

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 Limited 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 Limited 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 Limited is implementing the Integrity Pact Program in Co-Operation with Central Vigilance Commission (CVC) and Transparency International India (TII). As part of this initiative KIOCL Limited will, in consultation with CVC and TII, appoint Independent External Monitors who will help KIOCL Limited monitor and implement the Integrity Pact Program.

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

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

2. COMMITMENTS AND OBLIGATION OF KIOCL LIMITED.

(a) KIOCL Limited is committed to have ethical and corruption free business dealings with counterparties.

(b) KIOCL Limited values its relationship with all counterparties and will deal with them in a fair and transparent manner.

(c) KIOCL Limited and /or its Associates (Employees, Agents, Consultants, and Advisors etc) will not seek or take bribes/undue benefits directly or indirectly for themselves or for third parties.

(d) KIOCL Limited will honour its commitments and make due payments to counterparties in time subject to fulfilling contractual obligations.

(e) KIOCL Limited 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 anyone to gain undue advantage in dealing with KIOCL Limited.
- (b) The counterparty will not engage in collusion, price fixing, cartelization, etc., with other counterparties.
- (c) The counterparty will not pass to any third party any confidential information entrusted to it, unless duly authorized by KIOCL Limited.
- (d) The counterparty will promote and observe ethical practices within its Organisation and its affiliates.
- (e) The counterparty will inform the Independent External 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 Limited 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 Limited terminates or is entitled to terminate the contract. KIOCL Limited 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 Limited may ban and exclude the counterparty from future dealings until the Independent External Monitors is satisfied that the counterparty will not commit any future violation.
- (d) KIOCL Limited may initiate criminal proceedings against the violating counterparty.
- (e) The counterparty will be liable to pay damages as determined by the Independent External Monitor.

5. INDEPENDENT EXTERNAL MONITOR (IEM)

- (a) CMD, KIOCL Limited is the authority to appoint Independent External Monitor(s) (IEM) 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 External Monitors may be constituted by KIOCL Limited in consultation with CVC, with whose clearance they will be appointed.

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

(c) The IEM 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. IEM will have status/benefits similar to those of Chairman of Audit Committee of Board/status of the Directors of KIOCL Limited.

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

(f) The IEM 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 Limited.

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

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

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

(j) The IEM can be removed from his Office for appropriate reasons by KIOCL Limited only by an open and transparent process and such decision will have to be ratified by the Board of KIOCL Limited.

6. IMPLEMENTATION GUIDELINES

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

(a) To select and appoint IEM in consultation with CVC.

(b) To get commitment from all Senior Level Executives/Officials of KIOCL Limited 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 IEM.

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

(a) The IEM and senior leadership of KIOCL Limited will make an bi-annual self-assessment of Integrity Pact Program effectiveness and identify areas to improve.

(b) The IEM will submit an annual report on the progress/effectiveness of Integrity Pact Program to the KIOCL Limited Board of Directors.

(c) KIOCL Limited 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 Limited will arrange regular meet with TII 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.

INTEGRITY PACT

THIS AGREEMENT is entered into between the following Parties:

KIOCL Limited 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.....

.....
< *nature of Contract, in brief* >. 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 (I)" (TII). Following TII's national and international experience, the Principal will appoint an Independent External Monitor (IEM) who will monitor the tender process and the execution of the Contract for compliance with the principles mentioned below.

IT IS AGREED AS FOLLOWS:

Definitions:

- a) “**Principal**” which is the “**FIRST PARTY**” means KIOCL Limited, 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) “**Independent External Monitor**” means a person, hereinafter referred to as IEM, 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".
- e) "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 IEM.
- 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 IEM.
- 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 Notice Inviting Tender (NIT) 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 NIT/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 30 lakhs. The Principal will disqualify from the tender process all Second Parties who do not sign this Pact or violate its provisions.

Section7 - 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 IEM 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 - Independent External Monitor/Monitors (IEM)

a). The Principal, will appoint a competent and credible IEM/Number of IEMs for the duration of this agreement from the panel of IEMs appointed in consultation with the Central Vigilance Commission (CVC).

b). The IEM 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 IEM unrestricted access to all books, records and staff relevant to such tender;
- ii. ensure that the IEM 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 IEM believes that there is *prima facie* evidence that there is a violation of this agreement, the IEM will report the same to CEO of the Principal.

e). Upon receipt of a report from the IEM, 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 IEM has no power to inquire any of the Parties to undertake any actions. No statement by the IEM, 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 IEM. The IEM 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 IEM shall be borne by the Principal.

h). The IEM 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) On completion of the term by the IEM or if IEM is removed from his appointment or in case of death of IEM (whichever is earlier), the Principal will appoint another IEM 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.
- 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 IEM to undertake any investigation under the provisions of this agreement, the venue for such investigation shall generally be at KIOCL Limited 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;

1. Principal:

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

Tel : 080-25531322 (O)
: 080-25531272 (O)
Fax : 080-25521584 (O)

< *Details of Second Party are to be filled in by Second Party concerned* >

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	For the Second Party
Place	
Date	
Witness 1:
(Name & address)	----- ----- -----
Witness 2:
(Name & address)	----- ----- -----