



## MEMORANDUM OF UNDERSTANDING

BETWEEN

CONTAINER CORPORATION OF INDIA LTD. (CONCOR)

AND

TRANSPARENCY INTERNATIONAL INDIA (TII)

1. **Considering** that bribery and corruption is widespread Social and Economic crime, which undermines good governance and economic development in India and corrodes the moral fiber of our society.
2. **Considering** that all companies and major organizations within India share a common responsibility to combat bribery and corruption in all forms and manifestations.
3. **Recognizing** that achieving progress in this area requires sustained efforts not only at national level but also on individual Company or Government Department level.
4. **Welcoming** the efforts of **Transparency International – India (TII)** and other non – governmental organizations as well as business organizations such as **Container Corporation of India Ltd. (CONCOR)**.
5. **CONCOR** is a premier Public Sector Organization engaged in various activities in providing reliable, responsive, safe and value added logistic services. CONCOR conducts its business in highest ethical standards. It does business with a number of domestic and international Bidders, Contractors and Vendors of goods and services (Counterparties). CONCOR is committed to fostering the most ethical and corruption free business environment. CONCOR values its relationship with all Counterparties and deals with them in a fair and transparent manner.
6. **Integrity Pact** is a tool developed by Transparency International, which ensures that all activities and transactions between a Company or Government Departments and their Suppliers are handled in a Fair, Transparent and Corruption Free manner.
7. **CONCOR** and **TII** have developed attached Integrity Pact Program in consultation with Central Vigilance Commission (**CVC**) and CONCOR is implementing this Program within its Organization. Based on the experience gained in implementing the Integrity Pact Program in CONCOR and other organizations this Program may be further refined to improve its effectiveness.

8. **CONCOR** is committed to implement the Integrity Pact Program wholeheartedly both in letter and in spirit.
9. **TII** pledges to support CONCOR in this regard and provide it with advice and resources within its means to ensure successful implementation of Integrity Pact Program and achievement of its objectives.
10. In case **CONCOR** and **TII** have differences concerning the implementation of the Integrity Pact Program they undertake to resolve them through dialogue and discussion. In case such differences cannot be resolved either party can terminate this Memorandum of Understanding by giving thirty days notice in writing to the other party and make such termination public only after it has taken effect. This Memorandum of Understanding will remain in effect unless terminated according to the above provision.
11. The implementation of the Integrity Pact will be reviewed annually.
12. This MOU is signed at CONCOR's office on this 20<sup>th</sup> day of December, 2007.

**Container Corporation of India Ltd.**

**Transparency International India**

**Managing Director**

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**Chairman**

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## INTEGRITY PACT

Container Corporation of India Ltd. (CONCOR) 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).

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.

### 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. 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.
  - b. The Principal will, during the tender process treat all Bidders(s) with equity and reason. 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.
  - c. The Principal will exclude from the process all known prejudiced persons.
- (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 Chief Vigilance Officer 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 cartelisation 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 improperly, 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) of foreign origin shall disclose the name and address of the Agents/representatives in India, if any. Similarly the bidder(s)/Contractor(s) of Indian Nationality shall furnish the name and address of the foreign principals, if any. Further details as mentioned in the "Guidelines on Indian Agents of Foreign Suppliers" shall be disclosed by the Bidder(s)/Contractor(s). Further, as mentioned in the Guidelines all the payments made to the Indian agent/representative have to be in Indian Rupees only. Copy of the "Guidelines on Indian Agents of Foreign Suppliers" is annexed and marked as Annexure-10.
  - e. 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.
- (2) The Bidder(s)/Contractor(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

## **II. 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.-"B".

## **III. Section 4 – Compensation for Damages**

- (1) 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.
- (2) If the Principal has terminated the contract according to Section 3, or if the Principal is entitled to terminate the contact according to Section 3, the Principal shall be entitled to demand and recover

from the Contractor liquidated damages of the Contract value or the amount equivalent to Performance Bank Guarantee.

#### **IV. Section 5 – Previous transgression**

- (1) The Bidder declares that no previous transgressions occurred in the last 3 years with any other Company in any country conforming to the anti corruption approach or with any other Public Sector Enterprises in India that could justify his exclusion from the tender process.
- (2) 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**

- (1) The Bidder(s)/Contractor(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
- (2) The Principal will enter into agreements with identical conditions as this one with all Bidders, Contractors and Subcontractors.
- (3) The Principal will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

#### **Section 7 – Criminal charges against violating Bidder(s) / Contractor(s) / Subcontractor(s)**

If the Principal obtains knowledge of conduct of a Bidder, Contractor or Subcontractor, 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 Chief Vigilance Officer.

#### **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 instruction by the representatives of the parties and performs his functions neutrally and independently. He reports to the Managing Director, CONCOR.
- (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 Bidders(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 non-binding 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 Managing Director, CONCOR within 8 to 10 weeks from the date of reference or intimation to him by the *Principal* and, should the occasion arise, submit proposals for correcting problematic situations.
- (7) Monitor shall be entitled to compensation on the same terms as being extended to / provided to Independent Directors on the CONCOR Board.
- (8) If the Monitor has reported to the Managing Director, CONCOR, a substantiated suspicion of an offence under relevant IPC/PC Act, and the Managing Director CONCOR has not, within the reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- (9) 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 Bidders 6 months after the contract has been awarded.

If any claim is made / lodged during this time, the same shall be binding and continue to be valid despite the lapse of this pact as specified above, unless it is discharged / determined by Managing Director, CONCOR.

### **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
- (2) Changes and supplements as well as termination notice need to be made in writing. Side agreements have not been made.
- (3) If the Contractor is a partnership or a consortium, this agreement must be signed by all partners or consortium members.

- (4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

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(For & On behalf of the Principal

Office Seal

Place -----  
Date -----

**Witness 1 :**

Name & Address -----  
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**Witness 2 :**

Name & Address -----  
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(For & On behalf of Bidder/Contractor)

Office Seal