

(CONTRACTOR'S/BUYER'S AGREEMENT)

(TO BE EXECUTED ON NON-JUDICIAL STAMP PAPER OF Rs. 200/-)

AGREEMENT

This Agreement entered into on the _____ day of June Two Thousand and Seven (__/06/2007) by and between:

KARNATAKA STATE POLICE HOUSING CORPORATION LIMITED, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at No.59, Richmond Road, Bangalore 560 052 represented herein by its Authorized Signatory Sri _____ (hereinafter referred to as "**KSPHC**" which expression shall wherever the context so admits, mean and include, its successors-in-interest, administrators and assigns) OF THE ONE PART

AND

M/s _____, a company incorporated under the provisions of the Companies Act, 1956/ a registered partnership firm/ proprietor, having its office at _____ (hereinafter referred to as "**the Contractor/Buyer**", which expression shall wherever the context so admits, mean and include, its:

if the Contractor/Buyer is a Company, its successors-in-interest and administrators

if the Contractor/Buyer is a Partnership firm, its Partners, successors-in-interest and administrators.

if the Contractor/Buyer is a Proprietary concern, his legal heirs, executors and successors.

WHEREAS:

- I. KSPHC is a Government company, *inter alia*, engaged in the business of construction of buildings for housing employees of the Government of Karnataka in the Police, Prisons, Home Guards and Fire Force Departments and in the business of acting as consulting engineers and developers for infrastructure-related projects;

- II. In order to facilitate timely execution of projects by Contractors and/or Buyers and, *inter alia*, enable them to procure superior quality building material in a transparent and a cost effective manner and on a timely basis prior to and during the execution of projects, KSPHC has launched its internet portal www.ksphc.org and/or www.mystore.ksphc.org or such other portal/s that KSPHC may notify from time to time ("*the Website*");
- III KSPHC, through the Website, has enabled Vendors of services and goods including ("*the Product*") to quote their most competitive rates for the benefit of Contractors/Buyers;
- III The Contractors/Buyers has been awarded the work of _____vide contract dated _____(give all details of the project etc)
- IV The Contractors/Buyers have approached KSPHC to buy the Product through the Website from Vendors on the terms and conditions appearing hereinafter;

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:-

1. **MODE OF OPERATIONS**

- 1.1 KSPHC shall, from time to time, consolidate requirements for the Product from Contractors/Buyers from all over the State of Karnataka and display the same on the Website;

- 1.2 The Vendor, having regard to the requirements of Contractors/Buyers as in Clause 1.1 above, shall quote/convey its most competitive rate/s to KSPHC for the Product. Such rate/s shall be inclusive of all taxes, levies, transportation costs, loading, unloading and labour costs together with the period of validity of such rate/s;
- 1.3 KSPHC shall thereafter include its service charge/commission/brokerage to the rate/s quoted/conveyed by the Vendor and display the total price for the product and the period during which such rates are valid, on the Website.
- 1.4 Pursuant to the rates quoted by the Vendor having been displayed on the Website and orders placed by Contractors/Buyers, KSPHC shall scrutinize Order/s placed by Contractors/Buyers and assign specific Order Numbers thereto to identify every such Order.
- 1.5 After scrutiny and confirmation of the Order/s placed by Contractors/Buyers, KSPHC shall assign Approved Order Numbers to each such Order. Both the Contractor/Buyer and KSPHC shall refer to and quote such Order Numbers and Approved Order Numbers while transacting with each other and with the Vendor. KSPHC shall at its sole discretion be entitled to reject order/s placed by the Contractor/Buyer, without assigning any reason therefor.
- 1.6 Upon confirmation of the Order/s placed by the Contractors/Buyers, the Product shall delivered by the Vendor to the Contractors/Buyers at the location specified by the Contractor/Buyer within the time specified in the

Order, along with the invoice, test certificate, transport details and such other documents that may be required to complete the sale and transfer the property in the Product to the Contractor/Buyer.

2. **PAYMENT**

- 2.1 KSPHC shall effect payments to Vendors directly in respect of Products purchased by the Contractor/Buyer and recover the same from out of the running account bills submitted by the Contractor/Buyer. KSPHC shall also be entitled to recover interest on such payments made on behalf of the Contractor/Buyer to the Vendor for the first sixty days from the date of releasing payments on the sum due and outstanding at a rate that is 02% over and above the prevailing rate of interest charged by State Bank of India. KSPHC shall be entitled to recover penal interest of 02% per month over and above the rates stated above on all sums due and outstanding after the expiry of the first sixty days from the date of release of payments to the Vendor.
- 2.2 KSPHC shall have a lien over the Products until full payment therefor has been realized, in addition to a lien on the EMD/FSD/BG furnished by the Contractor for the Project;
- 2.3 KSPHC may also, at its sole discretion, require the Contractor/Buyer to issue post dated cheques for realization of the price of the Product supplied to the Contractor/Buyer

2.4 **SECURITY:** KSPHC shall also, at its sole discretion, direct the Contractor/Buyer to deposit such sums from time to time towards security for payment of Products purchased through the website.

2.5 In the event of KSPHC, for any reason whatsoever, being unable to recover all/any sum/s due from the Contractor/Buyer under this Agreement, KSPHC shall be entitled to, without prejudice to other remedies that maybe available to KSPHC under this Agreement, terminate the contract (bearing no_____ dated_____) awarded to the Contractor/Buyer, blacklist the Contractor/Buyer from participating in other projects of KSPHC and/or take such further action as it deems fit.

3. **CONTRACTOR'S/BUYER'S COVENANTS**

3.2 All complaints pertaining to the Product/s shall be brought to the attention of the Vendor by the Contractor/Buyer within a period of fifteen (15) days from the date of receipt of the Product.

3.3 The Vendor alone (and not KSPHC) shall be responsible for ensuring the safety of the Product during transit until the delivery of such Product to the Contractor/Buyer.

3.4 The Vendor alone shall be responsible for all claims arising in respect of the Products, including delay, defect, non-delivery, etc. and KSPHC shall not be responsible therefor in any manner whatsoever.

3.5 The Contractor/buyer understands that KSPHC is only a facilitator in the entire transaction and shall in no way and under no circumstance whatsoever be responsible for any and/or all claims arising in respect of any claim, losses, liabilities, actions etc that may arise in this regard.

4. **INDEMNITY**

4.1 The Contractor/Buyer agrees that it shall fully indemnify and keep KSPHC completely harmless against all/any claims, damages, losses or liabilities incurred by KSPHC vis-à-vis the Vendor or any other third party in respect of the Products purchased by the Contractor/Buyer through the Website.

5. **TENURE AND TERMINATION**

5.1 This Agreement shall be valid for a period of ____ years from the date of execution of this Agreement. However, KSPHC may however, at its sole option, extend the tenure of this Agreement for such further period/s and on such terms as it may deem fit.

5.2 The Agreement may be terminated by KSPHC upon the occurrence of any of the following events:

5.2.1 Breach of any of the terms of this Agreement;

5.2.2 Failure and /or delay in making payment to KSPHC for products purchased;

- 5.2.3 Any act or omission by the Vendor which in the opinion of KSPHC is detrimental to public interest and/or to the interest of KSPHC.
- 5.2.4 In the event of dissolution or winding up of the Vendor or the Vendor being adjudged an insolvent by a court of competent jurisdiction;

6. **FORCE MAJEURE**

If the performance by either Party, of any of its obligations hereunder is prevented, restricted or interfered with by reason of fire, or other causality or accident; war or other violence; any law, or regulation of any government; or any act or condition whatsoever beyond the reasonable control of such Party (each such occurrence being hereinafter referred to as a "Force Majeure"), then such Party shall be excused from such performance to the extent of such prevention, restriction or interference; provided, however, that such Party shall give prompt notice within a period of 07 days from the date of Force Majeure occurrence and providing a description to the other Party of such Force Majeure in such notice, including a description, in reasonable specificity, of the cause of the Force Majeure; and provided further that such Party shall use reasonable efforts to avoid or remove such cause of non-performance and shall continue performance hereunder whenever such causes are removed. For the purposes of clarity, the Parties agree that strikes and other labour related issues shall not constitute *Force Majeure* for the purposes of this Agreement.

7. **RELATIONSHIP BETWEEN THE PARTIES**

It is understood that the arrangement between the Parties contemplated by this Agreement shall be on a principal to principal basis. None of the provisions of this Agreement will be deemed to constitute a joint venture, agency, a partnership or principal-agent relationship between the Parties hereto and neither Party by virtue of this Agreement shall have the right, power, or authority to act or create any obligation, express or implied, on behalf of the other Party, unless otherwise specified herein.

8. **DISPUTE RESOLUTION**

8.1 In the event of any dispute and/or difference between the parties in respect of any matter concerning this Agreement, the same shall be first referred to the Chairman and Managing Director of KSPHC for amicable resolution within fifteen days from the date of one party notifying such dispute and/or difference to the other party.

8.2 In the event of such dispute or difference remaining unresolved within the period specified in clause 8.1 above, the same shall be settled by arbitration under the provisions of the Arbitration and Conciliation Act, 1996 by reference to such person or institution named/nominated by the Chairman and Managing Director of KSPHC. The place of arbitration shall be at Bangalore City at such venue/s as the arbitrator may so decide. Courts in Bangalore City alone shall have jurisdiction to the exclusion of all other courts.

9 **ADDITIONAL AGREEMENTS ETC.**

9.1 The Contractor hereby agrees that it shall be bound by all the terms and conditions governing the use of the Website and shall abide by all such terms as may be altered from time to time by KSPHC.

9.2 The Contractor shall be deemed to have read and understood the terms of this Agreement governing the use of the Website as may be amended from time to time and as available on the Website, on every occasion that the Contractor uses/accesses the Website.

9.3 KSPHC shall exclusively own the right, title and interest in respect of the intellectual property rights arising out of the Website pursuant to this Agreement.

9.4 This Agreement constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties. This Agreement shall be governed and interpreted in accordance with the laws of the Republic of India.

9.5 All clauses in the Agreement, which by their nature survive the termination of the Agreement or where it is so provided specifically, including without limitation the obligations in respect of indemnity, arbitration, etc shall survive the termination of this Agreement and remain in effect thereafter.

9.6 Any lack of demand to the other Party to perform a part hereof shall not be deemed a waiver of that provision. No waiver by either Party of any part of

this Agreement shall constitute a waiver of any other part of this Agreement or a continuing waiver of that same part. No waiver is valid unless in writing and signed by the waiving Party.

9.7 The Contractor shall not directly or indirectly sell, assign, transfer, delegate, convey, pledge, encumber or otherwise dispose of any of its rights, duties or obligations under this Agreement, without the prior written consent of KSPHC. Any attempted assignment in violation of this clause shall be null and void. KSPHC shall have the right to assign its rights and obligations under this Agreement to any third party subject to such third party agreeing to accept the terms and conditions specified in this Agreement.

9.8 The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. Any invalid or unenforceable provision of shall be replaced with a provision that is valid and enforceable and most nearly gives effect to the original intent of the invalid / unenforceable provision.

IN WITNESS WHEREOF THE PARTIES ABOVENAMED HAVE EXECUTED THESE PRESENTS ON THE DATE, MONTH AND YEAR MENTIONED ABOVE IN THE PRESENCE OF THE WITNESSES ATTESTING HEREUNDER.

<u>Witnesses</u> 01	For Karnataka State Police Housing Corporation Limited Authorised Signatory
02	For _____ (Partner/Proprietor/Director) CONTRACTOR/BUYER