



KUDREMUKH

# K I O C L LIMITED

II Block, Koramangala, Bangalore - 560 034. India.

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Date: 01-03-2010

## **CORRIGENDUM** **(REVISION OF TENDER DOCUMENTS)**

### **GLOBAL TENDER NOTICE**

Ref: KIOCL/COM/PEL/LTC/2010

Date: 10-02-2010

#### **SALE OF PELLETS THROUGH LONG-TERM CONTRACT**

Please refer to our Global Tender Notice dated 10.02.2010 for sale of pellets through Log term contracts. Consequent to the pre-bid meeting held on 24.02.2010, the **revised tender documents** are attached herewith. Bidders are requested to take note of the above and submit their bids strictly as per the **revised tender documents**.

Last date for receipt of sealed tenders is extended upto **March 30, 2010 at 02:00 PM (IST)**

#### **General Manager (Commercial)**

Tel: +91 80 25521160 Fax: +91 80 25535941

Cell: +91 9008699344; +91 9008305934

Mail: [bcomml@kudreore.com](mailto:bcomml@kudreore.com) web : [www.kioclltd.com](http://www.kioclltd.com)

Date : March 1, 2010

**TENDER NO: KIOCL/COM/PELLET/LTC/2010**

**REVISED**

**INSTRUCTION TO BIDDERS (ITB)**

The Seller intends to sell "1.5 Million Metric Tons of BF grade iron ore pellets through long term contracts in overseas and domestic markets with pellet specification described in the Annexure 1 attached hereto and made a part hereof, under conditions stated herein.

**1. DEFINITIONS OF TERMS**

- A- Seller: shall mean and refer to KIOCL Limited.
- B- Bidder or Buyer shall mean and refer to the party or companies submitting an offer in response to this Request For Quote.
- C- Dry and dry basis shall refer to the pellet dried at 105 degree centigrade.
- D- Wet and wet basis shall refer to the pellets in their natural wet state.
- E- "Contractual year" (CY) shall mean the period of 12 months beginning on date of signing the contract.
- F- "Loading Port" means New Mangalore Port at Panambur in the District of Dakshina Kannada, Karnataka – India
- G- "Pellets" means agglomeration of iron ore fines made in spherical shape of BF grade Iron Ore Pellets produced by the seller at its Mangalore Pellet Plant
- H- "Contract" means the agreement duly executed and signed by and between BUYER and SELLER

**2. LANGUAGE**

Tender and supplementary technical data, etc. shall be in English language only, as understood in India

**3. BID DOCUMENTS:**

Bidding shall be through four-cover system as detailed at article 20 of this document. The bid documents shall consist of following.

- 3.1. The Techno-Commercial bid documents comprising of following.
  - 3.1.1. Copy of Instructions to Bidders duly signed on each page accepting the terms indicated in Instructions to Bidders.
  - 3.1.2. Documents / details as per proforma for company profile as per annexure-2.
  - 3.1.3. Draft Contract copy duly signed and stamped on each page.
  - 3.1.4. Integrity pact agreement duly signed and stamped on each page
  - 3.1.5. Duly signed and stamped copy of the Price Bid blanking the price portion (annexure-3 of Instructions to Bidders) accepting the terms of price bid
- 3.2. Price bid duly filled, stamped and signed.

The Bidder is expected to examine all instructions, forms, terms and specifications in the bid documents. Failure to furnish all information required by the bid documents or submission of a bid not substantially responsive to the bid documents in every respect will be at the Bidder's risk and may result in rejection of the bid.

(Signature of the bidder with seal and date)

The bidder is required to carefully examine the Terms and Conditions of tender document and scope of contract given in the Tender Document and fully acquaint himself as to all conditions and matters which may in any way affect the contract or the cost thereof. The bidder shall be deemed to have on his own and independently obtained all necessary information for the purpose of participating in the tender and his bid as & when accepted shall be deemed to have taken into account all contingencies as may arise due to such information or lack of the same.

#### **4. DOCUMENT FEE:**

The bidder shall pay non-refundable amount of Rs.1,00,000.00 (Rs. One Lakh only) or US \$ 2000.00 (US \$ Two thousand only) towards tender document fee. The document fee may be paid through DD or Telegraphic Transfer or Electronic Transfer to be deposited with STATE BANK OF INDIA, SPECIALISED COMMERCIAL BRANCH (4196), 1<sup>ST</sup> FLOOR, KRISHI BHAVAN, HUDSON CIRCLE, BANGALORE-560 001, Account No 10242754822, SWIFT: SBININBB113 / RTGS: SBIN 0004196. Tender documents received without the document fee shall be rejected. If the amount is directly transferred to sellers account, it should be credited at least one day prior to the opening of the technical bid.

#### **5. CLARIFICATION OF BID DOCUMENTS:**

A prospective Bidder requiring any clarification of the Bid Documents may notify the Seller in writing or by fax at the Seller's mailing address indicated in the Bid Documents. The Seller will respond in writing or by fax / mail to any request for clarification of the Bid Documents, which it receives no later than ten (10) days prior to the deadline for the submission of bids prescribed by the Seller. Seller's response (including an explanation of the query, but without identifying the source of inquiry) will be posted on KIOCL's official website i.e. [www.kioclltd.com](http://www.kioclltd.com). BIDDERS ARE THEREFORE ADVISED TO VISIT THE WEBSITE AT REGULAR INTERVALS.

#### **6. PRE BID MEETING**

A pre-bid meeting shall be held at the office of the General Manager (Commercial) on February 24, 2010 at 11.00 AM (IST). Interested bidders may attend the meeting and seek clarifications if any.

#### **7. AMENDMENT OF BID DOCUMENTS**

- 7.1. At any time prior to the deadline for submission of bids, the Seller may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective Bidder, modify the Bid Documents by amendment
- 7.2. The amendment will be put in the same website i.e. [www.kioclltd.com](http://www.kioclltd.com) and will be binding on them. BIDDERS ARE THEREFORE ADVISED TO VISIT THE WEBSITE AT REGULAR INTERVALS

#### **8. COST OF BIDDING:**

The Bidder shall bear all the costs associated with the preparation and submission of its bid, and the Seller shall not be responsible or liable for these costs, regardless of conduct or outcome of the bidding process.

(Signature of the bidder with seal and date)

## **9. BID CURRENCY:**

Prices shall be quoted in US Dollars only (US\$).

## **10. PERIOD OF CONTRACT:**

The contract will be for a period of One Year starting from the day of signing the contract.

## **11. EARNEST MONEY DEPOSIT:**

11.1. Only those bidders, whose technical bid is qualified, shall deposit EMD.

11.2. Bidder shall furnish an interest free EMD of US\$. 200,000.00 (US\$. Two Hundred Thousand only) or Rs.1,00,00,000.00 (Rs. One Crore only) in favour of the Seller deposited with STATE BANK OF INDIA, SPECIALISED COMMERCIAL BRANCH (4196), 1<sup>ST</sup> FLOOR, KRISHI BHAVAN, HUDSON CIRCLE, BANGALORE-560 001, Account No 10242754822, SWIFT: SBININBB113 / RTGS: SBIN 0004196. The information in this regard shall be furnished to seller. The EMD shall be realised by the Seller before the scheduled date and time, which will be intimated by KIOCL to the eligible bidders.

11.3. The EMD will be returned to unsuccessful bidders after finalisation of the tender. In the case of successful bidder, the EMD will be converted as 'SECURITY DEPOSIT'. The security deposit will be released on successful completion of the contract. No interest shall be payable by the Seller either on EMD or on Security Deposit.

## **12. RESERVE PRICE**

KIOCL shall fix a reserve price for pellets.

## **13. ASSESMENT:**

The Seller shall assess the capacity of firms (not already empanelled with seller) based on the following parameters prior to opening of the price bid. Decision of the Seller, regarding qualification of technical bid will be final.

- The firm should be in operation for at least two years
- The turn over of the company during the last two years shall be at least US \$ 65 millions (US Dollars sixty Five millions) per annum.
- Current Ratio should be equal to or more than 1.0.
- Positive net worth as per latest annual report.
- Certificate from the Bankers w.r.t. Performance and LC limits. The LC limit shall not be less than US \$ 8.00 millions (US Dollar eight millions).
- Firm's experience in marketing iron ore, iron ore pellets etc.
- Past performance of firm with the Seller (if any).

(Signature of the bidder with seal and date)

#### **14. QUANTITY:**

- 14.1. The total quantity available for sale is 1.50 million metric tonnes (1,500,000 MT) out of which
  - 14.1.1. 1.00 million tonnes (1,000,000 MT) will be sold in the overseas market (Export) and
  - 14.1.2. 0.5 million tonnes (500,000 MT) will be sold in domestic market. The sale in domestic market will be to the end users only.
- 14.2. The dispatches will be through sea route only.
- 14.3. In case of DTA buyers, the minimum bidding quantity is 0.25 Million Metric Tons (250,000 MT) and maximum bidding quantity shall be 0.5 Million Metric Tons (500,000 MT). Quotes shall be in multiples of 50,000 MT.
- 14.4. In case of overseas buyers, the bidding quantity will be 1.0 Mt. Bidder has to quote for entire quantity of 1.0Mt.

#### **15. HOW TO QUOTE:**

- 15.1. Seller shall intimate the bidders regarding the acceptance / rejection of their Technical Bids within 10 days from the date of opening of Technical bids. Technically qualified bidders shall furnish the EMD as per article 11 above within 07 days from the date of intimation. The seller shall intimate the date and time of opening of the Price Bids of technically qualified bidders.
- 15.2. Bidders shall be grouped in to two categories viz. Buyers in the Export Market and Buyers in the Domestic Market. The maximum quantity that a bidder can quote shall be limited to the quantity available in that category as per clause 14 above.
- 15.3. Bidders must be extremely careful to avoid error in bidding (whether typographical or otherwise) and they are fully responsible to check and rectify their bid before submitting their bid into the tender. In the event of any inconsistency between the price quoted in figures and in words, the price quoted in words shall prevail and shall be binding.
- 15.4. The bidder shall be solely responsible for all consequences arising out of the bid submitted by him including wrongful bidding. Seller or their representatives will not entertain any complaints / representations in this regard

#### **16. QUANTITY ALLOCATION:**

- 16.1. Price will form the basis for deciding tender standing
- 16.2. Irrespective of the category of buyer i.e. buyer in the Export Market or buyer in the Domestic Market, the highest price received through the tender, if accepted by seller, shall be the **Contractual Price** at which all other long-term contracts shall be concluded.
- 16.3. H1 bidder in each category will be offered full quantity quoted by him at Contractual Price.
- 16.4. If two or more bidders in the same category quote for the same quantity at the H1 price, the quantity available will be distributed equally among them
- 16.5. In case of DTA buyer, the balance quantity available after allocating quantity to H1 bidder shall be offered to H2 at Contractual Price.

(Signature of the bidder with seal and date)

- 16.6. In case H2 refuses to match Contractual Price, offer shall be made to H3 at contractual price and so on the principle as at 16.5.
- 16.7. Under no circumstances, the bidders shall be allowed change the quantity quoted by them.
- 16.8. If highest price (H1) is quoted by two or more bidders in DTA category for different quantities then the quantity allocation shall be as under.
  - 16.8.1. The bidder who has quoted for the highest quantity shall be allocated the quantity quoted by him in that category. The balance quantity available shall be offered to the other H1 bidder who has quoted next highest quantity and so on.
  - 16.8.2. If the highest bid received in the tender is accepted by the Seller, the H1 bidders have to agree to lift the quantity offered to them even if the quantity is less than the quantity quoted by them or less than the minimum bid quantity of 2,50,000 MT. If they do not agree to lift the quantity, their EMD shall be forfeited.

## **17. DELIVERY SCHEDULE:**

- 17.1. The supplies shall be made during the contractual period of dd/mm/yyyy to dd/mm/yyyy.
- 17.2. In case of overseas buyer, the despatches shall be distributed throughout the contractual period. Delivery schedule shall be drawn in consultation with the successful bidder
- 17.3. In case of DTA buyers, the H1 bidder shall have priority in choosing the delivery schedule. H2 will have next priority in choosing the delivery schedule and so on. In the event of two or more bidders quote same price, then bidder quoting for higher quantity shall have priority. In the event of two or more participants quote same price & quantity, the delivery schedules shall be drawn on mutual consent.
- 17.4. The effort will be to complete supply of 0.35 Mt to 0.40 Mt of pellets every quarter among all the long-term contracts concluded through this tender from the date of signing of the contract. Depending upon the availability of pellets and mutual agreement, the actual quantities shall be decided from time to time. Although maximum efforts will be made to accommodate buyer's requirements while finalising the delivery schedules, decision of the Seller shall be final and binding.

## **18. INTEGRITY PACT**

A copy of an Integrity Pact is enclosed (Annexure-4)

- a) You are requested to confirm your acceptance on all terms of Integrity Pact Agreement and to return signed copy of agreement affixing signature along with seal on all pages along with techno-commercial bid.

(Signature of the bidder with seal and date)

b) The name and address of Independent External Monitor (IEM) will be as under

Sri. S S Meeanakshisundaram,  
No. 1332, Double Road,  
Indiranagar,  
BANGALORE –600 038  
Phone:+91 80 25288265  
Mail : [meenakshi54@hotmail.com](mailto:meenakshi54@hotmail.com)

## **19. PERIOD OF VALIDITY:**

Bids shall be valid for a period of 45 days from the date of opening of the technical bid.

## **20. SUBMISSION OF BID:**

The tender complete in all respects conforming to the Terms & Conditions of Instructions to the bidders & other documents of this tender shall be submitted as under:

### **20.1. Cover.1 – Tender Document Fee:**

Cover –1 shall contain DD or Fund transfer details as brought out in article 4 above towards tender document fee. The cover shall be super scribed as “COVER.1 – TENDER DOCUMENT FEE” and Tender No & date and Date of opening.

### **20.2. Cover.2 – Techno Commercial Tender comprising of**

- 20.2.1. Copy of Instructions to Bidders duly signed on each page accepting the terms indicated in Instructions to Bidders
- 20.2.2. Documents / details as per proforma for company profile as per anneure-2 (**not necessary for those who are already empanelled with the Seller**)
- 20.2.3. Draft Contract copy duly signed and stamped on each page accepting the terms and conditions indicated in the draft contract..
- 20.2.4. Integrity pact agreement duly signed and stamped on each page (annexure-4)
- 20.2.5. Duly signed Copy of the Price Bid blanking the price portion (annexure 3 of instructions to Bidders) accepting the terms of price bid.

The Techno-Commercial tender comprising the above shall be enclosed in a separate sealed cover duly super scribed as “COVER.2 – TECHNO-COMMERCIAL BID” and with Tender number & Date and Date of Opening.

### **20.3. Cover.3 – Price Bid:**

Cover 3 shall contain only the price bid format (annexure 3 of Instructions to Bidders) duly filled and signed. This cover shall be sealed and super scribed as “COVER 3 – PRICE BID” and with Tender Number & date and Date of opening.

### **20.4. Cover.4 – Common Outer Cover :**

Covers as per 20.1, 20.2 & 20.3 above shall be kept in a common sealed outer cover duly super scribed as "TENDER FOR SALE OF PELLETS – LONG TERM CONTRACT" and with Tender Number & Date and Date of Opening.

(Signature of the bidder with seal and date)

20.5. **SPECIAL NOTE:**

- 20.5.1. Offers not meeting the terms & conditions mentioned in this tender document shall be rejected
- 20.5.2. The bids cannot be withdrawn after the tender closing time. If the bidder withdraws the bid after tender closing time, his EMD shall be forfeited.
- 20.5.3. If the outer cover is not sealed and marked as required, KIOCL will not assume any responsibility for the bid's misplacement or premature opening.
- 20.5.4. Verbal clarifications and /or information given by the Seller, its employees or its representatives shall not be binding on the Seller.
- 20.5.5. **Please note that the price bid format in cover 2 should not indicate price of pellets, which otherwise would lead to disqualification from the tender**
- 20.5.6. The Seller reserves the right to accept or reject any or all bids at his discretion without assigning any reason & may invite revised offers.
- 20.5.7. The Seller shall receive the completed bid documents, either by Registered Post / Speed Post / Courier / in person to be dropped in the "TENDER BOX" conspicuously placed at:

III Floor, Commercial Department,  
KIOCL LIMITED,  
II Block, Koramangala,  
**BANGALORE – 560 034**  
**KARNATAKA STATE**  
**INDIA.**

Bids submitted in any other form apart from articles 20.1 to 20.4 shall be rejected.

21. **DEAD LINE FOR SUBMISSION OF BIDS**

- 21.1. Bids must be received by the Seller at the address specified under article 20.5.7 **no later than 2.00 PM (IST) on MARCH 30, 2010.**
- 21.2. KIOCL, at its discretion, may extend the dead line for submission of bids. In this regard, therefore, please visit our website [www.kioclltd.com](http://www.kioclltd.com) from time to time.

22. **LATE BIDS**

The tenders received after the time & date of submission will not be considered or opened

23. **OPENING OF TECHNICAL BIDS:**

The Techno-Commercial Tender will be opened at **03:00 PM (IST) on March 30, 2010** at the office of the General Manager (Commercial). In the event of the specified date of Bid opening being declared holiday for the Seller, the Bid shall be opened at the appointed time and location on the next working day.

24. **CLARIFICATION OF TECHNICAL BIDS:**

During evaluation of technical bids, the Seller may, at his discretion, ask the Bidder for any clarification of his bid. The request for any clarification and the response shall be in writing. However no post bid clarification at the initiative of the bidder shall be entertained.

(Signature of the bidder with seal and date)

Annexure 1

**SPECIFICATION**

The Specifications of Pellets supplied by the Seller to Buyer is as stated below:

<b>A. Chemical Composition (On Dry Basis)</b>	<b>Guaranteed Specification</b>
Fe	63.00 % MIN
SiO <sub>2</sub> + Al <sub>2</sub> O <sub>3</sub>	8.50 % MAX. (Al <sub>2</sub> O <sub>3</sub> - 2.00 % MAX and SiO <sub>2</sub> - 6.5% MAX)
S	0.01 % EXPECTED
P	0.05 % EXPECTED
TiO <sub>2</sub>	0.20 % EXPECTED
AS	0.01 % EXPECTED
Other metals	0.20 % EXPECTED
CaO+MgO	2.00 % EXPECTED
Basicity	0.30 EXPECTED.
<b>B. Physical Properties</b>	
Size: 9 - 16 mm	85.00 % MIN
Below 5 mm	5.00 % MAX
Bulk Density	2.00 T/M <sup>3</sup>
Tumble Index (ASTM) + 6.35 MM	92 % EXPECTED
Abrasion Index (ASTM) - 0.60 MM	6.00 % EXPECTED
Cold Crushing Strength Average	250 KG/P MIN
Porosity	20.00 % EXPECTED
Reducibility	60.00 % EXPECTED
<b>C. MOISTURE (Free moisture loss at 105<sup>0</sup>C shall be)</b>	
Fair season (Oct - May)	4.00 % EXPECTED
Rainy season (Jun - Sep)	6.00 % EXPECTED

(Signature of the bidder with seal and date)

**PROFORMA FOR BIDDING COMPANY PROFILE**

1. Name of the agency / buying company.
2. Address including fax / e-mail.
3. Details of contact persons & directors indicating their mail id and contact numbers (mobile and land line).
4. Date, place & country of registration. Enclose copy of registration certificate duly certified by notary.
5. Brief write up about the organisation giving details of its activities, available resources, production capacity and manufacturing facilities (if applicable) and approximate requirement of pellets.
6. Imports / exports with all the countries for the last three years.  
Please indicate item wise quantity & value of imports and exports for each year and also indicate the name and address of organisations with whom business transacted.
7. Imports / exports with India for the last three years.  
Please indicate item wise quantity & value of imports and exports for each year and also indicate the name and address of organisations with whom business transacted.
8. Please indicate the specific experience in the field of iron ore (concentrate, fines, lumps and pellets) item wise and address of mills/organisations with whom business transacted including domestic sales if any.
9. Offices / branches of the organisation in India and abroad.
10. Offices / branches of the company in the country where it proposes to sell the Seller's products.
11. Name and address of bankers. Available L/C limit, certificate from bank regarding performance.
12. Copies of the annual reports for the last three years including schedules and certified Auditor's Report.

**PRICE BID FORMAT**

**SALE OF IRON ORE PELLETS THROUGH LONG TERM CONTRACT**

**TENDER NO. KIOCL/COM/PELLET/LTC/2010**

<b>DESCRIPTION OF GOODS</b>	<b>IRON ORE PELLETS, BASIS 63% Fe.</b>
<b>QUANTITY in Metric Tons Tolerance +/- 10%</b>	
<b>PRICE IN US\$ PER DMT FOBST NMP, BASIS 63% Fe.</b>	<b>In Figures: US\$</b>
	<b>In Words: US\$</b>

Note:

- A. The supply is on FOB Basis. (The price quoted shall be exclusive of taxes, duties and levies in case of Domestic buyers)
- B. In the event of any inconsistency between the price quoted in figures and in words, the price quoted in words shall prevail and shall be binding.

Date:

Signature  
with Name & Seal

Place:

(Signature of the bidder with seal and date)

**CONTRACT NO: KIOCL / PELLET/ LT/ 2010-11/ xxxxxxxx**

**DATE :**

**BUYER :**

**SELLER : KIOCL LIMITED.,  
II BLOCK, KORAMANGALA,  
BANGALORE - 560 034. INDIA.**

**TEL : 0091 80 25521160 / 25530146**

**FAX : 0091 80 25535941 / 25532153**

E-mail : [bcomml@kudreore.com](mailto:bcomml@kudreore.com)

This Contract is made by and between the Buyer and the Seller, whereby the Buyer agrees to buy and the Seller agrees to sell the under mentioned goods on the terms and conditions stated below:

- 1. NAME OF COMMODITY: Iron Ore Pellets.**
- 2. COUNTRY OF ORIGIN: India**
- 3. PORT OF LOADING: New Mangalore Port, India.**
- 4. DESTINATION: Export to any country / DTA Market  
(As per FTP guidelines)**
- 5. DELIVERY PERIOD AND QUANTITY:**
  - 5.1. DELIVERY PERIOD: dd/mm/yyyy to dd/mm/yyyy.  
As per the mutually agreed Laycan**
  - 5.2. QUANTITY: x,xxx,xxx Metric Tonnes +/- 10%**
  - 5.3. PRACEL SIZE: 50,000 MT +/-10 % MOLOO  
subject to availability of draft**

[As the loading of the pellets is through a mechanised loading system, the actual quantity loaded on to the vessel may vary up to 500 MT more or less than the hatch plan given by the master. KIOCL will not entertain any claims including dead freight for such variation.]

## 6. DELEVERY SCHEDULE:

The despatches shall be effected as per the mutually agreed delivery schedule as below

(To be arrived after discussion with successful bidders as brought out in article 17 of Instructions to bidders)

## 7. SPECIFICATIONS:

**The Specifications of Pellets supplied by the Seller to Buyer is as stated below:**

<b>A. Chemical Composition (on dry basis)</b>	<b>Value</b>
Fe	63.00 % MIN
SiO <sub>2</sub>	6.5% MAX
Al <sub>2</sub> O <sub>3</sub>	2.00 % MAX
S	0.01 % EXPECTED
P	0.05 % EXPECTED.
TiO <sub>2</sub>	0.20 % EXPECTED
AS	0.01 % EXPECTED
Other metals	0.20 % EXPECTED
CaO+MgO	2.00 % EXPECTED
Basicity	0.30 EXPECTED
<b>B. Physical Properties</b>	
Size: 9 - 16 mm	85.00 % MIN
Below 5 mm	5.00 % MAX
Bulk Density	2.00 T/M <sup>3</sup> EXPECTED
Tumble Index (ASTM) + 6.35 MM	92 % EXPECTED
Abrasion Index (ASTM) - 0.60 MM	6.00 % EXPECTED
Cold Crushing Strength Average	250 KG/P MIN
Porosity	20.00 % EXPECTED
Reducibility	60.00 % EXPECTED
<b>C. MOISTURE (Free moisture loss at 105<sup>0</sup>C shall be)</b>	
Fair season (Oct - May)	4.00 % EXPECTED
Rainy season (Jun - Sep)	6.00 % EXPECTED

## 8. PRICE:

The price payable by BUYER to the SELLER shall be US\$ (PRICE) per DMT FOBST New Mangalore, basis 63% Fe. (The price shall be exclusive of taxes, duties and levies in case of Domestic buyers) The price variation shall be as per clause 9 of this contract.

In case of DTA buyers, the following shall be applicable

1. The exchange rate used for the conversion of US\$ into Indian Rupees will be the finer bill buying rate ruling on the date of Bill of Lading, as certified by the seller's Bank. If Bill of Lading date happens to be a Bank holiday, the finer rate on next working day as certified by the seller's bank shall be applicable.
2. Any Duty / Taxes / Levies levied by the statutory authorities to be paid on the cargo (Other than port dues) shall be borne by the BUYER and documents acknowledging such payments shall be produced to SELLER before start up of loading. Any other duties that may be charged at any time before and during the final assessment of the shipments by the Customs / Excise authorities, the incidence of which is attributable to this transaction, shall also be paid by the BUYER within the specified time. BUYER further undertakes to indemnify the SELLER against any losses the latter may sustain to the extent of BUYER'S failure to take prompt action as mentioned above.

## 9. PRICE VARIATION:

- 9.1. The H1 price received in the tender at which contract is concluded shall be reckoned as the **Contractual Price**. This will be the **Base Price** for determining the price applicable for supply of pellets during the contractual period.
- 9.2. Such base price will be reckoned as equal to the long term prices for 64 % Fe iron ore fines declared by NMDC to its long term domestic consumers (which includes KIOCL also) as prevailing on the last day of submission of tender documents shall be reckoned as the **NMDC Base Price**  
  
This will be converted into US Dollars by applying the exchange rate prevailing on the last date of submission of tender as applicable to finer bill buying rate of exchange as certified by the seller's Bank
- 9.3. NMDC base price as determined above and change by NMDC from time to time will not affect the contractual price as long as the change remains within 5% of NMDC base price.
- 9.4. In case the price revised by NMDC goes beyond 5% either way, the contractual price will be adjusted by the same value in US Dollars beyond 5%.
- 9.5. The revised contractual price shall be applicable from the date from which NMDC revises its prices.
- 9.6. In support of NMDC base price, the notification issued by NMDC will form the basis.

## 10. PRICE ADJUSTMENT:

### 10.1. Price Adjustment for Fe:

The base price shall be increased or decreased on fraction prorata basis on Fe above or below 63%.

### 10.2. Penalty for Silica (SiO<sub>2</sub>):

Reduction of US\$ 0.05 PDMT of total cargo for each 1.0% SiO<sub>2</sub> above the maximum specified value in dry state fraction pro rata.

### 10.3. Penalty for Alumina (Al<sub>2</sub>O<sub>3</sub>):

Reduction of US\$ 0.10 PDMT of total cargo for each 1.0% Al<sub>2</sub>O<sub>3</sub> above the maximum specified value in dry state fraction pro rata.

### 10.4. Price Adjustment For CCS:

For each 1.0 Kg below 250 Kg/Pellet, the price shall be decreased by US\$ 0.02 pdmt, fraction pro rata.

### 10.5. Price Adjustment For Size:

In case (-) 5mm are more than 5%, US\$ 0.10 pwmt for quantity less than 5mm exceeding 5% fraction pro rata.

## 11. PAYMENT:

Buyer shall arrange for advance payment / open letter of credit 10 days prior to the shipment, through any bank acceptable to Seller's bank, for each shipment, which is confirmed, irrevocable, unrestricted for negotiation, and without recourse to drawer with **STATE BANK OF INDIA, SPECIALISED COMMERCIAL BRANCH (4196), 1<sup>st</sup> FLOOR, KRISHI BHAVAN, HUDSON CIRCLE, BANGALORE-560 001**, Fax No. 0091 - 80 – 2222 0486, SWIFT: SBININBB113 in favour of Seller in US Dollars for 100% of the estimated value of the shipment assuming for supplies as per specification. The L/C has to contain suitable reimbursement clause for reimbursement of the total value of the shipment to negotiating bank. The cost of opening the Letter of credit has to be borne by the buyer. The cost of confirmation of the L/C shall be to the buyer's account. The Letter of Credit shall be initially valid for negotiation for at least 60 days. Buyer shall be responsible to extend the validity of the LC further, if required, till the full settlement of sales proceeds.

The terms of the L/C have to be in accordance with the terms of contract. The Letter of Credit in an acceptable form and as per contract to be received at least 4 days before commencement of laydays. The arrival of the vessel shall be deemed to be shifted by 4 days from the date of receipt of Letter of Credit for calculation of the laytime in case of delay.

The said Letter of credit shall be payable by telegraphic / online transfer reimbursement by opening bank against Seller's sight draft for the amount of hundred (100) per cent of the value of each respective shipment accompanied by the documents as stipulated in Clause 12.

The Certificate of Weight issued by qualified surveyor by survey of ship's draft together with the Certificate of Quality of the sample and the percentage of free moisture loss at 105 degrees centigrade issued by the qualified assayer shall be the basis for seller's invoice.

In case of DTA Buyers, BUYER shall arrange for payment towards the Cargo Value, Excise duty and cess as applicable as per the Proforma Invoice forwarded by the SELLER prior to the shipment. The amount towards the applicable Excise duty & Cess shall be deposited to SELLERS account with their bankers at MANGALORE. The SELLER shall take the vessel for loading only on confirmation of the realization of above payments.

## **12. DOCUMENTS:**

Seller shall provide Buyer with the following documents for each shipment,

- a) Complete set of Clean on Board shipped Bill of Lading made out to order blank endorsed, marked "Freight payable as per charter party " notifying the buyer or his agent at the port of destination.
- b) Commercial invoice in three copies showing 100 PCT of FOB value of shipment, contract number, L/C number, name of the carrying vessel.
- c) Certificate of Weight of the shipment issued by public recognized surveyor by survey of ship's draft at load port and made out 'to whom it may concern' in one original and two copies.
- d) Draft Survey Report of the shipment issued by public recognized surveyor by survey of ship's draft at load port and made out 'to whom it may concern' in one original and two copies.
- e) Certificate of Quality of the shipment including percentage of free moisture loss at 105 degrees centigrade issued by public recognized assayer at load port and made out 'to whom it may concern' in one original and two copies.
- f) Certificate of Origin issued by any chamber of commerce in India in one original and two copies.
- g) Copy of Fax / e-mail advising shipment according to Clause -16 of this contract.
- h) Seller's certificate certifying that one set of non-negotiable documents has been sent to Buyer by courier / speed post within 10 days after shipment effected.

### 13. NOMINATION OF VESSEL:

Buyer shall advise Seller through fax at Fax No: 0091-80-25535941 / e-mail : [bcomml@kudreore.com](mailto:bcomml@kudreore.com) at least (14) days in advance of the estimated date of arrival of the vessel at New Mangalore Port specifying the type of vessel and hatch division. The vessel shall not be more than 15 years of age and shall be seaworthy. In case the vessel's age is more than 15 years, the vessel shall be accepted subject to mutual consent, and any losses suffered by the seller on account of the overage of the vessel shall be to buyers account. Buyer shall inform the seller, the exact hatch plan at least three days before the arrival of the vessel for payment of the export duty and filing of shipping bill.

### 14. NOTIFICATION OF ARRIVAL

The Buyer shall arrange for the Master of the vessel to notify Seller, Sr. Manager (COMMERCIAL) on FAX NO: 0091-824 -2407422, three notices of the ETA of the vessel at the loading port. The first of such notice will be given ten (10) days prior to the ETA of the vessel, the second to be given forty eight (48) hours prior to the ETA and the third to be given twenty four (24) hours prior to the ETA.

### 15. LOADING TERMS

A) Seller shall guarantee to accommodate safely the vessels with the following maximum dimensions at all times,

<b>L.O.A.:</b>	245.00 meters
<b>Beam:</b>	32.20 meters
<b>Sailing Draft:</b>	12.50 meters with tide (12.00 meters with tide from August to November)

B) Seller shall load iron ore pellets aboard the vessel at the following rates per weather working day of twenty four (24) consecutive hours Saturdays, Sundays and Holidays included, Charter party holidays as published by Local Chamber of Commerce excluded unless used:

<b>Size of Vessel:</b>	<b>Loading rate</b>
20,000 - 30,000 DWT	25,000 WMT
30,001 - 40,000 DWT	30,000 WMT
40,001 - 45,000 DWT	32,000 WMT
45,001 - 50,000 DWT	34,000 WMT
50,001 - 60,000 DWT	36,000 WMT

**In case a vessel of larger size is placed for loading quantities falling in the smaller size vessel range, the loading rate as per the smaller size of the vessel shall apply.**

C) Notice of readiness to load shall be tendered with clean holds hatch open and ready in all respects to load at any time after vessel has arrived at loading port whether in berth or not, if the vessel is not in free pratique on arrival at the berth due to cause attributable to the vessel, then a new notice of readiness shall be tendered.

Laytime for loading shall commence, Twelve (12) running hours after tendering of notice of readiness unless used, in which case, actual time used to count.

In case loading has to be interrupted due to reasons of responsibility of the vessel, such time lost shall not count as laytime.

Stoppage of loading due to breakdown of the pellet loading equipment shall count as laytime.

Time lost due to stoppage of loading due to rain / bad weather shall not be counted as laytime

Laytime to count at actuals when worked on Charter Party (C/P) holidays. For stoppages, if any, during intervening C/P holidays, laytime not to count if the vessel is not on demurrage. If the vessel is already on demurrage, full time to count as laytime during the intervening C/P holiday.

D) Demurrage and Despatch at the loading port shall be calculated in accordance with the following schedule:

<b>Stem Quantity</b>	<b>Demurrage per 24 hours day (Prorata for part)</b>
20,001 to 30,000 WMT	USD 3,500
30,001 to 40,000 WMT	USD 4,000
40,001 to 45,000 WMT	USD 4,500
45,001 WMT & above	USD 5,000

**Despatch will be half of the demurrage rate.**

E) Any time necessarily required by a vessel to wait for tide for completion of loading shall be counted as laytime. Laytime shall cease to count from the time of completion of loading.

F) Shifting time shall not count as laytime unless; the vessel is already on demurrage.

## **16. ADVICE OF SHIPMENT**

Seller shall, upon completion of loading, advise Buyer within 48 working hours by telefax / e-mail of the Contract Number, Name of Commodity, gross weight, name of vessel and loading date.

## **17. WEIGHING**

At the loading port, Seller at Seller's expense shall determine the weight of shipment of pellets by draft survey. The weight of pellets as ascertained and certified together with Seller's analysis shall be basis of Seller's invoice, Buyer may at Buyer's expenses have its representative(s) present during the loading and draft survey. The weight thus determined at loading port shall be final and binding to ascertain the wet quantity of the shipment.

The dry quantity shall be determined by deducting the free moisture referred to in Clause- 18 from such wet quantity.

## **18. SAMPLING AND ANALYSIS**

At the loading port Seller shall at Seller's expense, determine the specifications of iron ore pellets contained in each shipment, and shall provide a certificate showing details of the determination and also the percentage of free moisture loss at 105 degrees centigrade.

Buyer may at Buyer's expense have their representative(s) present at the time of sampling.

The quality certificate issued at the loading port will be final and binding on both buyer and seller.

## **19. LOSS OF CARGO**

In the event of a total or partial loss of cargo after loading on board the vessel and before unloading at the port of unloading, Buyer shall make final payment to Seller on the basis of analysis made at Loading Port as set forth in Clause 17 hereof and on the basis of price as set forth in Clause 8,9 & 10 and quantity as manifested in the Bill of Lading. In case of total or partial loss, master's certificate/certifying the fact of loss shall be treated as final.

## **20. INSURANCE**

To be covered by Buyer from the time iron ore pellets is loaded on vessel. For this purpose Seller shall advise Buyer by Fax / e-mail after completion of loading of the particulars as called for in Clause 16 of this contract.

## **21. TITLES AND RISK**

Title with respect to each shipment shall pass from the Seller to the Buyer when the Seller has received the proceeds from the negotiating bank against the relative shipping documents as set forth in Clause 12 after completion of loading on board the vessel, with retrospective effect from the time of delivery of Iron ore pellets. All risk of loss, damage or destruction affecting Iron Ore Pellets delivered shall pass on to the Buyer at the time of discharge of Iron Ore Pellets from the loading devices into vessel.

## **22. SECURITY DEPOSIT:**

The security deposit shall be refunded after the buyer meets all the contractual obligations. No interest shall be payable by the seller for such security deposit.

## **23. NON-PERFORMANCE / TERMINATION:**

It is obligatory on the part of both buyer and seller to adhere to the delivery schedules and perform. In the event of any failure on the part of either seller to make available the cargo or on the part of buyer to lift the cargo, the party failing to meet the obligation shall convey to the other party the reason for the failure with remedial action that the party proposes to undertake within 15 days from the agreed delivery schedule (date) which is due for performance.

On such occurrences both parties may meet and discuss in good faith to arrive at an amicable solution. In event of failure to arrive at a solution, the aggrieved party is entitled to terminate the contract.

## **24. FORCE MAJEURE**

If at any time during the existence of this contract either party is unable to perform whole or in part any obligation under this contract because of war, hostility, military operation of any character, civil commotions, sabotage, quarantine restriction, acts of government, fire, floods, explosions, epidemics, strikes or other labour trouble, embargoes then the date of fulfilment of any obligation shall be postponed during the time when such circumstances are operative.

Any waiver / extension of time in respect of the delivery of any instalment or part of the goods shall not be deemed to be waiver / extension of time in respect of the remaining deliveries. If operation of such circumstances exceeds three months, either party will have the right to refuse further performance of the contract in which case neither party shall have the right to claim eventual damages.

The party, which is unable to fulfil its obligations under the present contract, must, within 15 days of occurrence of any of the causes mentioned in this Clause shall inform the other party of the existence or termination of the circumstances preventing the performance of the contract. Certificate issued by a Chamber of Commerce or any other competent authority connected with the Cause in the country of the Seller or the Buyer shall be sufficient proof of the existence of the above circumstances and their duration. Non-availability of material will not be an excuse to the Seller for not performing their obligation under this Contract.

## **25. ARBITRATION**

All disputes in connection with this contract or the execution thereof shall be settled amicably by friendly negotiations between the two parties. If no settlement can be reached, the case in dispute shall then be submitted for arbitration as per ICC rules of conciliation and arbitration 1993 and rules there under in force shall apply to such arbitration. The venue of arbitration shall be Bangalore, India.

For domestic buyers, the provisions of the Arbitration and Conciliation Act - 1996 and the rules there under in force shall apply to such arbitration

**26. INCO TERMS:**

For all terms and conditions not covered by above, Inco Terms 2000 and any further additions or amendments shall apply.

**27. INTEGRITY PACT:**

The Integrity Pact Agreement duly signed by the parties and enclosed shall form a part of this contract. The External Independent Monitor/s (EIM) for the contract/s is/are as below.

Sri S.S. Meenakshisundaram  
No.1332, Double Road, Indiranagar, BANGALORE – 560 038  
Phone: 080-2528 8265 E-mail: meenakshi54@hotmail.com

**28. INDEMNITY TO THE GOVERNMENT OF INDIA**

It is expressly understood and agreed by and between the Buyer and Seller, that Seller is entering into this agreement solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this agreement and has no liabilities, obligations or rights herein under. It is expressly understood and agreed that Seller is an independent legal entity with power and authority to enter into contracts solely on its own behalf under the applicable Laws of India and general principles of Contract Law. The Buyer expressly agrees, acknowledges and understands that Seller is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts omissions, commissions, breaches or other wrongs arising out of the contract.

Accordingly, the Buyer hereby expressly waives, releases and foregoes any and all actions or claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this contract and covenants not to sue the Government of India as to any manner, claim, cause of action or thing whatsoever arising out of or under this agreement.

**SELLER**

**BUYER**

**For and on behalf of  
KIOCL LIMITED**

**for and on behalf of**

**INTEGRITY PACT PROGRAM**

**1. INTRODUCTION:**

KIOCL Limited (KIOCL), is a Central Govt. Public Sector Undertaking engaged in Mining of Iron Ore and Manufacturing Pellets and marketing it in India and abroad. KIOCL enjoys *Mini Rathna* status among the Central Govt. Public Sector undertakings, and conducts its business in highest ethical standards, fully adhering to CVC guidelines and exemplary industry practices.

KIOCL does its business with a number of domestic and international buyers, contractors and vendors of goods and services. It is committed to fostering ethical and corruption free business environment, and values its relationships with all counterparts and deals with them in fair and transparent manner.

In order to achieve and strengthen these goals, KIOCL is implementing the Integrity Pact Program in Co-Operation with Central Vigilance Commission (CVC) and Transparency International (TI). As part of this initiative KIOCL will, in consultation with CVC and TI, appoint external Independent Monitors who will help KIOCL monitor and implement the Integrity Pact Program.

Following are the details of KIOCL's Integrity Pact Program:

- Commitments and Obligation of KIOCL
- Commitments and Obligations of counterparties
- Violation and Consequences
- Independent Monitor
- Implementation and Guidelines
- Periodic Review and Evaluation

**2. COMMITMENTS AND OBLIGATION OF KIOCL.**

- (a) KIOCL is committed to have ethical and corruption free business dealings with counterparties.
- (b) KIOCL values its relationship with all counterparties and will deal with them in a fair and transparent manner.
- (c) KIOCL and /or its Associates (Employees, Agents, Consultants, Advisors etc) will not seek or take bribes/undue benefits directly or indirectly for themselves or for third parties.
- (d) KIOCL will honour its commitments and make due payments to counterparties in time subject to fulfilling contractual obligations.
- (e) KIOCL will initiate punitive and corrective action, and pursue it vigorously whenever corruption or unethical behavior occurs.

**3. COMMITMENTS AND OBLIGATIONS OF THE COUNTERPARTY.**

- (a) The counterparty, directly or indirectly (through Agents/ Consultants/ advisors etc), will not pay any bribes or offer or imply any form of illegal benefit to any one to gain undue advantage in dealing with KIOCL.
- (b) The counterparty will not engage in collusion, price fixing, cartelization, etc., with other counterparts.
- (c) The counterparty will not pass to any third party any confidential informations entrusted to it, unless duly authorized by KIOCL.
- (d) The counterparty will promote and observe ethical practices within its Organisation and its affiliates.
- (e). The counterparty will inform the External Independent Monitor:
  - i If he receives demand for a bribe or illegal payment/benefit.
  - ii If comes to know of any unethical or illegal payment/benefit
  - iii If he makes any undue payment to any KIOCL's Associates.
- (f) The counterparty will not make any false or misleading allegations against KIOCL or its Associates.

**4. VIOLATIONS & CONSEQUENCES:**

- (a) If a counterparty commits a violation of its Commitments and Obligations under the Integrity Pact Program during bidding process (from the date of publication of tender to the date of award of work), he/she shall be liable for forfeiture of EMD /Bid Security submitted, without prejudice to other action that may be taken against it.
- (b) In case of violation of the Integrity Pact whereby after award of the contract, KIOCL terminates or is entitled to terminate the contract. KIOCL shall be entitled to demand and recover from the counterparty liquidated damages equivalent to 10 percent of the contract value, or the amount equivalent to security deposit/ performance guarantee, whichever is higher.
- (c) KIOCL may ban and exclude the counterparty from future dealings until the External Independent Monitors is satisfied that the counterparty will not commit any future violation.
- (d) KIOCL may initiate criminal proceedings against the violating counterparty.
- (e) The counterparty will be liable to pay damages as determined by the External Independent Monitor.

**5. EXTERNAL INDEPENDENT MONITOR (EIM)**

(a) CMD, KIOCL is the authority to appoint External Independent Monitor(s) (EIM) to oversee Integrity Pact Program implementation and effectiveness. The process for their appointment shall be similar to Outside Expert Committee (OEC). For this purpose, a panel of Independent Monitors may be constituted by KIOCL in consultation with Transparency International (TI) and / or CVC, with whose clearance they will be appointed. It will be voluntary, non-salaried position of 3-year term. EIM will have status/benefits similar to those of Chairman of Audit Committee of Board/ status of the Directors of KIOCL

(b) In order to ensure their impartiality, they would not be drawn from KIOCL back ground.

(c) The EIM will be people of impeccable Integrity conversant with KIOCL's business, and experienced in commercial activities.

(d) It will be voluntary, non-salaried position of 3 year term. EIM will have status/benefits similar to those of Chairman of Audit Committee of Board/status of the Directors of KIOCL.

(e) The major goal of EIM will be to oversee the implementation of Integrity Pact program to prevent corruption, bribes, and any other unethical practices in the KIOCL.

(f) The EIM will not have administrative or enforcement responsibilities. He will coordinate his efforts with either anti-corruption institution such as CVC. He may engage services of outside agencies such as accounting firms, law firms etc., at KIOCL's expense, if required, in discharge of his responsibilities, with prior consent of KIOCL.

(g) The EIM will have access to all Officers and internal records of the KIOCL. He will also have access to counterparties records and information regarding its dealing with KIOCL.

(h) The EIM will have the right to attend any meetings between KIOCL and the counterparties.

(i) If EIM observes or suspect an irregularity, he will inform the CMD of KIOCL and Chairman of Audit Committee of its Board of Directors. Once the EIM is satisfied that an irregularity has taken place, he may inform the Board of KIOCL.

(j) The EIM can be removed from his Office for appropriate reasons by

KIOCL only by an open and transparent process and such decision will have to be ratified by the Board of KIOCL.

## **6. IMPLEMENTATION GUIDELINES**

To implement the Integrity Pact Program the following general guidelines will govern the same:

- (a) To select and appoint EIM in consultation with TI and / or CVC.
- (b) To get commitment from all Senior Level Executives/Officials of KIOCL to implement the program, so that any resistance to acceptance of Integrity Pact Program is minimized.
- (c) To develop detailed implementation plan and finalise the Integrity Pact document in consultation with the EIM.
- (d) To notify all Senior Staff Members, Board of Directors, any other oversight body of the Organisation and major suppliers of KIOCL's plan to implement the Integrity Pact Program, which is to be included in KIOCL's web site and disclosed to the media.

## **7. PERIODIC REVIEW & EVALUATION**

KIOCL will periodically review the effectiveness of Integrity Pact Program by the following procedure:

- (a) The EIM and senior leadership of KIOCL will make an bi-annual self-assessment of Integrity Pact Program effectiveness and identify areas to improve.
- (b) The EIM will submit an annual report on the progress/effectiveness of Integrity Pact Program to the KIOCL Board of Directors.
- (c) KIOCL may conduct an annual 360 degree review (by an outside agency) with senior Executives, Junior Executives, suppliers and competitors of effectiveness of Integrity Pact Program in reducing corruption.
- (d) KIOCL will arrange regular meet with TI and / or CVC on an annual basis to review the effectiveness of program.
- (e) For any amendments or changes in the clauses, consistent with the overall spirit of Integrity Pact, the CMD will be competent to approve the same and need not revert back to the Board.

**Tender No: KIOCL/COM/PELLET/LTC/2010**

**February 10, 2010**

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**INTEGRITY PACT**

THIS AGREEMENT is entered into between the following Parties:

**KIOCL Limited (KIOCL)** hereinafter referred to as "**The Principal**",  
and  
.....(Name *of the Party*)  
hereinafter referred to as "**Second Party**"

**Preamble**

The Principal intends to award a contract, following its laid-down organizational procedures, for Sale of **Iron Ore Pellets**. The Principal values full compliance with all relevant laws and regulations and the principles of economical use of resources and of fairness and transparency in its relations with its Second Party.

In order to achieve these goals, the Principal cooperates with the renowned international Non-Governmental Organization, "Transparency International" (TI). Following TI's national and international experience, the Principal will appoint an External Independent Monitor (EIM) who will monitor the tender process and the execution of the Contract for compliance with the principles mentioned below.

**IT IS AGREED AS FOLLOWS:**

**Definitions:**

- a) "**Principal**" which is the "**FIRST PARTY**" means KIOCL Limited (KIOCL), incorporated under the Companies Act 1956, having their registered office at Koramangala, Bangalore – 560 034 and includes their successors.
- b) "**SECOND PARTY**" means the person, firm or company submitting a tender against the Invitation to Tender and includes his/ its/ their staff, consultants, parent and associate and subsidiary companies, agents, consortium and joint venture partners, sub-contractors, suppliers, sellers, buyers, customers etc, including heirs, executors, administrators, representatives, successors. **And** the "**Second Party**" also means, any party including contractors, tenderers, executors, suppliers, sellers, buyers, customers etc, whose tender has been accepted by the Principal or Company and shall be deemed to include his/ its/ their heirs, executors, administrators, representatives and successors unless excluded by the Contract.
- c) "**External Independent Monitor**" means a person, hereinafter referred to as EIM, appointed, in accordance with **clause 8.a** below, to verify compliance with this agreement.
- d) "**Party**" in relevant contract means a signatory to this agreement, and includes both "**Principal**" and "**Second Party**".

- f) **“Contract”** means the contract entered into between the Principal and Second Party for the execution of work mentioned in the preamble above.

**Commitments of the Parties**

**Section 1 - Commitments of the Principal:-**

The Principal commits itself to take all measures necessary to prevent corruption (inducement to violate duty assigned to its employees) and to observe the following principles;

- i. No employee of the Principal, personally or through family members or any third person, will in connection with all stages of tendering or the execution of contract, demand or take a promise, or accept, for him/herself or any third person, any material or non-material benefit which he/she is not legally entitled to;
- ii. The Principal will, during the tender process, treat all Second Parties with equity and reason. The Principal will in particular, before and during the tender process, provide to all Second Parties the same information and will not provide to any particular Second Party any information/ clarification through which the Second Party could obtain an advantage in relation to the tender process or the contract execution;
- iii. The Principal will not take, directly or indirectly, any steps, which could unduly influence the functioning of EIM.
- iv. If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-corruption Laws of India/ guidelines of Govt. / guidelines of CVC/ guidelines of Principal, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions.
- v. If the Principal obtains information of conduct of a Second Party, or sub-contractor or of an employee or a representative or an associate of a Second Party or sub-contractor, which constitutes corruption, or if the Principal has a substantive suspicion in this regard, the Principal will inform the Vigilance Department of the Company.

**Section 2 - Commitments of the Second Party:-**

2.1 The Second Party commits 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;

- i. The Second Party will not directly or through any other person(s) or firm, offer, promise or give to the Principal, or 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 immaterial benefit which he / she is not legally entitled to in order to obtain, in exchange, an advantage during the tender process or to vitiate the Principal's tender process or the execution of the contract.

- ii.** The Second Party will not enter with any other Tenderers into any illegal agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or actions to restrict competitiveness or to vitiate the Principal's tender process or the execution of the Contract.
- iii.** The Second Party will not commit any criminal offence under the relevant Anti-corruption Laws of India; further, the Second Party will not use improperly, for 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 or transmitted electronically.
- iv.** The Second Party of foreign origin shall disclose the name and address of their agents/representatives in India, if any. Similarly, the Second Party of Indian Nationality shall furnish the name and address of their foreign principals, if any.
- v.** The Second Party 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.
- vi.** The Second Party will not take, directly or indirectly, any steps, which could unduly influence the functioning of EIM.
- vii.** The Second Party will not instigate third persons to commit offences outlined above or be an accessory to such offences.

## **2.2 Obligation to Ensure Compliance**

- a). Each Party will take all reasonable steps to ensure that the provisions of this agreement which are binding on it are complied with by all of its staff, consultants, parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers.
- b). Each Party will appoint an appropriate senior manager with responsibility for ensuring that the provisions of this agreement are complied with.

## **Section 3 - Disqualification from tender process and exclusion from future contracts**

- a). If the Second Party, before award of contract, has committed a transgression through violation of any of the terms **under section 2 above** or in any other form such as to put his reliability or credibility as Second Party into question, the Principal is entitled to disqualify the Second Party from the tender process or to terminate the contract, if already signed, for such reason.
- b). If the Second Party has committed a transgression through a violation of any of the terms **under section 2 above** or in any other form such as to put his reliability or credibility into question, the Principal is entitled also to exclude the Second Party from future contract award processes. The imposition and duration of the exclusion will be determined by the severity of the transgression. The severity will be determined by the circumstances of the case, in particular the number of transgressions, the position of the transgressors within the company hierarchy of the Second Party and the amount of the damage. The exclusion will be imposed for a minimum of six (6) months and a maximum of three (3) years.
- c). If the Second Party can prove that he has restored/ recouped the damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion before the expiry of the period of such exclusion.
- d). A transgression is considered to have occurred if, in light of all available evidence, a reasonable doubt is possible.

**Section 4 - Compensation for Damages**

- a). If the Principal has disqualified the Second Party from the tender process prior to the award according to **Section 3 above**, the Earnest Money Deposit (EMD) furnished, if any, along with the offer as per the terms of the Invitation to Tender (ITT) shall be forfeited. This is apart from the disqualification of the Second Party as may be imposed by the Principal as brought out at **section 3 above**.
- b). If the Principal has terminated the contract according to **Section 3 above**, or if the Principal is entitled to terminate the contract according to **section 3 above**, the EMD/Security Deposit furnished by the Second Party, if any, as per the terms of the ITT/contract shall be forfeited. This is apart from the disqualification of the Second Party, as may be imposed by the Principal, as brought out at **section 3 above**.

**Section 5 - Previous Transgression**

- a). The Second Party hereby declares that no previous transgressions with respect to provisions of Integrity pact occurred in the last three (3) years with any other Company in any country or with any other Public Sector Enterprise in India and, as such, there is no case for his exclusion from the tender process.
- b). The Second Party hereby agrees that if he has made/makes incorrect statement in regard to this aspect, he can be disqualified from the tender process or the contract, if already awarded, can be terminated for that reason.

**Section 6 - Equal treatment of all Second Parties/ Sub-contractors**

- a) The Second Party undertakes to obtain from all sub-contractors a commitment consistent with this integrity pact, and to submit it to the Principal at the time of seeking approval of the Principal for appointment of sub-contractors.
- b) The Principal will enter into agreements with identical conditions as that of this Integrity Pact, with all Second Parties.
- c) It is essential for all Second Parties to sign the Integrity Pact with the Company if the value of the transaction is more than 50 lakhs. The Principal will disqualify from the tender process all Second Parties who do not sign this Pact or violate its provisions.

**Section 7 - Breaches of this Agreement**

a). In the event that any Party believes that there is *prima facie* evidence that there has been a failure by a Party to comply with any provision of this agreement, such Party will take the following actions:

- i. It will report full details of such suspected non-compliance to the EIM and CVO with copies to the Chief Executives of each of the Parties.
- ii. If any such non-compliance has been carried out, or assisted by an individual who is a member of a professional association, and such non-compliance may constitute a breach of any disciplinary code of such professional association, such Party may report such matter to the professional association.
- ii. If such non-compliance may constitute a criminal offence, either in the country in which the contract is being carried out, or in the home country of the organization or individual which carried out or assisted such non-compliance, such Party may report such matter to the appropriate criminal authorities in those territories.

b). In the event that any Party breaches any provision of this agreement, the other Parties may, in addition to the rights under this agreement, claim damages against the defaulting Party, and exercise any other rights they may have against the defaulting Party.

c). The Parties will take appropriate disciplinary or enforcement action against any of their staff, consultants, parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers who cause or assist in any breach of any provision of this agreement.

**Section 8 - External Independent Monitor/Monitors (EIM)**

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- a).** The Principal, will appoint a competent and credible EIM/Number of EIMs for the duration of this agreement from the panel of EIMs appointed in consultation with the Central Vigilance Commission (CVC).
- b).** The EIM will assess, on an independent and objective basis, the extent to which the Parties comply with their obligations under this agreement.
- c).** The Parties will, after submission of a tender; after the award of any contract to them and for the duration of the contract:
- i. allow the EIM unrestricted access to all books, records and staff relevant to such tender;
  - ii. ensure that the EIM has unrestricted access to the relevant books, records and staff of their consultants, parent and associated and subsidiary companies, agents, consortium and joint venture partners, sub-contractors and suppliers.
- d).** In the event that the EIM believes that there is *prima facie* evidence that there is a violation of this agreement, the EIM will report the same to CEO of the Principal.
- e).** Upon receipt of a report from the EIM, CEO of the Principal and the Board will discuss and try to agree upon the appropriate action to be taken in line with **sections 3,4 & 5 above** to deal with such violation.
- f).** The EIM has no power to inquire any of the Parties to undertake any actions. No statement by the EIM, whether oral or in writing, is binding on any of the parties. Any Party in legal or dispute resolution proceedings can use all reports and other documentation issued by the EIM. The EIM can be called as a witness in legal or dispute resolution proceedings.
- g).** Fee and /or any other incidentals including traveling/conveyance expenses, if any, payable to EIM shall be borne by the Principal.
- h).** The EIM can only be removed from his appointment, if:
1. all parties agree in writing to remove him: or
  2. he resigns: or
  3. he is removed from his office by order of a Court having appropriate jurisdiction.
- i)** If the EIM is removed from his appointment, the Principal will appoint another EIM as per **section 8.a above** for the remaining duration of this agreement.

**Section 9 - Duration of Agreement**

- a).** This agreement comes into force as soon as it has been signed by all the Parties have signed it. It cannot be terminated or varied except by the written agreement of all the Parties.

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**b).** This agreement will expire after 12 months from the date of last payment under the respective contract for the Second Party, and for all other Second Parties 6 months after the award of the contract.

**Section 10 - Other Provisions**

**a).** The Principal will disqualify from the tender process all Second Party who do not sign this Pact or violate its provisions.

**b).** Should any occasion arise entailing EIM to undertake any investigation under the provisions of this agreement, the venue for such investigation shall generally be at KIOCL Corporate Office, Kormangala, Bangalore -560 034.

**c).** This agreement is subject to Indian law. Place of performance and jurisdiction is the corporate office of the Principal. In case of any dispute, the courts at Bangalore only shall have jurisdiction.

**d).** Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.

**e).** Addresses along with other relevant details of the Chief Executives of the Parties are as given under;

**2. Second party:**

**1. Principal:**

Chairman-cum-Managing-Director,  
KIOCL Limited,  
II-Block, Koramangala,  
BANGALORE - 560 034.  
**INDIA.**

**Tel : 080-25531322 (O)**

**080-25531322 (O)**

**Fax : 080-25521584 (O)**

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

**g).** If the Second Party is a partnership or consortium, all partners or consortium members must sign this agreement.

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For the Principal

Place :

Date :

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For the Second Party

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Witness 1: .....

(Name & address) -----

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Witness 2:

(Name & address) -----

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