

**INTEGRITY PACT****1. General**

This pre-contract Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_\_ day of the month of \_\_\_\_\_ 2017, between, on one hand, the Director, National Centre for Antarctic & Ocean Research, Headland Sada, Goa, India (hereinafter called the “PRINCIPAL” expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part represented by Mr. \_\_\_\_\_, Director, (hereinafter called the “BIDDER” which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

WHEREAS the PRINCIPAL enters into an agreement (hereinafter called the ‘CONTRACT’) with the CONTRACTOR to provide bunkers/fuel/lube supplies to the Indian Scientific Expedition to Antarctica (herein after called the ‘BUNKER SUPPLY CONTRACT’ which expression shall mean and include, unless context otherwise requires) as per the details of the CONTRACT.

WHEREAS the BIDDER is a private company / public company / Government undertaking / partnership / registered export agency, constituted in accordance with the relevant law in the matter and the PRINCIPAL is an autonomous R&D institute under Ministry of Earth Sciences, Government of India performing its functions in oceanographic and polar research.

NOW, THEREFORE,

To avoid all forms of corruptions by following a system that is fair, transparent and free from any influence / prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to :-

Enabling the PRINCIPAL to obtain the ‘BUNKERS SUPPLY CONTRACT’ at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling BIDDER to abstain from bribing or indulging in any corrupt practice and the PRINCIPAL will commit to prevent corruption, in any form, by its officials by following transparent procedures:

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

## **2. Commitments of the PRINCIPAL**

- 2.1 The Charterers undertakes that no official of the PRINCIPAL, connected directly or indirectly with the CONTRACT, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the BIDDER, either for themselves or for any person, organization or third party related to the CONTRACT in exchange for an advantage in the contracting or implementation process related to the CONTRACT.
- 2.2 All the officials of the PRINCIPAL will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 2.3 In case any such preceding misconduct on the part of such official(s) is reported by the CONTRACTOR to the PRINCIPAL with full and verifiable facts and the same is prima facie found to be correct by the PRINCIPAL, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the PRINCIPAL and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the PRINCIPAL the proceedings under the contract would not be stalled.

## **3. Commitments of BIDDER**

The BIDDER commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage and in particular commit itself to the following:-

- 3.1 The BIDDER will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the PRINCIPAL, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the CONTRACT in exchange for any advantage in contracting and implementation of the CONTRACT.
- 3.2 The BIDDER further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the PRINCIPAL or otherwise in procuring the CONTRACT or forbearing to do or having done any act in

relation to the obtaining or execution of the CONTRACT or any other contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the CONTRACT or any other contract with the Government.

- 3.3 BIDDER shall disclose the name and address of agents and representatives in India.
- 3.4 BIDDER shall disclose the payments to be made by them to agents / brokers or any other intermediary, in connection with this CONTRACT.
- 3.5 The BIDDER further confirms and declares to the PRINCIPAL that the BIDDER is the original manufacturer / integrator / aviation service provider and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the PRINCIPAL or any of its functionaries, whether officially or unofficially to the award of the contract to the BIDDER, nor has any amount been paid, promised or intended to be paid to any such individual, firm or comp BIDDER, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the OWNER or their family members, agents, brokers or any other intermediaries in connection with the CONTRACT and the details of services agreed upon for such payments.
- 3.6 The BIDDER will not collude with other parties to impair the transparency, fairness and progress of the contracting and implementation of the CONTRACT.
- 3.7 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.8 The BIDDER shall not use improperly, for the purposes of competition or personal gain, or pass on to others, any information provided by the PRINCIPAL as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The BIDDER also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.9 The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.10 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.11 If the BIDDER or any employee of the BIDDER or any person acting on behalf of the BIDDER, either directly or indirectly, is a relative of any of the

officers of the PRINCIPAL, or alternatively, if any relative of an officer of the PRINCIPAL has financial interest / stake in the BIDDER's firm, the same shall be disclosed by the BIDDER. The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.

- 3.12 The BIDDER shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the PRINCIPAL.

#### **4. Previous Transgression**

- 4.1 The BIDDER declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify BIDDER's exclusion from the tender process.
- 4.2 The BIDDER agrees that if it makes incorrect statement on this subject, BIDDER can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

#### **5. Performance Security Bond**

- 5.1 The BIDDER shall submit a Performance Security Bond equivalent to 5% of the CONTRACT value within 15 days of Letter of Intent / signing the CONTRACT
- 5.2 The Performance Bond shall be valid for a period of 60 days beyond the date of completion of all contractual obligations including Warranty Period and be suitably extended as requested by PRINCIPAL as per the CONTRACT.
- 5.3 A clause would also be incorporated in the Article pertaining to Performance Bond in the CONTRACT that the provisions of Sanctions for violation shall be applicable for forfeiture of Performance Bond in case of a decision by the PRINCIPAL to the forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 5.4 No interest shall be payable by the PRINCIPAL to the BIDDER on Performance Bond for the period of its currency.

#### **6. Sanctions for Violations**

- 6.1 Any breach of the aforesaid provisions by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) shall entitle the PRINCIPAL to take all or any one of the following actions, wherever required:-
- 6.1.1 To immediately call off the CONTRACT without assigning any reason or giving any compensation to the BIDDER.
  - 6.1.2 Forfeiture of the Performance Security Bond either fully or partially, as decided by the PRINCIPAL and the PRINCIPAL shall not be required to assign any reason therefore.
  - 6.1.3 To immediately cancel the contract, if already signed, without giving any compensation to the BIDDER.
  - 6.1.4 To recover all sums already paid by the PRINCIPAL, with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the BIDDER from the PRINCIPAL in connection with any other contract for any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
  - 6.1.5 To encash the advance bank guarantee and performance bond/warranty bond, if furnished by the BIDDER, in order to recover the payments, already made by the PRINCIPAL, along with interest.
  - 6.1.6 To cancel all or any other contracts with the BIDDER. The BIDDER shall be liable to pay compensation for any loss or damage to the PRINCIPAL resulting from such cancellation/rescission and the PRINCIPAL shall be entitled to deduct the amount so payable from the money(s) due to the BIDDER.
  - 6.1.7 To debar the BIDDER from participating in future bidding processes of the Government of India for minimum period of five years, which may be further extended at the discretion of the CHARTERER.
  - 6.1.8 To recover all sums paid in violation of this pact by BIDDER(s) to any middleman or agent or broker with a view to securing the CONTRACT.
  - 6.1.9 In cases where irrevocable Letters of Credit have been received in respect of any contract signed by PRINCIPAL with the BIDDER, the same shall not be opened.
  - 6.1.10 Forfeiture of Performance Bond in case of a decision by the PRINCIPAL to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 6.2 The PRINCIPAL will be entitled to take all or any of the actions mentioned at para 6.1.1 to 6.1.10 of this Pact also on the Commission by the BIDDER or

anyone employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

- 6.3 The decision of the PRINCIPAL to the effect that a breach of the provisions of this Pact has been committed by the BIDDER shall be final and conclusive on the BIDDER. However, the BUILDE can approach the Independent Monitor(s) appointed for the purposes of this Pact. (The appointment of the Independent Monitors is in progress by Ministry of Earth Sciences and details of monitors shall be intimated to the BIDDER)

## **7. Fall Clause**

- 7.1 The BIDDER undertakes that it has not provided / is not providing similar Air Support Services at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India or PSU and if it is found at any stage that similar product/systems/ services or sub systems/ services was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the different in the cost would be refunded by the BIDDER to the PRINCIPAL, if the CONTRACT has already been concluded.

## **8. Independent Monitors**

- 8.1 The PRINCIPAL is in the process of appointing Independent Monitors (hereinafter referred to as Monitors) through Ministry of Earth Sciences (*Names and Addresses of the monitors shall be intimated as soon as the appointment is made*).
- 8.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 8.3 The Monitors shall not be subjected to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 8.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings.
- 8.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the PRINCIPAL.

- 8.6 The BIDDER accepts that the Monitor has the right to access without restriction to all Project documentation of the PRINCIPAL including that provided by the BIDDER. The BIDDER 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 Sub BIDDERS. The Monitor shall be under contractual obligation to treat the information and documents of the BIDDER/Sub BIDDERS with confidentiality.
- 8.7 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 parties. The parties will offer to the Monitor the option to participate in such meetings.
- 8.8 The Monitor will submit a written report to the designated Authority of PRINCIPAL / Secretary in the Ministry within 8 to 10 weeks from the date of reference or intimation to him by the PRINCIPAL / BIDDER and, should the occasion arise, submit proposals for correcting problematic situations.

## **9. Facilitation of Investigation**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the PRINCIPAL or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER and the BIDDER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

## **10. Law and Place of Jurisdiction**

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the PRINCIPAL.

## **11. Other Legal Actions**

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

## **12. Validity**

- 12.1. The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the CONTRACT to the satisfaction

of both the PRINCIPAL and the BIDDER, including warranty period, whichever is later.

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

The parties hereby sign this Integrity Pact at Vasco-da-Gama on \_\_\_\_\_ 2017.

SIGNED:	
<b>CHARTERER</b> <b>For and on behalf of the CHARTERER</b>  <b>NATIONAL CENTRE FOR ANTARCTIC &amp; OCEAN RESEARCH</b>   NAME: TITLE:	<b>BIDDER</b> <b>For and on behalf of the BIDDER</b>         NAME: TITLE: <b>DIRECTOR</b>
WITNESS:	
1. _____	1. _____