

(VENDOR AGREEMENT)

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

AGREEMENT

This Agreement is entered into on this the _____ day of June Two Thousand and Seven (__/06/2007) at Bangalore

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 requires or 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 Vendor**", which expression shall wherever the context so admits, mean and include, its:
if the vendor is a Company, its successors-in-interest and administrators
if the vendor is a Partnership firm, its Partners, successors-in-interest and administrators.
if the vendor 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 is also 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 materials in a transparent, cost effective manner and 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 and/or such other portal/s as KSPHC may notify from time to time ("*the Website*"); and
- III The Vendor is a manufacturer / supplier / distributor / dealer of _____ ("*the Product*") and has requested KSPHC to put up for sale the Product on the Website which may be purchased by contractors / buyers / third parties and KSPHC has agreed to the same on the terms and conditions appearing hereinafter.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:-

1. **MODE OF OPERATIONS**

- 1.1 KSPHC shall run, maintain and manage the website and offer for sale the Product on the Website to all contractors and other persons who have registered themselves in the manner prescribed by KSPHC from time to time.

- 1.2 The Vendor shall be entitled to request KSPHC to display the Product on the Website from time to time, and KSPHC shall have the right to display the Product, at its sole discretion.
- 1.3 The Vendor 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. The Vendor shall also provide details in relation to quality, grade, description of the Product, specifications and all other details as may be required for being displayed on the Website by KSPHC.
- 1.4 All the details of the Product provided by the Vendor either in the same form or in any other form as determined fit by KSPHC shall be displayed on the Website.

KSPHC shall there after include its service charge / commission / handling charges etc., to the rates quoted / conveyed by the vendor and display the total price on the website.

- 1.5 KSPHC shall put in a place a mechanism/procedure by which an intending contractor / third party who peruses the contents of the Website and the offer of the Product for sale by the Vendor may place the order for the Product on the Website by specifying the quantity and other details as specified in such order page. KSPHC shall validate the requirements and consolidate the quantities from time to time as it deems fit. Consolidation for the purposes of this Agreement shall mean the consolidation of orders

placed by various Contractors / Buyers relating to a particular product as KSPHC may determine from time to time.

- 1.6 After KSPHC has consolidated orders placed by Contractors / Buyers, KSPHC shall conduct a reverse auction amongst those Vendors who have offered their Product for sale on the Website, including the Vendor, i.e. such of the Vendors who have put up similar Product for sale on the Website shall bid for a particular Order on a competitive basis. The mode and modality of the reverse auction shall be through e-mails / reverse auction engine.
- 1.7 Upon completion of the reverse auction process for a particular Product, KSPHC shall place the order on such of the Vendor whose price / terms has been determined by KSPHC to be most favourable in its absolute discretion and shall confirm the order in favour of such Vendor. The order so placed shall provide details of the quantity, specifications, grade, destination, price and any other special instructions for delivery of the Product (“**Order**”).
- 1.8 Upon confirmation of the Order/s, the Vendor shall accordingly sell and deliver the Product at the location specified by KSPHC 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.

In the event of non despatch of goods / non delivery of goods as promised in the time and quantity and quality as specified. This penalty could be

equal to the amount spent by the buyer in procuring the product from other sources in case the promised delivery has not taken place.

- 1.9 The Vendor shall intimate KSPHC on the Website, within 24 hours regarding the dispatch of the Product together with all relevant details thereof.

2. PAYMENT

- 2.1 All payments in respect of Product/s purchased through the Website by Contractors/Buyers shall be remitted by KSPHC to the Vendor after deducting its service charge/commission/brokerage (as determined by KSPHC from time to time) within seven (07) working days from the receipt of two sets of documents showing proof of satisfactory delivery of Products both from the Vendor and the Contractor/Buyer.

- 2.2 KSPHC shall, under no circumstances, be responsible for any delay/default by the Contractor/Buyer in forwarding the requisite documents evidencing receipt/delivery of the Products and shall be obliged to make payments only upon receipt of the documents in the manner set out in Clause 2.1.

3. VENDOR'S COVENANTS

- 3.1 The Vendor shall be solely responsible for supply of the Product in accordance with such specifications and standards as indicated by the

Contractor/Buyer along with relevant test certificates, quality certificates and guarantee cards, etc.

3.2 All complaint/s pertaining to the Products that is/are brought to the attention of the Vendor by the Contractor/Buyer or KSPHC shall be addressed, remedied or replaced, as the case may be, by the Vendor within a period of fifteen (15) days from the date of receipt of such complaint/s.

3.3 The Vendor shall be responsible for ensuring the safety of the Product during transit until the delivery of such Product to the Contractor/Buyer. The Vendor shall also be responsible to adequately insure the Product against the risk of loss/damage during transit.

3.4 The Vendor 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 all claims arising in respect of the Products, including delay, non-delivery, etc..

4. INDEMNITY

4.1 The Vendor 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 Contractor/Buyer or any other third party in respect of the Products supplied by the Vendor 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. 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 Non-delivery of the Product to the Contractor/Buyer within a period of fifteen (15) days from the date of receipt of a communication from the Contractor/Buyer or KSPHC requiring the Vendor to deliver the Product.

5.2.2 Breach of any of the terms of this Agreement;

Failure to rectify, remedy or address any claim made by a Contractor/Buyer, with regard to the quality or quantity of Products supplied, within a period of fifteen (15) days from the date of communication of such claim to the Vendor

5.2.3 Any act or omission by the Vendor which in the opinion of KSPHC is detrimental to public interest and/or Contractor / buyer, and/or to the interest of KSPHC; and

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 7 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. **RISK –COST**

- 8.1 The Vendor shall be liable to pay a penalty of Rs. 1,00,000/- (Rupees One Lakh) for substandard quality of materials as determined by a third party approved testing agency who may be commissioned for this purpose by KSPHC. The testing party's charges will also be leviable in addition. If the substandard quality is NOT proved in third party verification, the charges of testing will be borne by the person who sought the third party testing in the first place.

9. **DISPUTE RESOLUTION**

- 9.1 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.
- 9.2 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.

10.0 **ADDITIONAL AGREEMENTS ETC.**

- 10.1 The Vendor 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.
- 10.2 The Vendor shall be deemed to have read and understood the terms of the 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 Vendor uses/accesses the Website.
- 10.3 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.
- 10.4 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.
- 10.5 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.

- 10.6 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.
- 10.7 The Vendor 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.
- 10.8 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) VENDOR