



सत्यमेव जयते

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**Purchased by** : TELECOMMUNICATIONS CONSULTANTS INDIA LTD  
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**MEMORANDUM OF UNDERSTANDING**

**Memorandum of understanding between National Institute of Technology Delhi and Telecommunications Consultants India Ltd.**

This memorandum of understanding is made and executed at Delhi on day 31st of March 2022 between:-

  
**डॉ अजय कुमार शर्मा**  
**Dr. Ajay Kumar Sharma**  
**Director/निदेशक**  
**राष्ट्रीय प्रौद्योगिकी संस्थान दिल्ली**  
**National Institute of Technology Delhi**



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NATIONAL INSTITUTE OF TECHNOLOGY DELHI (hereinafter referred to as NITD) an Autonomous Institute under Ministry of Education, Government of India having its office at FA7, Zone P1, GT Karnal Road, Delhi-110036 which expression shall unless repugnant to the context shall include its successors and assigns Dr. Ajay K Sharma, Director, as its authorized representative on the one part).

AND

TELECOMMUNICATIONS CONSULTANTS INDIA LTD. (A Govt. of India Enterprise) a company registered office at TCIL Bhawan, Greater Kailash-1, New Delhi 110048 ('herein after called the Executing Agency') and the term the 'Executing Agency' shall mean and include its successors and assigns of the other part.


NITD and TCIL are individually referred to as 'Party' and collectively as 'Parties' towards the implementation of the Project both the parties agree as under:

- 1.1 Whereas NITD has awarded the project of Construction Projects, Management Supervision and execution of Phase-1B (though EPC mode) to TCIL as Project Management Consultant vide letter dated 10.03.2022 in response TCIL's participation to Expression of Interest no. NITD/JE(C)/MAINT/36/2021.
- 1.2 TCIL shall work on "Deposit work basis" for these projects on behalf of NITD and shall be paid the actual cost of work plus the agency charges @ **1.65% plus applicable GST** if applicable thereon for Project Management, Supervision and services for planning, designing and Engineering Consultancy Services.
- 1.3 Payments by the NITD shall be made by transfer of funds in a bank account of TCIL or through demand draft/cheques, as may be mutually decided from time to time.

TCIL shall open and maintain a separate bank account in any nationalized bank for the works of NITD only. The net interest accrued after deduction of income tax in the bank account shall be credited to NITD.

1.4 Payment and submission of bills

- a) TCIL shall implement the project on Deposit work basis, TCIL shall follow competitive tendering process for selection of agencies for planning, design and execution of works of the project as per their procedure.
- b) TCIL shall submit to NITD the monthly utilization certificate along with Physical and Financial progress. NITD shall release the payment within the 30 Days of submission of Utilization Certificate submitted by TCIL. TCIL shall ensure to deduct @5% of contractor's running account bill amount as SD/retention money. The retention money shall be released from time to time to contractor as per provisions laid by CPWD or TCIL and other govt. agency. TCIL on completion and handing over of work, the accounts of the works shall be closed and a final statement shall be submitted for settlement along with refund of excess deposit received and interest earned on deposits and advance to contractor(s), if any, duly audited by TCIL.
- c) The Agency charges will be released in stages as per utilization certificate issued by TCIL.
- d) TCIL shall provide a clause in the tender condition that NIT Delhi shall not be responsible to provide electricity or water supply for construction and the

  
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contractor(s) should make his own arrangement for the same. However, three phase electrical power connection shall be provided by the NITD at one point with the electrical meter at each project site. Further distribution shall be the responsibility of the TCIL/contractor. The monthly electricity consumption bill shall be raised by TCIL as per the prevailing rate from time to time. It will be the responsibility of the TCIL to realize the electricity charges from the contractor(s).

#### 1.5 Responsibilities of TCIL:

- a) TCIL shall implement the project on deposit work basis, TCIL shall follow competitive tendering process (e-tendering) for selection of agencies for execution of the Projects, as per their procedure and guidelines of CVC. However the tender shall be accepted by the TCIL after obtaining the consent of NITD.
- b) Before inviting the tenders, the TCIL shall obtain the consent of NITD for NIT specifications, technical conditions and eligibility criteria.
- c) The NITD representatives shall be invited to be present in the pre-bid meeting with the agencies, if any.
- d) Before opening of financial bids of the shortlisted agencies, the TCIL shall provide the list of shortlisted agencies, prequalification criteria and procedure adopted in finalizing of shortlist to NITD.
- e) TCIL shall provide a clause in the tender condition that no labour hutment for the contractual workers shall be allowed in the NITD campus.
- f) TCIL shall provide a clause in the tender condition that three phase electrical power connection shall be provided by the NITD at one point with the electrical meter at each project site. Further distribution shall be the responsibility of the TCIL/contractor. The monthly electricity consumption bill shall be raised by TCIL as per the prevailing rate from time to time. It will be the responsibility of the TCIL to realize the electricity charges from the contractor(s).
- g) TCIL shall provide a clause in the tender document that either the contractor shall make own arrangement of water for construction or may take the water from the network of NITD on payment basis.
- h) The work shall be carried out in general as per existing CPWD specifications. TCIL shall ensure that the quality of work is executed as per specifications and norms such as CPWD specifications with updated correction slips, BIS codes and other specifications as given by the consultants and manufacturers as specified for the project and shall carry out such periodic tests in the laboratories of NITD or as recommended by TCIL if the facility is not available in NITD for which proper records shall be maintained by TCIL.
- i) TCIL shall submit to NITD monthly or as may be required, report indicating physical and financial progress.
- j) The project and documentation will be open for examination by the Central Govt. Agencies like CTE organization, Regional Labour Commissioner Officer/ Labour Cess, EPF, ESIC & CAG etc. TCIL shall be solely responsible for pursuing & settling the observations.
- k) TCIL shall appoint one Nodal Officer headquartered at Delhi who shall co ordinate with NITD for various activities related to Project inter alia including periodic

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monitoring of the Project. NITD shall set up a project monitoring committee to monitor progress and quality of the work. On demand all contractual documents will be made available to NITD.

- l) The meeting called by project monitoring committee of NITD and their site inspection shall be attended by the Nodal or higher officer of TCIL.

## 2.0 SCOPE OF WORK

The Scope of work under this TCIL MOU shall be as below:

- a) TCIL shall provide Project management Consultancy Services for the construction of above projects including Civil, Plumbing, Internal Electrical and low side HVAC (Heating Ventilation Air Conditioning) works, IT, acoustical treatment and other facilities as assigned by the NITD. The integration of low side of HVAC with existing high side shall be done as per requirement indicated by the NITD as and when required.
- b) TCIL shall prepare Tender documents required for execution of the project and get the work executed as per architectural drawings and specifications approved by NITD and to the satisfaction of NITD through contractor(s) to be engaged by TCIL.

## 3.0 INFRASTRUCTURE

TCIL will work closely with NITD to ensure that all Technical Requirements and other facilities for smooth functioning of the NITD are met with.


## 4.0 CONSULTANCY

A reputed Architect of National/International Standards shall be appointed by TCIL for operational planning and technology for the project as follows:

- a) Detailed drawings of civil, electrical, plumbing HVAC, acoustic, interiors and any other services required for the building, specifications, list of approved makes in consultation with NITD/TCIL.
- b) The architect and their service consultants shall make periodic supervision of the project in consultation with NITD, their observations shall be communicated to TCIL, In case of any cost variation, because of the implementation of observations by the architect and their service consultants, the prior approval of NITD shall be obtained by TCIL.

## 5.0 OBLIGATIONS OF TCIL

- 5.1 TCIL shall perform the Project management Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices and shall observe sound management practices and employ appropriate technology and safe and effective equipment, machinery, materials and methods. TCIL shall always act, in respect of any matter relating to this MOU or to services as faithful adviser to NITD and shall at all times support and safeguard NITD's legitimate interests in any dealings with Third parties.

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- 5.2 TCIL shall hold NITD interests paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments or their own corporate interests. If during the period of this MOU, a conflict of interest arises for any reasons. TCIL shall promptly disclose the same to NITD and seek its instructions for compliance.
- 5.3 The representative and other persons duly authorized by NITD will have full access to the site and all the documents to assess the physical and financial progress and stage of completion of the work.
- 5.4 TCIL shall comply with all applicable laws and regulations or orders and directives of any competent authority (including but not limited to applicable labour and other laws and regulations governing its employees, contractor(s), sub-contractors) and any persons employed or engaged in connection with this MOU in performing and carrying out its obligations under this MOU and shall discharge and fully indemnify NITD against all liabilities, claims, demands, fines, penalties and other consequences arising from its failure to comply with any laws and regulations.
- 5.5 TCIL shall ensure compliance of labour laws by the contractor(s) to effect adequate public liability, workmen compensation, personal accident in respect of all employees, contractor(s), Sub-contractor(s) and all persons involved in the building, installation, commissioning and completion of the project. They shall at all time maintain the site in a clean and orderly condition and shall take all necessary measures to ensure that there is no accumulation of waste, rubbish or other construction material at the site
- 5.6 TCIL shall ensure the soundness of all designs, specifications, BOQ and conditions proposed by the architectural consultant before inviting the tender, TCIL may appoint third party only for highly specialized work with prior approval of NITD for proof checking for the soundness of design.
- 5.7 TCIL shall install, test and commission the all Equipments/Systems through agencies and shall ensure that the Equipments/ Systems function and perform in accordance with its published specifications and any other representation made by the manufacturers of the equipments to the satisfaction of NITD.
- 5.8 TCIL undertakes and warrants that the services rendered by it by way of handling, installation, integration & commissioning of the Project are free from all defects in workmanship/ performance. During MOU period of 36 months after obtaining statutory approvals as decided by NITD and TCIL and the defects liability period of 12 months from the date of commissioning and handing over of respective works of NITD. TCIL shall get rectified (as soon as reasonably practicable) any such defect in the workmanship/ performance of the MOU without any charge.
- 5.9 TCIL will coordinate with all concerned agencies for construction of the project.
- 5.10 TCIL and their contractor shall abide by security regulation of NITD.
- 5.11 The construction of above projects shall be executed by TCIL without causing disturbance of any nature to other activities of NITD.

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- 5.12 TCIL shall be principal employer for all practical purposes for the contract workers engaged by their contractor(s) for the works at NITD. The form V to the contractor(s) for the labour license shall be issued by the TCIL. The necessary letter required for this purpose for the office of Regional Labour Commissioner, Central shall be obtained by TCIL.
- 5.13 TCIL shall be sole responsible in case of any police case against their employees, contractual workers engaged by the contractor(s) for the works assigned to TCIL at NITD.

## 6.0 OBLIGATION OF THE NITD

- 6.1 Within 3 months of signing of the MOU, NITD shall handover the site to TCIL. The NITD shall provide to TCIL any additional information related to the project, if requested by TCIL to complete the project within the specified time frame.
- 6.2 NITD shall release timely payment to TCIL as per the schedule to avoid any delay in the execution of the project. It shall be based on the reimbursement of the Utilization Certificate submitted by TCIL.
- 6.3 NITD shall provide necessary authorizations to TCIL to facilitate processing of relevant permits from concerned agencies to enable TCIL, its Sub-Entities or Personnel to perform the Services.
- 6.4 NITD will issue to officials, agents and representatives of the Govt., all such instructions as may be necessary or appropriate for the prompt and effective implementation of the services.
- 6.5 NITD shall provide suitable approvals for the items listed in para 10.2 in a reasonable time frame so as to avoid delay in execution of related works.
- 6.6 NITD to provide to TCIL any such other relevant assistance to facilitate performance of the MOU.

## 7.0 COST, FEES AND PAYMENT

- 7.1 The estimated cost is based on the quantities and any variation in the quantities or scope of services shall call for additional financial allocations commensurate with that change to be made available to NITD. The cost estimate of the project includes TCIL's agency charges as per clause 1.5 (a & b) of this MOU.
- 7.2 The payment to TCIL shall be based on actual cost of all the works of the project. The actual cost of the project shall also include all the costs as paid to contractor(s)/Supplier(s)/Agencies, cost of materials & other items as supplied by TCIL (including the ones received by transfer from other Units of TCIL with prior concurrence of NITD) for incorporation in the project, cost of reconstruction (if any) due to change in design/decision/modification/expenditure on survey/ investigations/testing.
- 7.3 Any variation in quantities beyond what is indicated in the schedule or change in scope of services shall either call for additional financial allocation or reduction commensurate

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with changes conveyed by NITD to TCIL. The final payment will be made to TCIL on the basis of actual cost incurred by TCIL.

- 7.4 TCIL agency charges will be payable on actual project cost as per clause 1.5 (a & b) of this MOU.
- 7.5 TCIL shall obtain necessary clearances/approvals related to construction and completion of this project from statutory authorities for which NITD shall provide necessary authorization in favour of TCIL wherever so required. However, all statutory deposits/expenses shall be paid by NITD on actual basis and shall not form part of the work as per clause 25.5.
- 7.6 A detailed estimate should be provided by TCIL for each building on latest CPWD rates. The final cost shall be determined on completion of the project after actual expenditure is incurred and final settlement of the payment made with TCIL.
- 7.7 TCIL shall submit the Utilization Certificate show casing Financial and Physical progress along with milestones achieved. On the basis of the same NITD shall release further funds keeping in view the Physical progress and Milestones. Payment will be released to TCIL within 30 days of submission of Utilization Certificate. At the completion of the project, TCIL shall submit the final expenditure statement along with Utilization Certificate.
- 7.8 The project will be executed by TCIL on deposit work basis. The legal and beneficial ownership and all rights, titles and interest will always vest with NITD. TCIL shall not have any right at law any time to make any claim of title or create any lien, charge or other encumbrances whatsoever overall or an part of the project or land.
- 7.9 The PMC shall be fully responsible to defense any suit or arbitration/court cases on behalf of Institute arising out of project in connection with the work between the PMC and its contractor(s) and any award/decreed during the construction stage or post completion of the work, including cost of hiring advocates etc. shall be payable from the project fund/NITD. However, PMC shall not charge agency charges on such arbitration award/court decree(s) in favor of contractor(s).

## 8.0 TIME SCHEDULE

- 8.1 TCIL shall execute and complete the project within specified time schedule prepared by TCIL from the i) Date of Signing of the MOU ii) Handing over of the encumbrances free site, iii) Sanction of Estimate/release of Initial advance to TCIL and iv) Approvals of drawings from statutory authorities whichever is later.

However, the completion period as mentioned above shall be extended by the NITD if the delay in the project completion occurs due to reasons not attributable to TCIL. Necessary extension of time shall be granted by NITD without levy of compensation in such event.

## 9.0 WORKS, SUPPLY OF MACHINERY AND EQUIPMENT

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- 9.1 The equipment(s)/items and works if any will be procured by TCIL on behalf of NITD through the contractor(s) or from reputed manufacturers/suppliers/agencies as per TCIL norms of procurement/works procedure which is approved by TCIL's competent authorities within framework of CVC guidelines. While inviting quotations from contractor(s)/ manufacturer(s)/ supplier(s)/agencies, following criteria will be kept in view
- a) Meeting the functional requirement of the project
  - b) Technical acceptance of items in line with specifications and desired performance
  - c) Compatibility with the other major chain equipment
  - d) Reliability of the Items
  - e) Feedback on supplies made for other similar/equipment projects by the supplier(s)
  - f) Extent of customization and onsite support
  - g) TCIL's past experience with the suppliers in relevant fields.

## 10.0 PERIODIC REVIEWS

- 10.1 In order to facilitate progress and time bound completion of the project; TCIL will prepare quarterly or as desired by NITD, progress reports and submit the same to NITD showing the progress of the work viz-a-viz time schedule drawn as per Bar Chart/ updated time schedule. A Project Monitoring Committee will be set up by NITD to carry out periodic review of the progress and quality of works. TCIL shall make available all contractual documents and details to the committee.
- 10.2 Approval of NITD will be required for the following in conjunction with the MOU made by TCIL with construction agencies.
- a. Approval of samples for all Civil & Sanitary items
  - b. Inspection of electrical cables, panels & fixtures, etc.
  - c. Inspection of AHUs and other fixtures for HVAC.

## 11.0 AFTER PROJECT SERVICE AND WARRANTIES OF EQUIPMENT

- 11.1 TCIL shall provide all back to back warranties from the suppliers of all equipments and pass this on to NITD

## 12.0 AFTER COMMISSIONING

- 12.1 After completion of works at NITD campus at Delhi, TCIL will prepare a completion report which will also include a detailed list of works and equipments installed/supplied and as built drawing after of the building & services including electrical wiring, water supply, sewer line, computer wiring, etc. TCIL shall develop maintenance schedule for all works and handover the same to NITD. TCIL shall also submit compilation of Manufactures catalogues, test reports conducted before acceptance for all equipments and systems.



### 13.0 FORCE MAJEURE

For the purpose of this MOU, "Force Majeure" means an event which is beyond the reasonable control of a party, is not foreseeable, is unavoidable and not brought about by or at the instance of the party claiming to be affected by such events and which has caused the non performance or delay in performance and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances. TCIL shall not be considered in default, if delay in completion of work occurs due to cause beyond its control such as acts of God, natural calamities, civil wars, fire, strike, frost, flood, riots, and acts of unsurpassed power. TCIL shall notify NITD in writing within Ten days from the date of such occurrence. In the event of delay due to such causes, the completion schedule will be extended for the length of time equal to the period of force majeure. If the construction and other related work/obligation by TCIL is suspended by force majeure condition lasting for more than 2 (Two) months, NITD shall have the option of cancelling this MOU in whole or part at its discretion without any liability on its part. In event of such cancellation, TCIL shall refund any adjusted advance lying with TCIL and deliver back any materials issued to them by NITD and release facilities, if any, provided by NITD.

- 13.1 Force majeure shall not include (i) any event which is caused by the negligence or intentional action of a party or by of such party's agent or employees, nor (ii) any event which a diligent party could reasonably have been expected both to take into account at the time of the signing of the MOU and devoid or overcome with utmost persistent efforts in carrying out its obligations hereunder.
- 13.2 Force majeure shall not include insufficiency of manpower or rain or storm.
- 13.3 The failure of a party to fulfill any of its obligations hereunder shall not be considered to be breach of or default under this MOU in so far as such inability arises from an event of Force Majeure, provided that the party affected by such an event has taken all possible precautions, due care and all measures, with the objective of carrying out the terms and conditions of this MOU.

### 13.4 MEASURES TO BE TAKEN

- a) TCIL affected by an event of Force Majeure shall continue to perform its obligations under the MOU as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- b) TCIL affected by an event of Force Majeure shall notify the other party of such event as soon as possible, following the occurrence of such event, providing sufficient and satisfactory evidence of the nature and cause of such event and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- c) Any period within which TCIL shall, pursuant to this MOU, complete any action or task, shall be extended for a period equal to the time during which such party was unable to perform such action as a result of Force Majeure.
- d) During the period of their inability to perform the services as a result of an event of Force Majeure, TCIL, upon instructions by NITD shall either i) Demobilize or ii) continue with

the services to the extent possible, in which case the NITD on being satisfied shall continue to pay proportionally to TCIL and on prorated basis, under the terms of this MOU.

### 13.5 SUSPENSION

NITD may, by written notice of suspension to TCIL, suspend all payments to TCIL hereunder if TCIL fails to perform any of its obligations under this MOU, including the carrying out of the services, provided that such notice of suspension i) shall specify the nature of the failure and ii) shall allow TCIL to remedy such failure, if capable of being remedied, within 03 months after receipt by TCIL of such notice of suspension.

### 14.0 GOVERNING LAW AND JURISDICTION

The applicable law governing this MOU shall be the laws of India and the courts of Delhi shall have the exclusive jurisdiction to adjudicate any dispute with respect to this MOU.

### 15.0 INSURANCE

TCIL shall incorporate necessary clause(s) in the tender document for contract between TCIL and contractors/agencies for any damage/loss or injury which may occur to any property or person(s) including any employee of the employer arising out of the execution of works or temporary works or carrying out of the contract as third party insurance. The necessary charges shall be borne by Contractor.

### 16.0 INTERPRETATION

Any reference in this MOU to any statute or statutory provisions shall include a reference to that statute or statutory provision as from time to time amended, modified, extended or enacted whether before or after the date of this MOU and to all subsidiary statutory instruments, orders and regulations for the time being in force.

### 17.0 SETTLEMENT OF DISPUTES

17.1 AMICABLE SETTLEMENT: Performance of the MOU is governed by the terms and conditions of the MOU, in case of dispute between the parties regarding any matter under the MOU, either party of the MOU may send a written Notice of dispute to the other party. The party receiving the notice of disputes will consider the Notice and respond to it in writing within 30 (Thirty) days after receipt. If that party fails to respond within 30 (Thirty) days, of receipt of notice or the dispute cannot be amicably settled within 60 (Sixty) days following the response of that party, the party giving the notice may initiate Arbitration proceedings.

### 17.2 ARBITRATION:

In the event of any dispute(s) or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be settled as per the Office Memorandum No. DPE-GM-05/0003/2019-FTS-10937 dtd. 20<sup>th</sup> Feb, 2020 and F. No. 4(1)/2013-DPE(GM)/FTS-1835 dtd. 22<sup>nd</sup> May, 2018.

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## 18.0 COMPENSATION OF DELAY

- 18.1 The work is to be completed within the scheduled time frame and no extension will be granted. However, in case of delay in completion of work due to the reasons beyond control of TCIL, suitable extension time may be granted by NITD for which TCIL will make a request to NITD.
- 18.2 In case there are some hindrances which come to the notice of TCIL and are to be attended by NITD, the same shall be intimated immediately so that timely action for removal of the same could be taken. In case, hindrance occurs not on the part of TCIL, the same shall also be intimated and recorded within 15 days of occurrence of the hindrance.
- 18.3 TCIL will provide compensation clauses in their contract with contractors as per CPWD norms. For any delay attributable to the contractors deployed by TCIL, compensation shall be made to the NITD by the TCIL from Contractor @ 0.5% of the total project cost per week of delay, subject to a maximum of 10% of total project cost.

## 19.0 NO RESPONSIBILITY TO THE NITD

- 19.1 The NITD shall not be responsible or accountable to TCIL for the employees, agents, technicians and laborers employed by TCIL who shall work on the project site and its premises and TCIL shall be exclusively responsible for all such personnel engaged, on the works for such matters as payment of salary, wages, bonus, compensation and compensation in the event of death and accident.
- 19.2 There shall be no contractual nexus or privacy between the NITD and TCIL the technicians, employees, engineers, architects, laborers and contractors and such personnel shall not be the employees of the NITD and NITD shall not be liable in any way (employee-employee relationship, legal and financial) to such personnel who shall be exclusive liability and responsibility of TCIL.
- 19.3 The overall responsibilities for getting Statutory Approvals from inception to completion of project (including Completion/occupation Certificate) from various govt. bodies lies with TCIL on behalf of NIT Delhi. However, any cost/financial burden/statutory Fees would be borne by NIT Delhi on request of TCIL.
- 19.4 TCIL must ensure that the appointed field staff should have sufficient time in retirement so that another staff in between the ongoing project must not be replaced by TCIL.
- 19.5 TCIL must ensure the compulsory visits of the Architect Consultants on a regular basis. The gap should not be more than 03 weeks in between the two visits.

## 20.0 DAMAGE TO PERSONS AND PROPERTY

The TCIL shall make the defaulting contractor(s) (except and in so far as this MOU provides otherwise) indemnify and keep indemnified the NITD, against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of or in consequence of or in relation thereto so as far as agreement is concerned. NITD will not be responsible in this regard.

## 21.0 SECURITY DEPOSIT

Retention Money/Security Deposit at the rate of 10% of the final work completion amount will be retained by TCIL from Contractor bill, the amount so retained will be released only after rectification of the defects pointed out by NITD. The security deposit will be returned after 3 months of completion of defect liability period.

## 22.0 DEFECTS LIABILITY PERIOD

This period shall be one year from the date of completion of works. During this period TCIL shall get defects rectified without any cost to NITD. For items like electrical/mechanical equipments which have guarantee/warranty period beyond one year wherever applicable as per manufacturer recommendations shall also be given by the TCIL. Otherwise the defect period will be of 12 months from the date of completion work or handing over of the site of NITD whichever is later.

23.0 The terms of MOU shall be extended to any additional work within the site as mutually and specifically agreed upon.

## 24.0 TERMINATION OF CONTRACT

24.1 Cancellation of contract in part or full for Contractor's default:

If the contractor fails to complete the works, work order and items of the work within the date of completion and continues in that state after a reasonable notice from the Accepting Authority, TCIL without any prejudice shall cancel the contract as a whole or only such work order or items of work in default from the contract. TCIL shall also complete the work by any means at contractor's risk and cost and if the estimated cost for completion exceeds the amount due to contractor under the contract the contractor shall either pay the excess amount or same shall be recovered by TCIL as per CPWD provisions.

24.2 Special power of determination:

The work wholly or partly can be foreclosed, at any time, after acceptance of the contract (by TCIL) for any reason, whatsoever, by the NITD without assigning any reason or payment of any compensation, whatsoever. The NITD shall give notice in writing to the effect to TCIL who shall have no claim to any payment of compensation or otherwise, whatsoever, on account of any profit or advantage which they might have derived from the execution of the works, in full but which they did not derive in consequence of the foreclosing of the work. TCIL shall be paid at accepted rates, for the full amount of the work executed including such additional work e.g. clearing of site etc. as may be rendered necessary by the said foreclosing. They shall also be allowed a reasonable payment (as decided by NITD) for any expenses sustained on account of labor, tools & plants and materials collected but not utilized on the works, verified by the NITD.

## 25.0 PAYMENT TERMS (PMC)

25.1 Executing Agency shall work as PMC for the projects/works being executed on behalf of the Employer, on deposit basis and shall be paid the actual cost of work (including GST

thereon) plus the agency charges of **1.65% ( One point Six Five percent only)** thereon plus applicable GST for Project Management, Supervision, Services including Architectural Services for planning, designing, and Consultancy Services. GST as applicable on implementation of works shall be part of the Project cost.

25.2 Payment of agency charges shall be stage-wise as under:

- a) 15% on approval of DPR
- b) 20% on award of work for execution to the contractors.
- c) Balance 65% pro-rata against the work done.

25.3 The expression 'actual cost of works' shall include the following:

- a) All the final payments made to the contractor(s), supplier(s), agency/agencies as agreed upon in the tender for execution of the works including related facilities or performance of the services, etc.
- b) All costs of materials acquired for the project and used on the work, either directly or through the contractor/(s) including storage charges, carriage and any other incidental charges connected with such materials but excluding the material not incorporated or not handed over to the Employer.
- c) Actual cost of site survey, soil testing charges, laboratory charges for testing of any material, manufactured or built items including the cost of cartage of samples to and from the laboratory.
- d) Actual cost towards newspaper advertisement, if any, for selection of vendors.
- e) The cost towards vetting of design/drawings from any IIT/NIT/reputed Institute and/or their services for consulting any matter concerning the project if required.
- f) All liabilities of the Executing Agency payable to the contractors/sub-Contractors, suppliers and other agencies to the extent these falls within the definition of actual cost as may be left outstanding at the time of payment of final bill provided these have been accepted by the Executing Agency as balance payment against final bill of these agencies.
- g) GST, if applicable, shall be reimbursed to the Executing Agency. Any other tax levied by Govt. after signing this agreement is to be paid extra.
- h) All liabilities arising out of any court decree, which has attained finality including cost of hiring advocates etc. for the purpose of initiating on behalf of, or defending itself or the Employer in any suit or arbitration in respect of any dispute arising out of the Project works done or to be done and/or freeing the site of all encumbrances and/or charges.

Nothing in this Sub-Clause shall be construed to cover any disputes/arbitrations/suits between the Employer and the Executing Agency, in which case, each party shall bear its own costs.

The parties hereto understand and agree that although these costs will come under actual costs and therefore be borne by the Executing Agency (except costs mentioned at 25.3 a, b, f, g and h) the same shall be taken into account for the purpose of

calculating the Agency charges except for such costs which as a result of an order/judgment/decreed have resulted in some form of addition or variation in the Project works.

- 25.4 The budgetary estimate for the works shall be provided by the Employer. The detailed estimates will be prepared after site visits and the same will be submitted to NITD for concurrence at-least three weeks tentatively before actual date of start of work. The Final Project Cost would be finalized thereafter.
- 25.5 The actual final cost of work shall not include:
- a) Cost of land.
  - b) Costs/fees paid by the Employer to local Government or any other statutory body or bodies for getting approvals for the project etc.
- 25.6 The payments by the Employer shall be made by transfer of funds in a specified bank account of Telecommunications Consultants India Limited.
- 25.7 The Employer shall give initial deposit of 30% (Thirty percent only) interest free advance of the estimate cost on signing of Agreement. This initial deposit would be retained for adjustment against the last portion of the estimated expenditure.

The TCIL shall submit to NITD the monthly utilization of the amount along with the duly certified copies of bills made to the contractors/suppliers by the competent officer ( to be designated by TCIL in advance) along with their expenditure claim ( including agency charges) for reimbursement of expenditure incurred. NITD shall release the payment within 30 days of submission of invoices/reimbursement bill by the TCIL. TCIL shall insure to deduct at the rate of 5% of contractor's running account bill amount as SD/ retention money. The retention money shall release from time to time to contactors as per provisions led by CPWD and other government bodies. TCIL on completion and handing of over of the project/work, the accounts of the works shall be closed and a final statement shall be submitted for settlement along of refund of excess deposit received and interest earned on deposits and mobilization advanced to contractor's, if any, duly audited by a Chartered Accountant.

The agency charges will be released in stages as per the running accounts bills and utilization certificate issued by TCIL.

Final payment for work shall be made only on the personal certificate of the officer in charge of execution of the work in the format given below:

'I..... Executing Officer of ( Name of work), am personally satisfied that work has been executed as per the specifications laid down in the Contract MOU and the workmanship is up to standards followed in the industry.'

All the payments shall be made/released by the NITD to TCIL or vice - versa through an electronic transfer of funds or by way of checks/DD/other instruments.

The NITD reserves the right to verify the extent of bill if so required.

- 25.8 Employer will further give balance 70% (Seventy percent only) interest free advance of

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the awarded cost in three equal installments on the submission of utilization certificate of the amount equivalent to 80 % of the earlier advance, given to Executing Agency. 10 % interest free advance of the awarded cost at the time of award of work shall also be given to working contractor(s) by Executing Agency against submission bank guarantee. Executing Agency will recover this advance from the contractor from each running bill after 2nd running account bill of the contractor.

25.9 The Executing Agency shall give their stage wise reimbursement bill along with their expenditure claim (including agency charges) duly certified by a representative of Executing Agency on the project, for reimbursement of expenditure incurred. The Employer shall release the payment within 15 days of submission of invoices/reimbursement bill by the Executing Agency. On completion of work, the accounts of the works shall be closed and a final statement shall be submitted for settlement along with refund of excess deposit received, if any, certified by TCIL.

25.10 The Employer fully understands the commitment, duty, responsibility and liability of the Executing Agency for making timely payments to the contractors/vendors/agencies to whom the work is or shall be awarded for execution of the contract/project. The client expressly agrees to make timely payments or make funds timely available to the Executing Agency for making payments to the contractors/vendors/agencies on back to back basis or otherwise in time and as per the terms and conditions of the Tender/PO/contract between the parties.

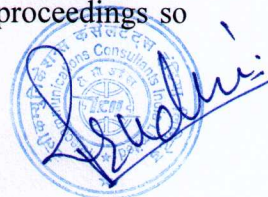
25.11 The Employer understands and agrees that delay in making timely payments could make the Executing Agency heavily liable for damages and other claims in any action or proceedings initiated by the contractor/sub-contractor/vendor/other agency against the Executing Agency, for which ultimately the Employer is liable for payment.

25.12 The Employer expressly agrees that in case, any action or proceeding is initiated by the contractor/sub-contractor/vendor/other agency for execution of the project works due to Employer's default in making timely payments or non-payment of the Executing Agency's dues or releasing funds timely or any other default as per terms of agreement with the Employer and/or due to any other reason despite reasonable care & due diligence by the Executing Agency, it would reimburse all costs, charges, and expenses or any other amount, whatsoever in relation to the action or proceedings initiated by the contractor/sub-contractor/vendor/other agency against the Executing Agency like arbitration cost, damages, awarded amount or interest thereon, court decree etc. without any objection or demur, whatsoever.

25.13 In case of any dispute raised by the contractor/vendor/agency appointed by the Executing Authority by reason of not making payment by the Employer or any other reason which is not due to default or negligence of the Executing Authority, in that event, the parties agree that the Employer would also be part of the Arbitration proceedings so

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invoked by the contractor/vendor/agency appointed by the Executing Authority for the works and a tripartite arbitration agreement will be entered among the Employer, the Executing Agency and the contractor/vendor/agency, once the works are awarded.

Or

In case of any dispute raised by the contractors/vendors/agencies appointed by the Executing Authority in respect of the subject works/projects, by reason of not making payment by the Employer or any other reason which is not due to any default or negligence of the Executing Agency, in that event if need arises the Executing Agency will request the Employer to permit calling its Officers as witness in the arbitration proceedings and/or involving/including the Employer as a proper and necessary party in the arbitration/civil suit.

## 26.0 REPORTS ON PROGRESS

TCIL shall submit following monthly reports, the format for which will be provided by the NITD:

- 26.1 Physical progress achieved during the month along with photographs and the cumulative progress of the project.
- 26.2 Financial progress achieved during the month and expenditure incurred till date
- 26.3 Quarterly progress report (QPR)
- 26.4 Any other detail/reports as required by NITD

## 27.0 COMPLETION AND TAKING OVER

As soon as the work is finally completed, TCIL shall in turn inform the NITD, who shall nominate a Board of officers for checking/verification of completed work as per the score for final taking over of the project.

## 28.0 SUBMISSION OF FINAL ACCOUNT

After completion of a job in full, TCIL shall submit a detail account of job showing package wise payments drawn from NITD, payments made to their sub contractors, work contract tax recovered as applicable departmental charges levied as admissible for TCIL, expenditure on account of contingency, saving/excess expenditure if any, to the NITD within a month, duly authenticated by their account branch. Any savings in the job shall be refunded to the NITD.

29.0 TCIL shall ensure that the structures being constructed are as per Energy efficiency norms and the National Building Code Structure safety standards.

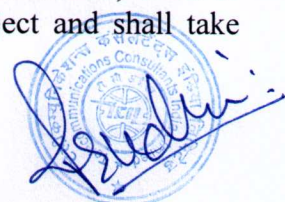
30.0 TCIL shall obtain necessary clearances and get the drawing approved from the local civic authorities.

31.0 INSPECTION OF WORK BY CHIEF TECHNICAL EXAMINER CELL, CTE/CVC

TCIL shall be responsible for the consequential effects arising out of the inspection of the project by the Chief Technical Examiner Cell, Central Vigilance Commission, CAG of India during the progress or any time after the construction of project and shall take

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appropriate action for rectification of defective work at the risk and cost of construction agency. Rectification of defective work/replacement of sub standard work as pointed out by Chief Technical Cell, Central Vigilance Commission/NITD of his authorized representative shall be carried out by TCIL at their own cost, NITD shall not pay any extra amount for such type of liabilities.

32.0 The TCIL shall be wholly responsible for any observation, comments/defects pointed out by C.T.E/CVC/CAG of India in the planning & procedures of execution of this project.

33.0 Wherever there is gap in the MOU, the provisions of CPWD's manual will be applied.

34.0 HEADINGS

The headings shall not limit, after or affect the meaning of this MOU.

**35.0 COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF MOU**

35.1 EFFECTIVENESS OF MOU: This MOU shall come into force from the date of signing of this MOU

35.2 COMMENCEMENT OF SERVICES: TCIL shall begin carrying out the services immediately but not later than ten days from the date of signing of MOU.

35.3 COMPLETION OF MOU: TCIL shall complete the entire work within specified time schedule as per clause 8.1.

35.4 ENTIRE MOU: This MOU contains all covenants, stipulations and provisions agreed by the parties. No agent or representative of either party has authority to make, and the Parties shall not bound by or be liable for, any other statement, representation, promise or MOU not set forth herein.

**36.0 MODIFICATIONS OR VARIATIONS**

36.1 Any modification or variation of the terms and conditions of this MOU including any modification or variation of the scope of the services, may only be made by written MOU between the parties. Each party shall give due consideration to any proposal for modification or variations made by the other Party and implication thereof.

36.2 In case of substantial modifications or variation in terms and conditions of a MOU, a supplementary MOU may be signed between NITD and TCIL.

**37.0 INSTITUTE RIGHT TO LIMIT THE SCOPE OF SERVICES**

37.1 NITD reserves right to restrict the services of TCIL to the full or part of the project.

37.2 The Institute reserves right to terminate the services of TCIL by giving a three months notice in writing to rectify the default if the Institute is not satisfied with the services of TCIL.

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- 37.3 In the event of termination of the services of TCIL due to unsatisfactory services rendered by TCIL, TCIL will not be entitled of the remaining work or the period of contract not completed.
- 37.4 Further in case of termination of services of TCIL due to unsatisfactory performance, the Institute reserves the right to levy appropriate compensation up to the extent of maximum 10% of the TCIL's agency charges for the losses incurred by the Institute on account of unsatisfactory services of TCIL or due to the fact of disruption to the project due to the necessity of having to terminate the services of TCIL and having to make other arrangements for completion of the works and entrusted to TCIL. However, all payments upto the date of termination of MoU shall be paid to TCIL.

### 38.0 MISCELLANEOUS PROVISIONS

- 38.1 Any failure of delay on the part of any Party to exercise right or power under MOU shall not operate as waiver thereof.
- 38.2 TCIL shall notify to NITD of any material change in its legal status, in particular, where such change or winding up proceeding, which should impact on performance of obligations under this MOU.
- 38.3 TCIL shall at all times indemnify and keep NITD indemnified against all claims/damages etc. for any infringement of any intellectual Property Right (IPR) by it while providing its services under the MOU.
- 38.4 TCIL shall at all times indemnify and keep NITD indemnified against any and all claims by Employees, Workmen, Entities, Sub-entities, supplier(s), agent(s), employed engaged or otherwise working for TCIL, in respect of their wages, salaries, remuneration of the like.
- 38.5 All claims regarding indemnity shall survive the termination or expiry of the MOU.
- 38.6 It is acknowledged and agreed by all parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement by TCIL for any subsequent engagement, service or employment in any capacity in any office or establishment of the NITD.
- 38.7 The Key Engineering staff shall be posted in consultation with NITD
- 38.8 The key Engineering staff posted by TCIL for the works of NITD shall not be transferred without written consent of NITD before obtaining completion certificate.
- 38.9 The NITD reserves right to seek replacement of any Engineer of TCIL if found unfit for the desired work. Notwithstanding the above, TCIL cannot absolved its responsibility, accountability and answerability to the Institute in terms of compliance of the requirements of this MOU.

On the basis of this MOU, TCIL shall start activities for implementation of the project immediately.

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Signed at Delhi on this \_\_\_\_\_ day of \_\_\_\_\_.


FOR

FOR



NATIONAL INSTITUTE OF  
TECHNOLOGY DELHI (NITD)

TELECOMMUNICATIONS  
CONSULTANTS INDIA LIMITED (TCIL)

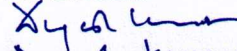

  
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WITNESSES

1.   
Dr. Gyauendra Sheoran  
Dean (R&D) NIT Delhi
2.   
Dr. Kapil Kumar (Estate officer)  
NIT, Delhi

WITNESSES

1.   
Durgesh kumar, DM (Marketing)  
TCIL
2.   
MOHD AMIR JAMIL, Mgr (PC)  
TCIL