

AGREEMENT

This Agreement is made and entered into this ____ day of ____ 2011 between Telecommunications Consultants India Ltd., a Govt. of India Enterprise, having its Corporate & Registered Office at TCIL Bhawan, Greater Kailash – I, New Delhi – 110048 (hereinafter called “TCIL”).

AND

M/s _____ (Name and address of Agency) on the other part (hereinafter called as ‘Agency’).

Whereas TCIL is a prime contracting and engineering company and undertakes projects in all the fields of telecommunications, civil constructions including road constructions.

Whereas M/s _____ are engaged in Road/Civil work construction works under various departments of _____ and having experience in similar works for the last ____ years.

Whereas TCIL has participated/is participating in a tender for construction/upgradation of Civil works/Road in the Dist. _____ in _____.

Whereas TCIL has invited competitive quotes from the bidders for participating in the works for joint execution in the event the above work is awarded in favour of TCIL and whereas Agency has agreed to execute the work as per specification of _____ on award of the works to TCIL.

Now this Agreement witnesseth as under:

1. It is mutually agreed that following documents shall be deemed to form, read and construed as part of this Agreement.

- i) Entire tender document dated _____, issued by _____
_____ pertaining to the work of construction/upgradation _____.
- ii) NIT dated _____ issued by TCIL.

- iii) Offers dated _____ submitted by the Agency to TCIL.
- iv) Specifications and Drawings of _____ pertaining to the aforesaid tender for construction/upgradation of civil works/Road works in the Dist _____ in _____.
2. It is agreed between the parties that on acceptance of the aforesaid TCIL's tender by _____, TCIL may in its sole discretion award part or whole of the work entrusted to it by _____ to the agency on such award of work, the agency shall immediately mobilize and execute the work speedily of required quality and achieve the Progress as stipulated in the contract between TCIL and _____ and shall ensure maintenance for five years after construction. All terms and conditions of the tender issued by _____ and all the terms and conditions of agreement executed between the TCIL and _____, shall be applicable on back to back basis except terms and conditions, relating to pricing, payments, time for completion and termination of work of agency.
3. The Agency shall submit Earnest Money Deposit (EMD) alongwith its offer in the form of Bank Draft for 0.40% of package value. EMD shall not carry any interest and shall be returned in case contract is not awarded to TCIL subject to return of TCIL's EMD by the client/ _____ or PIU of respective package.
4. In the event, Agency withdraws its offer once submitted for any reason whatsoever or fails to furnish the back up performance security within the stipulated period or fails to carry out any work as per this Agreement, the EMD shall automatically stand forfeited by TCIL.
5. In the event, any work is awarded in favour of the agency, the EMD (despite signing of the agreement and furnishing the performance guarantee) shall be retained by TCIL as part of security deposit.
6. On award of the works by TCIL in favour of the agency, the agency undertakes to carry out the same as per specifications of the _____ and to the best

satisfaction of _____ /TCIL, with respect to the quality of works including maintenance for five years after construction.

7. Agency has confirmed that it owns requisite construction machinery and has resources and shall deploy the same for execution of the works and shall complete the works awarded to it in the scheduled time. It is agreed between the parties that **time shall be the essence of the contract** and if agency fails to complete the awarded work in the stipulated period, it shall be liable for liquidated damages as contained in clause 21, hereinafter, which it is agreed is genuine pre-estimate of the losses to be suffered by TCIL in the event of delay.
8. TCIL has vibratory rollers and other plant and machinery. In case plant and machinery is available with TCIL, TCIL can provide the same on hiring basis to the agency at rental and terms of TCIL, otherwise all the machinery required to execute the works shall be arranged by the agency.
9. The work shall be awarded to the agency at the rates_____. It is agreed between the parties that TCIL shall be entitled to correspondingly deduct any payments from the bills of the agency, which may be deducted by _____from the bills of TCIL. Agency agrees that all tax liabilities including Works Tax/VAT on total contract value shall be exclusively borne by the agency.
10. In case where a composite scheme of VAT is adopted and the VAT is deducted by _____ from TCIL bills, the Unit prices given by the agency shall be reduced towards the tax amount. However, any increase in taxes during execution period shall be borne by the agency. The rates/amount payable to agency shall be reduced for deduction of VAT in proportion to the amount payable to agency and not in the TCIL portion of the payment.
11. TCIL shall take Contractor's all risk policy in accordance with the requirement and deduct 0.70% of the contract value from the agency towards premium. Agency shall be bound to comply all the terms of any such policy. Agency shall take other policies required for its plant and equipment and workman compensation etc.

12. Agency shall provide and establish well-equipped labs to meet the requirement of _____ at its own cost.
13. Agency shall comply with all applicable local laws regarding labour, mining laws etc. and shall always keep TCIL harmless in all respects. Payment of royalty, cess, license fee of any nature whatsoever, which may be applicable in relation of or concerning the awarded work shall be entirely borne by the agency.
14. All statutory deductions such as Income Tax deductible at source shall be deducted by TCIL for which due certificate shall be issued to the agency.
15. In case the agency desires, TCIL shall procure and sell bitumen to agency at 1% margin on its sale price from PSU on request and on account of the agency, as per the requirement of the works but not exceeding combined value of 75% of value of unpaid certified work by client/consultant and PBG/SD available with TCIL. Balance requirement, if any, shall be arranged by agency. Agency shall lift the material from the supplier's godown at its own cost. Agency shall pay interest on SBI PLR Rate + 2% subject to minimum of 11% p.a. on quarterly rest from the day TCIL makes payment to the supplier of bitumen, the interest shall be charged till the amount is fully recovered from the agency or recovered from their bills. TCIL Project Directors shall ensure the utilization of materials for TCIL respective projects only. For lifting the material necessary assistance/documents/forms for sales tax etc. will be provided by TCIL.
16. It is agreed between the parties that all costs of any nature whatsoever, required for executing the work awarded to the agencies including but not limited to cost incurred on technical staff, marketing, inspection costs and other costs shall be on account of the agency.
17. Agency undertakes to deploy requisite working capital to execute the contract.
18. Payment Terms: Payment to the Agency shall be on back to back basis i.e. on receipt of the payment, corresponding payment shall be released by TCIL to the agency after making recovery for bitumen alongwith interest thereon and/or any other applicable deductions.

19. Performance Security: The agency shall provide back up performance Bank Guarantee amounting to 5% of the contract value. The said performance Bank Guarantee shall be valid until the expiry of the defect liability period from a scheduled Bank through its branch in New Delhi. The bank guarantee shall be an unconditional, irrevocable and payable on demand without any protest or demur.
20. Material Procurement Security: 10% of the amount payable shall be retained towards material procurement security from each Running Bill upto execution of 35% of contract value and shall be released in 3 installments of completion of one third B.T. work each. In case the contractor does not complete all the work including B.T. work, the amount so retained shall be forfeited and utilized for execution of balance work including B.T. work through alternative means. Further, the amount retained towards material security shall not bear any interest.
21. In case of delay in execution of work, LD as per terms of tender of the _____ shall be applicable. In case of continued delay or on breach of other contract conditions TCIL may terminate the contract and get the work carried out at the risks and costs of the agency. All the amount of EMD/Security Deposit/Performance Guarantee shall be forfeited.
22. In the event the _____ terminates the contract between TCIL and _____ for any reason whatsoever such as on account of slow progress of work or any defaults and imposes any penalties, costs and /or claims any loss or damages of any nature whatsoever including but not limited to liquidated damages, costs whatsoever or losses on account of risk purchase etc., the same shall be solely and exclusively borne and paid by the Agency.
23. In case the _____ deducts/withholds any amount from the bills of TCIL for any reason whatsoever correspondingly, the same shall be deducted from the bills of agencies.
24. Arbitration: All Disputes or differences whatsoever arising among the parties regarding this Agreement shall be settled by the arbitration in accordance with Arbitration and Conciliation Act of 1996 and the venue shall be in New Delhi. The arbitral tribunal shall consist of a Sole Arbitrator who shall be the CMD, TCIL himself or any person nominated by him to act as the Sole Arbitrator. The agency shall have no objection if

any employee of TCIL is appointed as an Arbitrator, for the reason that such person is or has been an employee of TCIL or for the reason that such a person may have dealt with the contract in dispute, at any stage, as an employee of TCIL. All the penalties, risk purchase costs, LD shall be on account of the Agency.

25. The Agency understands and agrees that he has read the tender document of the client /_____ and TCIL NIT carefully. It is expressly understood and agreed by the agency that all duties and obligations of TCIL towards the Client /_____ shall be that of the agency for the corresponding portion of work awarded to and executed by it.
26. TCIL shall get registered with the Commercial Tax Department in the State of _____ and apply for composite scheme under VAT for works Tax. The agency shall extend all assistance in this regard. Works Tax shall be borne by the agency and agency shall also get itself registered with the Commercial Tax Department of _____ as per laws.
27. i) All the prospective bidders/contractors participating in TCIL tenders/Contracts valued at Rs 10 Crores or above are required to sign Integrity Pact Agreement mandatorily with TCIL as per Annexure X.
- ii) Any vendor who has signed the Integrity Pact Agreement can send his grievances, if any, to the Independent External Monitors (IEMs) through the nodal officer i.e. Chief Vigilance Officer, TCIL in the prescribed proforma as enclosed at Annexure III
28. This Agreement is executed at Delhi and Courts at Delhi shall have sole and exclusive jurisdiction.

For Telecommunications Consultants India Ltd.

For Contractor

Signatures of the authorized representative of
TCIL

Signature and Seal

Witnesses

1.

2.