instructions for dealing with them.

4.32 Possession of the Site

4.32.1 The Employer shall handover complete or part possession of the site to the Contractor 7 days in advance of construction program. At the start of the work, the employer shall handover the possession of at-least 75% of the site.

4.33 Access to the Site

4.33.1 The Contractor shall allow access to the Site and to any place where work in connection with the Contract is being carried out, or is intended to be carried out to the engineer and any person/persons/agency authorized by:

- a. The Project Director
- b. The Employer
- c. The Ministry of Housing and Urban Poverty Alleviation, Government of India.
- d. The Department of Local Bodies Rajasthan, Jaipur

4.34 Instructions

4.34.1 The Contractor shall carry out all instructions of the project director, which comply with the applicable laws where the Site is located.

4.35 Program

- 4.35.1 Within the time stated in the Contract Data, the Contractor shall submit to the Engineer for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works, along with monthly cash flow forecasts for the construction of works.
- 4.35.2 The Contractor shall submit the list of equipment and machinery being brought to site, the list of key personnel being deployed, the list of machinery/equipments being placed in field laboratory and the location of field laboratory along with the Program. The Engineer shall cause these details to be verified at each appropriate stage of the program.
- 4.35.3 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining Works, including any changes to the sequence of the activities.
- 4.35.4 The Contractor shall submit to the Engineer for approval an updated Program at intervals no longer than the period stated in the Contract Data. If the Contractor does not submit an updated Program within this period, the Engineer may withhold the amount stated in the Contract Data from the next payment. Certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 4.35.5 The Engineers approval of the Program shall not alter the Contractors obligations. The Contractor may revise the Program and submit it to the Engineer again at any time. A revised Program shall show the effect of Variations and Compensation Events.
- 4.35.6 The Contractor shall submit to the Engineer Weekly / monthly progress report in prescribed format.

4.36 Extension of the Intended Completion Date

- 4.36.1 The Engineer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining Works, which would cause the Contractor to incur additional cost.
- 4.36.2 The Engineer shall decide whether and by how much time to extend the intended Completion Date within 21 days of the Contractor asking the Engineer for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

4.37 Delays Ordered by the Engineer

4.37.1 The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works. Delay/delays totaling more than 30 days will require prior written approval of the Employer.

4.38 Management Meetings

4.38.1 The Engineer may require the Contractor to attend a management meeting. The business of a management meeting shall be to review the plans for the Works.

4.38.2 The Engineer shall record the business of management meetings and provide copies of the record to those attending the meeting. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all those who attended the meeting.

4.39 Identifying Defects

4.39.1 The Engineer shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Engineer may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect.

4.39.2 For carrying out mandatory tests as prescribed in the specifications, the contractor shall establish field laboratory at the location decided by Engineer. The field laboratory will have minimum equipments as specified in the Contract Data. The contractor shall be solely responsible for:

- a. Carrying out the mandatory tests prescribed in the Specifications, and
- b. For the correctness of the test results, whether performed in his laboratory or elsewhere.

4.39.3 If the Engineer instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples.

4.40 Correction of Defects noticed during the Defect Liability Period of works for one Year.

4.40.1 The Engineer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion and ends after one year. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

4.40.2 Every time notice of Defect/Defects is given, the Contractor shall correct the notified Defect/Defects within the duration of time specified by the Engineer's notice.

4.40.3 The Contractor shall do the routine maintenance of works to the required standards and in the manner as defined in the document and keep the entire structure in Defect free condition during the entire maintenance period which begins at Completion and ends after one Year from the date of completion of the works.

4.40.4 The routine maintenance standards shall meet the standard minimum requirements.

4.40.5 To fulfill the objectives laid down in sub clauses 4.39 & 4.40 above, the Contractor shall undertake detailed inspection of the works at least once in a month. The Engineer can reduce this frequency in case of emergency; The Contractor shall forward to the Engineer the record of inspection and rectification each month.

4.40.6 The Engineer may issue notice to the Contractor to carry out maintenance of defects, -if any noticed in his inspection, or brought to his notice. The Contractor shall remove the defects within the period specified in the notice and submit to the Engineer a compliance report.

4.41 Uncorrected Defects

4.41.1 If the Contractor has not corrected a Defect pertaining to the Defect Liability Period under clause 4.39. and clause 4.40 of these Conditions of Contract, to the satisfaction of the Engineer, within the time specified in the Engineer's notice, the Engineer will assess the cost of having the Defect corrected, and the Contractor will pay this amount, on correction of the Defect.

4.42 Bill of Quantities

4.42.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning and maintaining works to be done by the Contractor.

4.42.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item for the construction of building.

4.43 Variations

4.43.1 The Engineer shall, having regard to the scope of the Works and the sanctioned estimated cost have power to order, in writing, Variations within the scope of the Works he considers necessary or advisable during the progress of the Works. Such Variations shall form part of the Contract and the Contractor shall carry them out and include them in updated Program produced by the Contractor. Oral orders of the Engineer for Variations, unless followed by written confirmation, shall not be taken into account.

4.44 Cash Flow Forecasts

4.44.1 When the Program is updated, the Contractor shall provide the Engineer with an updated cash flow forecast.

4.45 Payment Certificates

4.45.1 The payment to the contractor will be as follows for construction work:

- (a) The Contractor shall submit to the Engineer fortnightly/ monthly statements of the value of the work executed less the cumulative amount certified previously supported with detailed measurement of the items of work executed.
- (b) The Engineer shall check the Contractors fortnightly/monthly statement within 14 days and certify the amount to be paid to the Contractor.
- (c) The value of work executed shall be determined, based on measurements by the Engineer.
- (d) The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.
- (e) The value of work executed shall also include the valuation of Variations and Compensation Events.
- (f) The Engineer may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
- (g) The payment of final bill shall be governed by the provisions of PWD Guide lines.

4.46 Payments

4.46.1 Payments shall be adjusted for deductions for advance payments, security deposit, other recoveries in terms of the Contract and taxes at source, as applicable under the law. The Engineer shall pay the Contractor the amounts he had certified within 15 days of the date of each certificate.

4.46.2 The Employer may appoint another authority, as specified in the Contract Data (or any other competent person appointed by the Employer and notified to the contractor) to make payment certified by the Engineer.

4.46.3 Items of the Works for which no rate or price has been entered in the Bill of Quantities, will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

- 4.46.4 If the Routine Maintenance part of the contract is not carried out by the Contractor as per this contract, the employer will be free to carry out Routine Maintenance work and the amount required for this work will be recovered from the amount of Security available with the employer and/or from any amounts of the Contractor whatever is due.
- 4.46.5 If the contractor so desires then the Security Deposit can be converted into any interest bearing security of scheduled commercial bank in the name of the Employer or National Saving Certificates duly pledged in favor of the Employer of Defect Liability Period.
- 4.46.6 The Contractor shall pay liquidated damages to the Employer at the rate 2% per week or part thereof for the period that the Completion Date is later than the Intended Completion Date. Liquidated damages at the same rate shall be withheld if the Contractor fails to achieve the milestones prescribed in the Contract Data. However, in case the Contractor achieves the next milestone the amount of the liquidated damages already withheld shall be restored to the Contractor by adjustment in the next payment certificate. The total amount of liquidated damages shall not exceed the amount defined in the Contract Data. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's other liabilities.
- 4.46.7 If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

4.47 Cost of Repairs

- 4.47.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at his cost if the loss or damage arises from the Contractors acts or omissions.

4.48 Completion of Construction and Maintenance

- 4.48.1 The Contractor shall request the Engineer to issue a certificate of completion of the construction of the works, and the Engineer will do so upon deciding that the works is completed.
- 4.48.2 The Contractor shall request the Engineer to issue the certificate of completion of the Routine Maintenance and the Engineer will do so upon deciding that the Routine Maintenance is completed.

4.49 Taking Over

- 4.49.1 The Employer shall take over the works within seven days of the Engineer issuing a certificate of completion of works. The Contractor shall continue to remain responsible for its routine maintenance during the defect liability period.
- 4.49.2 The employer shall take over the maintained work with in 7 days of the Engineer issuing a certificate of completion of the Routine Maintenance.

4.50 Final Account

- 4.50.1 The Contractor shall supply the Engineer with a detailed account of the total amount that the Contractor considers payable for works under the contract within 21 days of issue of certificate of completion of construction of works. The Engineer shall issue a defect liability certificate and certify any payment that is due to the contractor for works within 42 days of receiving the Contractors account if it is correct and complete. If the account is not correct or complete, the Engineer shall issue within 42 days a schedule that states the scope of the corrections or additions that are necessary. If the Account is still unsatisfactory after it has been resubmitted, the Engineer shall decide on the amount payable to the Contractor and issue a payment certificate within 28 days of receiving the Contractor's revised account. The payment of final bill for construction of works will be made within 14 days thereafter.
- 4.50.2 In case of account is not received within 21 days of issue of Certificate of Completion as provided in clause 4.50.1 above, the Engineer shall proceed to finalize the account and issue a payment certificate within 28 days. The payment of final bill for construction of works will be made within 14 days thereafter.
- 4.50.3 The Contractor shall supply the Engineer with a detailed account of the total amount that the Contractor considers payable under the contract 21 days before the end of the Routine Maintenance Period. The Engineer shall issue a Routine Maintenance Completion Certificate and certify any final payment that is due to the Contractor within 42 days of receiving the Contractors account if it is correct and complete. If it is not, the Engineer shall issue within 42 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Engineer shall decide on the amount payable to the Contractor and issue a payment certificate within 28 days of receiving the Contractors revised account. The payment of final bills for routine maintenance will be made within 14 days thereafter.
- 4.50.4 In case the account is not received within 21 days of issue of Certificate of Completion as provided in clause 4.50.3 above, the Engineer shall proceed to finalize the account and issue a payment certificate within 28 days. The payment of final bill for routine maintenance will be made within 14 days thereafter.

4.51 Operating and Maintenance Manuals

4.51.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the document.

4.51.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the Contract Data, or they do not receive the Engineer's approval, the Engineer shall withhold the amount stated in the Contract Data from payments due to the Contractor.

4.52 Termination

4.52.1 The Employer may terminate the Contract if the Contractor causes a fundamental breach of the Contract

4.52.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- a) The Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Engineer,
- b) The Contractor is declared as bankrupt or goes into liquidation other than for approved reconstruction or amalgamation;
- c) the Engineer gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct A within a reasonable period of time determined by the Engineer;
- d) The Contractor does not maintain a Security, which is required;
- e) The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in relevant clause.
- f) The Contractor fails to provide insurance cover as required under relevant clause.
- g) If the Contractor, in the judgment of the Employer, has engaged in the corrupt or fraudulent practice in competing for or in executing the Contract. For the purpose of this clause, "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in Contract execution. "Fraudulent Practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid process at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

- h) If the Contractor has not completed at least thirty percent of the value of construction Work required to be completed after half of the completion period has elapsed;
- i) If the Contractor fails to set up a field laboratory with the prescribed equipment, within the period specified in the Contract Data;
- j) And other fundamental breaches as specified in the Contract Data.
- k) If the Contractor fails to deploy machinery and equipment or personnel as specified in the Contract Data at the appropriate time.

4.52.3 Notwithstanding the above, the Employer may terminate the Contract for convenience.

4.52.4 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

4.53 Payment upon Termination

4.53.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for value of the work done and materials ordered less liquidated damages, if any, less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in clause No 4.66 of the document. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be recovered from the security deposit, and performance security. If any amount is still left un-recovered it will be a debt payable to the Employer.

4.53.2 If the Contract is terminated at the Employers convenience, the Engineer shall issue a certificate for the value of the work done, the reasonable cost of removal of Equipment, repatriation of the Contractors personnel employed solely on the Works, and the Contractors costs of protecting and securing the Works and less advance payments received up to the date of the certificate, less other recoveries due in terms of the Contract, and less taxes due to be deducted at source as per applicable law.

4.54 Property

4.54.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer for use for completing balance construction work if the Contract is terminated because of the Contractor's default, till the Works is completed after which it will be transferred to the Contractor and credit, if any, given for its use.

4.55 Releases from Performance

4.55.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of the Employer or the Contractor, the Engineer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

4.56 Labor

4.56.1 The Contractor shall, unless otherwise provided in the Contract, make his own arrangements for the engagement of all staff and labor, local or other, and for their payment, housing, feeding and transport.

4.56.2 The Contractor shall, if required by the Engineer, deliver to the Engineer a return in detail, in such form and at such intervals as the Engineer may prescribe, showing the staff and the numbers of the several classes of labor from time to time employed by the Contractor on the Site and such other information as the Engineer may require.,

4.57 COMPLIANCE WITH LABOUR REGULATIONS

4.57.1 During continuance of the Contact the Contractor and his sub Contractors shall abide at all times by all existing labor enactments and rules made there under, regulations, notifications and bye laws of the State or Central Government or local authority and any other labor law (including rules), regulations,, bye laws that may be passed or notification that may be issued under any labor law in future either by the State or the Central Government or the local authority. Salient features of some of the major labor laws that are applicable to construction industry are given in Appendix to Part I General Condition of Contract The Contractor shall keep the Employer indemnified in case any action is taken against the Employer by the competent authority on account of contravention of any of the provisions of any Act or rules made there under, regulations or notifications including amendments. If the Employer is caused to pay or reimburse, such amounts as may be necessary io cause or observe, or for non-observance of the provisions stipulated in the notifications/bye laws/Acts/Rules/regulations including amendments, if any, on the part of the Contractor, the Engineer/Employer shall have the right to deduct any money due to the Contractor including his amount of performance security. The Employer/Engineer shall also have right to recover from the Contractor any sum required or estimated to be required for making good the loss or damage suffered by the Employer.

4.58 The employees of the Contractor and the Sub-Contractor in no case shall be treated as the employees of the Employer at any point of time.

4.59 Drawings and Photographs of the Works

4.59.1 The contractor shall do photography/video photography of the site firstly before the start of the work, secondly mid-way in the execution of different stages of work and

lastly after the completion of the work. No separate payment will be made to the contractor for this.

4.59.2 The Contractor shall not disclose details of Drawings furnished to him and works on which he is engaged without the prior approval of the Engineer in writing. No photograph of the works or any part thereof or plant employed thereon, except those permitted under clause 4.59.1. 1 shall be taken or permitted by the Contractor to be taken by any of his employees or any employees of his sub-Contractors without the prior approval of the Engineer in writing. No photographs/ Video photography shall be published or otherwise -circulated without the approval of the Engineer in writing.

4.60 The contractor will have to deploy minimum technical Personnel for Construction work is:

Technical Personnel	Number	Experience in road, building, civil infrastructure Works
i) Degree Holder in Civil Engineering	1	2 Years
Or Diploma holder in civil engineering	1	5 years
ii) Field Laboratory Technician (B.Sc. holder)	1	2 years

4.61 The key equipments/machinery for construction of works shall be:

S. No.	Name of Equipment I Machinery	Qty-
1	CONCRETE MIXER	1 Nos.
2	WATER TANKER (WITH SPRINKLER)	2 Nos.
3	TRUCK / TIPPER / TRACTOR	2 Nos.
4	WEIGH BATCH MIXER	1 Nos.

4.62 (a) Milestones to be achieved during the contract period

- (1) 1/8th of the value of entire contract work up to 1/4th of the Period allowed for completion of construction
 - (2) 3/8th of the value of entire contract work up to 1/2 of the Period allowed for completion of construction
 - (3) 3/4th of the value of entire contract work up to 3/4th of the period allowed for completion of construction
- (b) Amount of liquidated damages for delay in completion of works 2 % of the Initial Contract Price, rounded off to the nearest thousand, per week.

- (c) Maximum limit of liquidated damages for delay in completion of work shall be 10 % of the Initial Contract Price rounded off to the nearest thousand.
- 4.63** The standard form of Performance Security acceptable to the Employer Shall be an unconditional Bank Guarantee of the type as presented in the Bidding Documents.
- 4.64** The date by which "as-built' drawings (in scale as directed) in 2 sets are required is within 28 days of issue of certificate of completion of whole or section of the work, as the case may be. The amount to be withheld for failing to supply "as-built' drawings by the date required is Rs. 5.00 Lakhs.
- 4.65** (a) The period for setting up a field laboratory with the prescribed equipment is 15 days from the date of notice to start work.
- 4.66** The percentage to apply to the value of the work not completed representing the Employers additional cost for completing the Works Shall be 20 %. Of the Contract cost.

- END OF SECTION 4 -

SECTION 5

Tender No.: TCIL/05/527/253/2010/ACD/Jaisalmer-III 01.02.2011

SCOPE OF WORK AND TECHNICAL SPECIFICATIONS

Name of the work: “Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.)

Scope of Work: The scope of work is “Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.) including all associated works required for proper completion of the project as directed by the Engineer in charge.

Specifications

- A. The design and specifications prescribed are those for building, of "National building code of India specifications!" and all related Indian Building Congress manuals and publications, as amended till the date of issue of the notice inviting Tender. Building Materials for use on Building shall also conform to the specifications given in Building & road Manual.
- B. The GOI, IS Specifications for Urban Building shall be followed in addition to PWD –Govt. of Rajasthan.
- C. For purposes of design, specification and quality control the Building & Manual, IRC publications for Building works including particular specifications shall form part of the Agreement.
- D. For items not covered in Building Manual or IS-specifications for either BIS specification, or District specification or sound engineering practice, as determined by the Engineer, in that order should be followed.
- E. For road items, the technical specifications shall be in accordance to PWD/RR , Govt. of Rajasthan & Morth guidelines.

Note: The design, drawings, standards and guidelines of the BIS Specifications for building are to be followed for works. Bidder has to go for pre-commencement survey. Drawings for the works are enclosed with the documents.

SECTION – 6**Tender No.: TCIL/05/527/253/2010/ACD/Jaisalmer-III 01.02.2011****Annexure – 1****Details of the Applicant**

1	Name and address of applicant	
2	Telephone No./Fax No./E-mail/Telex No.	
3	Legal status of the applicant (attach copies of original documents defining the legal status)	
	The applicant is:	
(a)	An individual	
(b)	A Proprietary Firm	
(c)	A firm in Partnership	
	A limited Company (Private or Public) or	
(d)	Corporation	
4	Particulars of Registration with various Government bodies/Organization. (attach attested photocopy)	
5	Name of Directors/Partners with their addresses, Telephone numbers, Fax, Email	
6	Designation of individuals authorized to act for the organization	
7	Was the applicant ever required to suspend any construction for a period of more than six months continuously after commencement of the construction? If so, give the name of the project & reasons of suspension of work.	
8	Has the applicant or any constituent partner in case of partnership firm, ever abandoned the awarded work before its completion? If so, give name of the project and reasons for abandonment.	
9	Has the applicant or any constituent partner in case of partnership firm, ever been debarred/black listed for tendering in any organization at any time? If so, give details.	
10	Has the applicant or any constituent partner in case of partnership firm, ever been convicted by a court of law? If so, give details.	
11	Other details:	
	a) EPF No. valid up to	

	b) TIN No. and certificate c) Clearance of sales Tax up to d) PAN No. and copies of IT return for last three years. e) Service Tax registration No. (Copies to be enclosed)	
12	Any other information considered necessary but not included above.	
	Seal of the Applicant	Signature of Applicant

Annexure –2**Financial Information**

- I. Financial Analysis : Details to be furnished duly supported by figures in Balance Sheet/Profit & Loss Account for the last three years duly certified by the Chartered Accountant, as submitted by the applicant to the Income Tax Department (certified copies to be attached)

		2007- 2008	2008- 2009	2009- 2010	Average annual turnover
		a	b	c	(a+b+c)/3
(i)	Gross Annual turnover on construction works				
(ii)	Profit/Loss				
(iii)	Net worth (as on 31.03.10)				
(iv)	BG Limit				
(v)	Cash Credit Limit				

- II Financial arrangements for carrying out the works.
- III. The following certificates are to be enclosed.
- (a) Net worth certificate from Chartered Accountant
- (b) Cash credit & bank guarantee limit certificate from bankers of applicant.

**Signature of Chartered
Accountant**

**Seal and Signature of
Applicant**

Seal

Annexure-4**Projects / Work under Execution**

S.NO.	Name of work/Project & Location	Owner of organization	Value of work in lakhs	Date of commencement as per contract	Stipulated date of completion	Upto date percentage of progress of work	Slow progresses if any, & reasons thereof	Name and address/telephone number of officer to whom reference may be made

Signature of Applicant

Annexure -5
Details of Plant and Machinery available

S.No.	Name of Equipment	Make/model /capacity	Quantity	Condition	Status (Owned/ Leased/Hired)

Signature of Applicant

Annexure –6**Details of Man Power available**

S.No.	Name	Designation	Qualification	Experience (Nature and no. of years)

Signature of Applicant

Annexure-7

Affidavit

(To be submitted on non-judicial stamp paper of Rs. 10/- duly certified by notary public)

Affidavit of Mr. _____ S/o _____ R/o _____ I, the deponent above named do hereby solemnly affirm and declare a under:

1. That I am the Proprietor/authorized signatory of M/s. _____ having its Head Office/Registered. Office at _____

2. That the information/documents/Experience certificates submitted by M/s. _____ along with this tender for **Construction of works of Park development, Water supply and Sewerage works, for IHSDP Project at Katchi Basties of Jaisalmer, (Raj.)**

Under IHSDP Scheme in TCIL are genuine and true and nothing has been concealed.

3. I shall have no objection in case TCIL verifies them from issuing authority (ies). I shall also have no objection in providing the original copy of the document(s), in case TCIL demand so for verification.

4. I hereby confirm that in case, any document, information &/or certificate submitted by me found to be incorrect/false/fabricated, TCIL at its discretion may disqualify/reject my application for this tender out rightly and also debar me/M/s. _____ from participating in any future tenders/PQ.

DEPONENT

I, _____, the proprietor/authorized signatory of M/s. _____, do hereby confirm that the contents of the above Affidavit are true to my knowledge and nothing has been concealed there from and that no part of it is false.

Verified at _____ this _____ day of _____.

DEPONENT

ANNEXURE - 8

FORMAT OF BID BOND (EMD)

Whereas (Hereinafter called “the Bidder”) has submitted its bid dated For the supply of Vide Tender No. dated

KNOW ALL MEN by these presents that WE OF Having our registered office at (Hereinafter called “the Bank”) are bound unto Telecommunications Consultants India Limited (hereinafter called “the Purchaser”) in the sum of INR/US\$ for which payment will and truly to be made of the said Purchaser, the Bank binds itself, its successors and assigns by these present.

THE CONDITIONS of the obligation are:

- 1. If the Bidder withdraws his bid during the period of bid validity specified by the Bidder on the Bid form or
- 2. If the Bidder, having been notified of the acceptance of his bid by the Purchaser during the period of bid validity
 - (a) **Fails or refuses to execute the Contract, if required; or**
 - (b) **Fails or refuses to furnish the Performance Security, in accordance with the instructions to Bidders.**

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the purchaser having to substantiate its demand, provided that in its demand, the purchaser will note that the amount claimed by it is due to it owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force upto and including THIRTY (30) days after the Period of bid validity and any demand in respect thereof should reach the Bank not later than the specified date/dates.

Name & Signature of witness
Address of witness

Signature of the Bank Authority.
Name
Signed in Capacity of
Full address of Branch
Tel No. of Branch
Fax No. of Branch

ANNEXURE – 9**FORMAT OF PERFORMANCE BANK GUARANTEE (PBG)**

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

(With due stamp duty if applicable)

OUR LETTER OF GUARANTEE No. : _____

In consideration of 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) and 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 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 Performance Guarantee for the faithful performance of the entire contract, to the extent of 10% (ten percent) of the value of the Purchase Order i.e. for _____.

We, _____ (“The Bank”) which shall include OUR successors, administrators and executors herewith establish an irrevocable Letter of Guarantee No. _____ in your favor for account of _____ (The Supplier) in cover of performance guarantee in accordance with the terms and conditions of the Agreement/Purchase Order.

Hereby, we undertake to pay upto but not exceeding _____ (say _____ only) upon receipt by us of your first written demand accompanied by your declaration stating that the amount claimed is due by reason of the Supplier having failed to perform the Agreement and despite any contestation on the part of above named supplier.

This Letter of Guarantee 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 Letter of Guarantee will become of no effect whatsoever whether returned to us or not.

Authorized Signature
Manager
Seal of Bank

ANNEXURE-10

Integrity Pact

INTEGRITY PACT

Between

Telecommunications Consultants India Ltd. (TCIL) hereinafter referred to as “The Principal”

And

.....hereinafter referred to as “The Bidder/Contractor”

Preamble

The Principal intends to award, under laid down organizational procedures, contract/s for The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s) and/or Contractor(s) and expects the Bidder(s) and/or Contractor(s) to reciprocate the same. The Bidder(s) and/or Contractor(s) also agree to the principles of integrity and transparency in the tender process.

In order to achieve these goals, the Principal will appoint an Independent External Monitor (IEM), who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

Further, the Principal and The Bidder/Contractor agrees to the following:

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:
 - a. PRINCIPAL is committed to have ethical and corruption free business dealings with Bidder(s)/contractor(s).
 - b. 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 self or third person, any material or immaterial benefit which the person is not legally entitled to.

- c. The Principal will, during the tender process treat all Bidder(s) with equity and reason and will deal with them in a fair and transparent manner. The Principal will in particular, before and during the tender process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the tender process or the contract execution.
 - d. The Principal will exclude from the process all known prejudiced persons.
 - e. PRINCIPAL will honour its commitments and make due payments to The Bidder(s)/Contractor(s) in a timely manner.
 - f. PRINCIPAL will initiate action and pursue it vigorously whenever unethical behaviour occurs or is suspected to have occurred.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the IPC/PC Act, or if there be a substantive suspicion in this regard, the Principal will inform the Corporate Vigilance Office and in addition can initiate disciplinary actions.

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

- (1) The Bidder(s)/Contractor(s) commit himself 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.
- a. The Bidder(s)/Contractor(s) 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 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.
 - b. The Bidder(s)/Contractor(s) will not enter with other Bidders 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 bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - c. The Bidder(s)/Contractor(s) will not commit any offence under the relevant IPC/PC Act; further the Bidder(s)/Contractor(s) will not use impropriety, 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.

- d. The Bidder(s)/Contractor(s) will, when presenting his bid, disclose any and all payments 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.
 - e. The Bidder(s)/Contractor(s) will not make any false or misleading allegations against the principal or its associates.
 - f. The Bidder/Contractor will not bring any Political, Governmental or Diplomatic influence to gain undue advantage in its dealing with PRINCIPAL
 - g. The Bidder(s)/Contractor(s) will promote and observe best ethical practices within its organization.
 - h. The Bidder(s)/Contractor(s) will promptly inform the Independent Monitor(of PRINCIPAL) If he receives demand for a bribe or illegal payment/benefit and
 - i. If comes to know of any unethical or illegal practice in PRINCIPAL.
 - ii. If he makes any payment to any PRINCIPAL Associate.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from tender process and exclusion from future contracts.

If the Bidder(s)/Contractor(s) before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s)/Contractor (s) from the tender process or take action as per the procedure mentioned in the “Guidelines on Banning of business dealings”. Copy of the “Guidelines on Banning of Business Dealings” is annexed and marked as Annex-“A”.

Section 4 - Compensation for Damages

- (i) If the Principal has disqualified the Bidder(s) from the tender process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
- (ii) 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 the amount equivalent to Security Deposit/Performance Bank Guarantee in addition to any other penalties/recoveries as per terms and conditions of the tender.
- (iii)The Bidders/Contractors in addition to above will also be liable to damages as determined by the Principal based on the recommendations of IEMs.

Section 5 - Previous transgression

- (i) The Bidder declares that no previous transgressions occurred in the last 3 years conforming to the anti corruption approach with any Public Sector Enterprise in India that could justify his exclusion from the tender process.
- (ii) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in “Guidelines on Banning of business dealings”.

Section 6 – Equal treatment of all Bidders/ Contractors/ Subcontractors

- (i) The Principal will enter into agreements with identical conditions as this one with all Bidders/Contractors.
- (ii) The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact.
- (iv) 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 Bidder(s) / Contractor(s) / Subcontractor(s)

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractors, 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 same to the Corporate Vigilance Office and may initiate criminal proceedings against the violating Bidder(s)/Contractor(s).

Section 8 – Independent External Monitor/Monitors

- (1) The Principal appoints competent and credible Independent External 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 CMD, TCIL.
- (3) The Bidder(s)/Contractor(s) 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 his project documentation. The same is applicable to Subcontractors. The Monitor is under

contractual obligation to treat the information and documents of the Bidder(s)/Contractor(s)/Subcontractor(s) 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 take corrective action, or to take other relevant action. The monitor can in this regard submit nonbinding recommendations. 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.
- (6) The Monitor will submit a written report to the CMD, TCIL 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) If the Monitor has reported to the CMD, TCIL, a substantiated suspicion of an offence under relevant IPC/PC Act, and TCIL has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Corporate Vigilance Office, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (8) The word '**Monitor**' would include both singular and plural.

Section 9 – Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor 12 months after the last payment under the contract, and for all other unsuccessful bidders, 3 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 CMD, TCIL.

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. New Delhi. The arbitration clause provided in the tender document/contract shall not be applicable for any issue/dispute arising under Integrity Pact.
- (2) Changes and supplements as well as termination notice need to be made in writing.

- (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.

(For & On behalf of the Principal) (For & On behalf of Bidder/Contractor)

(Office Seal)

(Office Seal)

Place -----

Date -----

Witness 1:

(Name & Address) _____

Witness 2:

(Name & Address) _____

ANNEX-A

Guidelines of TCIL on Banning of Business Dealings

1. Introduction

1.1.1 Telecommunications Consultants India Limited (TCIL), being a Public Sector Enterprise and 'State', within the meaning of Article 12 of Constitution of India, has to ensure preservation of rights enshrined in Chapter III of the Constitution. TCIL has also to safeguard its commercial interests. TCIL deals with Agencies, who have a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of TCIL to deal with Agencies who commit deception, fraud or other misconduct in the execution of contracts awarded / orders issued to them. In order to ensure compliance with the constitutional mandate, it is incumbent on TCIL to observe principles of natural justice before banning the business dealings with any Agency.

- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2. Scope

- 2.1 The General Conditions of Contract (GCC) of TCIL should generally provide that TCIL reserves its rights to remove from list of approved suppliers / contractors or to ban business dealings if any bidder/contractor has been found to have committed misconduct and also to suspend business dealings pending investigation. If such provision does not exist in any GCC, the same may be incorporated.
- 2.2 Similarly, in case of sale of material there is a clause to deal with the Agencies / customers / buyers, who indulge in lifting of material in unauthorized manner. If such a stipulation does not exist in any Sale Order, the same may be incorporated.
- 2.3 However, absence of such a clause does not in any way restrict the right of Company (TCIL) to take action / decision under these guidelines in appropriate cases.
- 2.4 The procedure of (i) Suspension and (ii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.5 These guidelines apply to all the Units of TCIL.
- 2.6 It is clarified that these guidelines do not deal with the decision of the Management not to entertain any particular Agency due to its poor / inadequate performance or for any other reason.
- 2.7 The banning shall be with prospective effect, i.e., future business dealings.

3. Definitions

In these Guidelines, unless the context otherwise requires:

- i) 'Party / Contractor / Supplier / Purchaser / Customer' shall mean and include a public limited company or a private limited company, a firm whether registered or not, an individual, a cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. 'Party / Contractor / Supplier / Purchaser / Customer' in the context of these guidelines is indicated as 'Agency'.
- ii) 'Inter-connected Agency' shall mean two or more companies having any of the following features:
- a) If one is a subsidiary of the other.

- b) If the Director(s), Partner(s), Manager(s) or Representative(s) are common;
 - c) If management is common;
 - d) If one owns or controls the other in any manner;
- iii) 'Competent Authority' and 'Appellate Authority' shall mean the following:
- a) For Company Wide Banning (entire TCIL) the **Director (Projects)** shall be the 'Competent Authority' for the purpose of these guidelines. **CMD, TCIL** shall be the 'Appellate Authority' in respect of such cases except banning of business dealings with Suppliers of Imported Equipment.
 - b) For Units level banning: Any **officer not below the rank of ED** shall be the 'Competent Authority' for the purpose of these guidelines. The Director (Projects) shall be the 'Appellate Authority' in all such cases.
 - c) For banning of business dealings with Suppliers of Imported Equipment, **TCIL Directors' Committee (TDC), consisting of Director(Technical), Director (Finance), Director (Projects)** of TCIL, shall be the 'Competent Authority'. The Appeal against the Order passed by TDC shall lie with CMD, as First Appellate Authority.
 - d) In case the foreign supplier is not satisfied by the decision of the First Appellate Authority, it may approach TCIL Board as Second Appellate Authority.
 - e) CMD, TCIL shall have overall power to take suo-moto action on any information available or received by him and pass such order(s) as he may think appropriate, including modifying the order(s) passed by any authority under these guidelines.
- iv) 'Investigating Department' shall mean any Department or Unit investigating into the conduct of the Agency and shall include the Vigilance Department, Central Bureau of Investigation, the State Police or any other department set up by the Central or State Government having powers to investigate.

4. Initiation of Banning / Suspension:

Action for banning / suspension business dealings with any Agency should be initiated by the department having business dealings with them after noticing the irregularities or misconduct on their part.

5. Suspension of Business Dealings

- 5.1 If the conduct of any Agency dealing with TCIL is under investigation by any department (except Suppliers of Imported Equipment), the Competent Authority may consider whether the allegations under investigation are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Department, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order to this effect may indicate a brief of the charges under investigation. If it is decided that inter-connected Agencies would also come within the ambit of the order of suspension, the same should be specifically stated in the order. The order of such suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Department.
- The Investigating Department may ensure that their investigation is completed and whole process of final order is over within such period.
- 5.2 The order of suspension shall be communicated to all Departmental Heads within the Units. During the period of suspension, no business dealing may be held with the Agency.
- 5.3 As far as possible, the existing contract(s) with the Agency may be continued unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.
- 5.4 If the gravity of the misconduct under investigation is very serious and it would not be in the interest of TCIL, as a whole, to deal with such an Agency pending investigation, the Competent Authority may send his recommendation to Corporate Office along with the material available. If Corporate Office considers that depending upon the gravity of the misconduct, it would not be desirable for all the Units of TCIL to have any dealings with the Agency concerned, an order suspending business dealings may be issued to all the Units by the Competent Authority of the Corporate Office, copy of which may be endorsed to the Agency concerned. Such an order would operate for a period of six months from the date of issue.
- 5.5 For suspension of business dealings with Suppliers of Imported Equipment following shall be the procedure: -
- i) Suspension of the foreign suppliers shall apply through out the Company.
 - ii) If gravity of the misconduct under investigation is found serious and it is felt that it would not be in the interest of TCIL to continue to deal with such agency, pending investigation, Unit dealing with agency may send such recommendation on the matter to a Committee consisting of the following:

1. ED (TG)
2. ED (T)
3. ED (F&BD)
4. GGM (MM)

The committee shall expeditiously examine the report; give its comments/recommendations within twenty one days.

iii) The comments / recommendations of the Committee shall then be placed before TCIL Directors' Committee (TDC). If TDC opines that it is a fit case for suspension, TDC may pass necessary orders which shall be communicated to the supplier of Imported Equipment.

5.6 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

5.7 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension. However, if investigations are not complete in six months time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.

6. Ground on which Banning of Business Dealings can be initiated

6.1 If the security consideration, including questions of loyalty of the Agency to the State, so warrants;

6.2 If the Director / Owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises or TCIL, during the last five years;

6.3 If there is strong justification for believing that the Directors, Proprietors, Partners, owner of the Agency have been guilty of malpractices such as bribery, corruption, fraud, substitution of tenders, interpolations, etc;

6.4 If the Agency continuously refuses to return / refund the dues of TCIL without showing adequate reason and this is not due to any reasonable dispute which would attract proceedings in arbitration or Court of Law;

6.5 If the Agency employs a public servant dismissed / removed or employs a person convicted for an offence involving corruption or abetment of such offence;

- 6.6 If business dealings with the Agency have been banned by the Govt. or any other public sector enterprise;
- 6.7 If the Agency has resorted to Corrupt, fraudulent practices including misrepresentation of facts;
- 6.8 If the Agency uses intimidation / threatening or brings undue outside pressure on the Company (TCIL) or its official in acceptance / performances of the job under the contract;
- 6.9 If the Agency indulges in repeated and / or deliberate use of delay tactics in complying with contractual stipulations;
- 6.10 Willful indulgence by the Agency in supplying sub-standard material irrespective of whether pre-dispatch inspection was carried out by Company (TCIL) or not;
- 6.11 Based on the findings of the investigation report of CBI / Police against the Agency for malafide / unlawful acts or improper conduct on his part in matters relating to the Company (TCIL) or even otherwise;
- 6.12 Established litigant nature of the Agency to derive undue benefit;
- 6.13 Continued poor performance of the Agency in several contracts;
- 6.14 If the Agency misuses the premises or facilities of the Company (TCIL), forcefully occupies, tampers or damages the Company's properties including land, water resources, forests / trees, etc.

(Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason).

7. Banning of Business Dealings

- 7.1 Normally, a decision to ban business dealings with any Agency should apply throughout the Company. However, the Competent Authority of the Unit except Corporate Office can impose such ban unit-wise only if in the particular case banning of business dealings by respective Unit will serve the purpose and achieve its objective and banning throughout the Company is not required in view of the local conditions and impact of the misconduct /default to beyond the Unit. Any ban imposed by Corporate Office shall be applicable across all Units of the Company.
- 7.2 For Company-wide banning, the proposal should be sent through the Head of the Unit setting out the facts of the case and the justification of the action proposed along with all the relevant papers and documents except for banning of business dealings with Foreign Suppliers.

The Corporate Office shall process the proposal of the Unit for a prima- facie view in the matter by the Competent Authority nominated for Company-wide banning.

If the prima-facie decision for Company-wide banning has been taken, the Corporate Office shall issue a show-cause notice to the agency conveying why it should not be banned throughout TCIL.

After considering the reply of the Agency and other circumstances and facts of the case, a final decision for Company-wide banning shall be taken by the Competent Authority.

7.3 There will be a Standing Committee in Corporate Office and each Unit to be appointed by CMD, TCIL for processing the cases of “Banning of Business Dealings” except for banning of business dealings with suppliers of Imported Equipment. The functions of the committee shall, inter-alia include:

- i) To study the report of the Investigating Agency and decide if a prima-facie case for Company-wide / Local unit wise banning exists, if not, send back the case to the Competent Authority.
- ii) To recommend for issue of show-cause notice to the Agency by the concerned department.
- iii) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
- iv) To submit final recommendation to the Competent Authority for banning or otherwise.

7.4 If the Competent Authority is prima-facie of view that action for banning business dealings with the Agency is called for, a show-cause notice may be issued to the Agency as per paragraph 8.1 and an enquiry held accordingly.

7.5 Procedure for Banning of Business Dealings with Suppliers of Imported Equipment.

- i) Banning of the agencies shall apply through out the Company.
- ii) Depending upon the gravity of the alleged misconduct the investigation report with all relevant details shall be placed before a Committee consisting of the following :-

1. ED (TG)
2. ED (T)
3. ED (F&BD)
4. GGM (MM)

The Committee shall examine the proposal and give its comments / recommendations within 21 days.

- iii) The comments / recommendations of the Committee shall be placed before TCIL Directors’ Committee (TDC). If TDC opines that it is a fit case for initiating banning action, it will direct to issue show-cause notice to the agency for replying within a reasonable period.

- iv) On receipt of the reply or on expiry of the stipulated period, TDC will consider & award decision on case.
- v) The decision of the TDC shall be communicated to the agency.

8. Show-cause Notice

- 8.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency. Statement containing the imputation of misconduct or mis-behaviour may be appended to the show-cause notice and the Agency should be asked to submit within 30 days a written statement in its defence.
- 8.2 If the Agency requests for inspection of any relevant document in possession of TCIL, necessary facility for inspection of documents may be provided.
- 8.3 The Competent Authority may consider and pass an appropriate speaking order:
 - a) For exonerating the Agency if the charges are not established;
 - b) For banning the business dealing with the Agency.
- 8.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned. The order may also mention that the ban would extend to the interconnected Agencies of the Agency.

9. Appeal against the Decision of the Competent Authority

- 9.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing, etc. The appeal shall lie to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.
- 9.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.

10. Review of the Decision by the Competent Authority

Any petition / application filed by the Agency concerning the review of the banning order passed originally by Competent Authority under the existing guidelines either before or after filing of appeal before the Appellate Authority or after disposal of appeal by the Appellate Authority, the review petition can be decided by the Competent Authority upon disclosure of new facts /circumstances or subsequent development necessitating such review. The Competent Authority may refer the same petition to the Standing Committee for examination and recommendation.

- 11. Circulation of the names of Agencies with whom Business Dealings have been banned.**
- 11.1 Depending upon the gravity of misconduct established, the Competent Authority of the Corporate Office may circulate the names of Agency with whom business dealings have been banned, to the Government Departments, other Public Sector Enterprises, etc. for such action as they deem appropriate.
- 11.2 If Government Departments or a Public Sector Enterprise request for more information about the Agency with whom business dealings have been banned, a copy of the report of Inquiring Authority together with a copy of the order of the Competent Authority / Appellate Authority may be supplied.
- 11.3 If business dealings with any Agency have been banned by the Central or State Government or any other Public Sector Enterprise, TCIL may, without any further enquiry or investigation, issue an order banning business dealing with the Agency and its inter-connected Agencies.
- 11.4 Based on the above, Units may formulate their own procedure for implementation of the Guidelines.

ANNEXURE – III(REFERENCE TO INDEPENDENT EXTERNAL MONITOR)

Date :

To

Sub: Tender No. / Contract No. _____

1. **No reference can be made to Independent External Monitor if the time to submit the tender / bid is less than 7 days. It may also be noted that no time extension will be allowed for submission of tender.**
2. **Reference of only those bidders who have purchased the tender document and signed the Integrity Pact will be entertained.**
3. **Application be made in triplicate – one shall be sent to TCIL and two copies of the same shall be sent to IEM.**

A) PRE-TENDER STAGE

I) Please provide the following information: -

- a) Whether tender document has been purchased. Yes / No
(If Yes, indicate the Receipt No.)
- b) If downloaded from website, whether fee for the same has been deposited. Yes / No
- c) Whether the query has been given to TCIL before submission to IEM Yes / No
(If Yes, please state the date of submission of query).
- d) If reply has been received, please attach a copy of the reply.

II) Please state the query in clear terms giving reference to the clause in the tender.

B) ISSUES RELATING TO EVALUATION OF TENDERS :

- I) Whether any reference has been made to TCIL Yes / No
(If Yes, reply received from TCIL be attached.)
- II) Issue on which reference is being made.

III) Documentary proof with reference to query be attached.

C) IN CASE CONTRACT HAS BEEN SIGNED/EXECUTATION STAGE

I) Date of signing of the contract.

II) Please state whether the Performance Guarantee has been submitted in terms of the contract.

Yes / No

III) Agreement Clause No. against which the complaint is being made.

IV) Integrity Pact clause under which reference is being made.

D) ISSUES REFERENCE : (Please State the query)

I) Please state whether any reference was made to TCIL.
(If Yes, reply of TCIL be attached)

Yes / No.

II) In case no reference is made, please note that first reference is required to be made to TCIL unless the issue relates to any corrupt practice.

Signature _____

Name of the Company _____

Address _____

Tel. No. _____

Mob. No. _____

Fax No. _____

E-MAIL _____

(Please attach separate sheets for detailing the issues, if need be)

