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Commune de Lubumbashi, Ville de Lubumbashi  
Province du Haut-Katanga, République Démocratique du Congo  
[www.ivanhoemines.com](http://www.ivanhoemines.com)

ENQUIRY DOCUMENT  
**BALL MILL RELINING AT KIPUSHI  
CORPORATION SA**  
ENQUIRY NUMBER: KICO-BMREL-T004



## **SECTION 1**

### **INSTRUCTIONS TO TENDERERS**

These instructions will not form part of the Agreement with the successful Tenderer.

#### **1. GENERAL**

This Enquiry covers the supply and/or services defined in Section 2 Specifications.

#### **2. TENDERER**

The Tenderer is the Organisation or Company which submits a tender. The Tenderer has been provided with specific Enquiry Documentation to do so.

#### **3. COVER LETTER TO TENDER**

The Tenderer's letter accompanying the Tender shall state the name of the Organisation or Company, the contact person/s and contact telephone, cellular phone and email address.

#### **4. CONSORTIUM OR JOINT VENTURE**

Should an invited Tenderer wish to form a consortium or a joint venture or some other form of collaboration, the Tenderer shall formally notify the Employer within seven days from the Enquiry document issue date, whichever occurs first, advising him of the details and seek the Employer's agreement to tender in such a manner.

The Employer's agreement is not assured, and should the Tenderer continue without the Employer's written approval, the resultant Tender may be rejected.

#### **5. INSTRUCTIONS**

Tenderers are advised to familiarise themselves with all aspects of this Enquiry before inserting any prices or rates. It is as a result of this understood and agreed that the successful Tenderer should not be entitled to any increase in the Price quoted caused by provisions not considered by the Tenderer. The Tenderer shall investigate the whole of this Enquiry to establish and comply with any requirement to provide any information via attachments. It shall briefly describe and include the following with their Tender:

- 5.1 A Power of Attorney authorising the signatories of the Tender to bind the Tenderer to their Tender irrevocably.
- 5.2 Information regarding any pending, imminent and current arbitration, mediation and litigation in which the Tenderer is involved, including details of the parties concerned, the subject of such arbitration, mediation and litigation and the disputed amount.
- 5.3 The Tenderers safety statistics and related performance data of similar comparison as the scope of this Enquiry.



- 5.4 The name and contact details of 3 (three) previous but recent Employer / Client Representatives who may vouch for the Tenderers previous performance and cooperation, should the need arise.
- 5.5 Provide a list of clients to which the Tenderer has successfully delivered similar services of the same nature or magnitude. Include a short description of the project, the value of the project and your specific role delivered to each client. Provide references and contact details for these clients.
- 5.6 Certification that the Tenderer is in good standing with the appropriate government and quasi-government organisations such as the Department of Revenue and Customs and the Ministry of Labour.
- 5.7 Where and when was the Organisation or Company founded?
- 5.8 Who are the major shareholders in the Organisation or Company?
- 5.9 In which country is the Organisation or Company registered? Provide registered Organisation or Company name and registration details in the Democratic Republic of the Congo.
- 5.10 In which countries is your Organisation or Company represented?
- 5.11 Specify the location of your Organisation or Company head office.
- 5.12 Specify the location of all your Organisation or Company offices, locally and internationally.
- 5.13 Has your Organisation or Company or entity or any former business ever failed in the past five financial years to complete a contract, had the contract partially or fully been taken over or had a contract been varied to delete substantial work to overcome poor performance under the contract? If yes, provide details.
- 5.14 Has any partner, principal or director in your Organisation or Company ever been associated with any other Organisation that has failed in the past five financial years to complete a contract? If yes, provide details.
- 5.15 What benefits will your Organisation or Company gain through providing the service or supply to the Employer?
- 5.16 What is your Organisation or Company structure and ownership?
- 5.17 What is the total number of staff employed? Provide an Organisation chart identifying senior partners/directors and other staff.
- 5.18 Has any partner, principal or director in your Organisation or Company ever been convicted of an offence?
- 5.19 Describe the skill sets and competencies of the resources your Organisation or Company have, as well as the number of resources your Organisation or Company has in the skill sets that would likely be called for by the Employer.
- 5.20 Provide a summary of your "order book" commitments for the next three years.
- 5.21 Provide information that approximately defines where the focus of your business lies and indicate the prime services your Organisation or Company provides and those that it typically sub-contracts.



- 5.22 The Tenderer shall submit with its Tender, as a separate document, "Corporate Social Investment". Such document shall show any measurements taken to fulfil corporate social investment initiatives in areas where the Tenderer is present/the willingness to contribute to existing initiatives, i.e. Development, Training, Local employment and Corporate spend.
- 5.23 Preference will be given to tenderers that are registered with ARSP (Autorite de Regulation de la Sous-traitance dans le secteur Prive) website: <https://arsp.cd/enregistrement-et-demande-dagrement>.
- 5.24 Tenderers may include an allowance of 1.2% per invoice payable to ARSP, as applicable.

## **SUBMISSION OF TENDER**

The "Original Tender" with all related tender data, annexures, addenda, and enclosures shall be submitted via email to [kicot@kipushicorp.com](mailto:kicot@kipushicorp.com) , before the closing time, as follows:

Marked: Confidential

Enquiry Number: **KICO-BMREL-T004**

Employer: KIPUSHI CORPORATION SA

Tender's Close:

The email subject line for submissions must only reference the RFQ number of this Tender as submissions are electronically allocated. Submissions that do not contain the RFQ number as the subject line will be rejected by the Employer's electronic system.

### **PLEASE NOTE:**

You are reminded to keep a copy of the Tender for your records.

**DO NOT DELIVER YOUR TENDER TO INDIVIDUALS. TENDERS SHOULD BE IN NORMAL LETTERS I.E. NOT BOLD OR CAPITALISED.**

It is the responsibility of the Tenderer to ensure that its Tender has been received by the Employer.

The Tender shall remain valid and open for acceptance by the Employer for a period of 90 (Ninety) days from the closing date of the Tender.

Before the closing date, the Employer may modify, change, or amend the Enquiry documents by formally issuing written addenda.

The Tenderer shall acknowledge receipt of each modification, change or addendum by the Tenderer's letter headed written notice to the Employer.

To take an addendum into account in preparing the Tender, the Tenderer may apply to the Employer for an extension to the closing date. Such application is to be received at least seven days before the Enquiry closing date and time.

Should the Employer grant such extension, the Employer will notify all Tenderers in writing thereof.

Tenderers shall note that despite the foregoing, there is no assurance that a requested extension of time will be granted by the Employer.



The Tenderer shall check the number of pages and attachments within this entire Enquiry document and should any be found to be missing or in duplicate or the written text or details are indistinct, or there are any obvious errors herein or if any doubt exists as to the full intent or meaning of any wording or text or dimensions or sketch or drawing or any ambiguity is found as to the scope of this Enquiry, the Tenderer shall promptly notify the Employer in writing and have the same rectified.

No liability whatsoever will be admitted in respect of errors in tenders due to the preceding if they have not previously been notified in writing to the Employer, and it shall be taken that the Enquiry and documentation are fully understood, and no variations to the Price shall be accepted.

All queries technical, commercial, financial, contractual, and/or errors and other clarifications shall be formally communicated in writing to the Employer, who will redirect such matters to the appropriate person and ensure the suitable written response is distributed to all tenderers. Non-adherence may lead to rejection.

Unless queries relate to a method of operation and a specific request is received from Tenderers to treat a particular query/answer as confidential, all Tenderers will receive a copy of all queries received together with the answers and/or corrections. These queries/responses shall constitute the rulings and shall be incorporated into the Agreement.

The closing time for clarification of queries and/or request for correction of errors and ambiguities is 48 hours before the Enquiry closing date and time.

The tendered Price is inclusive of all items required to perform to the requirements set out in the Specification. Activities not listed or priced, and items for which no rate or Price is provided by the Tenderer, will not be paid for by the Employer. Such activities and items are deemed to be covered by and included in the other prices and or rates and/or fees contained within the Enquiry and or the Tender.

All duties and taxes, levies, tolls, registrations, enrolments, and other amounts payable by the Tenderer under the contract, or for any other cause, as of the date of tender submission are included in the rates, prices, and the tendered Price (excluding Value Added Tax (VAT)).

Value Added Tax (VAT) payable by the Employer shall be shown separately as an addition to the tendered Price.

The Tenderer shall not be permitted to make any alterations and/or adjustments to his tender documents after the date and time for submission elapsed.

In the event of any discrepancies occurring between the Prices detailed by the Tenderer in the forms provided with the Enquiry and those contained in any additional letter or document submitted by the Tenderer, the former shall prevail.

Errors shall be corrected by the Employer as follows:

- Where there is a discrepancy between the amounts in figures and in words, the amount in words shall take precedence.
- Where there is a discrepancy between the unit rate and the line-item total resulting from multiplying the unit rate by the quantity, the unit rate shall take precedence, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line-item total as quoted shall take precedence, and the unit rate is corrected. Where an individual rate is considered unrealistic, such rate is adjusted as agreed upon following consultation with the Tenderer.



- Where there is an error in the Price, either due to the other corrections required by this checking process or in the Tenderer's addition of Prices, the Price shall be corrected. The Tenderer shall submit the main offer in accordance with the commercial and technical requirements as set out in this Enquiry.

The Tenderer may, in addition to the main offer, submit an alternative proposal clearly indicating but not limited to the technical, financial, contractual, health, safety and environmental advantages to the Employer.

Should the Tenderer desire to make any departures from, or modifications to, the Enquiry provisions, scope, or to qualify the Tender in any way, the Tenderer shall set out the proposals. The alterations detailed will be the only alterations considered by the Employer.

A schedule of alterations needs to accompany the Tender.

The acceptance and/or rejection of such alternative proposals shall be at the sole discretion of the Employer. However, such an alternative proposal will not be considered where the Tenderer has not submitted a main offer in compliance with this Enquiry.

## **CONDITIONS OF AGREEMENT**

The contract conditions shall be the Terms and Conditions set out in Section 3.

## **PRICE ADJUSTMENT**

Tender documents shall contain a clear statement on whether prices quoted by bidders may be fixed or subject to adjustment (upwards or downwards) on the occurrence of specified events over which the Tenderer has no control and which are likely to affect the prices of major cost constituents such as labour, imported materials, equipment, and fuel. Prices may be adjusted using a prescribed formula (or formulae) which breaks down the total Price into components that are adjusted by price indices specified for each component or, alternatively, on the basis of documentary evidence (including actual invoices) provided by the Tenderer. The use of the formula method of price adjustment is preferable to that of documentary evidence. The method to be used, the formula (if applicable) and the base date for application shall be clearly defined in the tender documents. If the payment currency is different from the source of the input and corresponding index, a correction factor shall be applied in the formula to avoid incorrect adjustment. Price adjustment shall be computed separately for each currency of payment.

## **CURRENCY**

The United States Dollar (USD) or equivalent amount in Congolese Franc (FC) should be used to quote the Price. The Employer shall make payments in the currency of the Agreement.

## **ACCEPTANCE OF TENDER**

The Employer reserves the right to reject or accept the whole or part of any tender or reject all tenders without being obliged to give reasons.

## **REJECTION OF TENDER**

A tender may be rejected if:

- It is received after the closing date and time stipulated in the Enquiry or subsequent official written amendment thereto.
- It contains any unauthorised erasure, alteration, text addition or irregularity.



- There is no adherence to communication protocol for communication during the Enquiry process.
- It is considered unbalanced or does not include the required information necessary for proper comparison and evaluation.
- It is not submitted on the forms provided or is not following the commercial and technical requirements of the Enquiry.
- The Tenderer fails to attend Employer convened meetings to which he is invited.
- The Tender is delivered to individuals.
- It contains conditions of sale.
- The Tenderer or some person's acting on behalf of the Tenderer approaches a member of the Employer's team inappropriately concerning this Enquiry.
- A single invited Tenderer, tendered as a consortium or a joint venture or some other form of collaboration without the Employer's written authorisation.
- Any other reason which the Employer views as valid.

## **CONFIDENTIALITY OF ENQUIRY / TENDER DOCUMENTATION**

The Enquiry issued by the Employer and the Tender submitted by the Tenderer shall be treated as confidential, and no aspects thereof shall be disclosed to any third parties, except as necessary for the purpose of the Enquiry.

Tenders submitted by the Tenderer along with all other responses will become the property of the Employer.

## **EXPENSES IN THE PREPARATION OF TENDERS**

The Tenderer shall investigate, calculate, compile, and issue his Tender and incur such costs at the sole expense of the Tenderer.

The Employer shall not be responsible for any direct or indirect expenses and/or losses that the Tenderer may incur in the preparation and submission of this Tender.

## **EMPLOYER'S LIABILITY**

Tenderers are hereby advised that the Employer will not accept any financial liability whatsoever should the Tenderer's or prospective Tenderer's wish to place orders on their suppliers and/or subcontractors prior to receiving the Employer's official written Acceptance/Order.

## **ATTENDANCE AT MEETINGS**

The Employer may, during the adjudication process, convene several types of meetings. These may include site inspection meetings, tender clarification meetings and pre-award meetings. When invited to attend, the Tenderer shall ensure that he is properly represented at such meetings by experienced employees familiar with the Tender.

**Site Visit** : Tuesday 06 August 2024



## **SECTION 2**

### **SPECIFICATION**

The supplier is hereby requested to tender as per the following performance specification:

#### **SCOPE OF WORK FOR THE KIPUSHI BALL MILL RELINING**

##### **SECTION A:**

###### **INTRODUCTION**

###### 1.1 Introduction

The mill relining is the most specialised and important task in the maintenance of a mineral concentrator. Mill relining dictates shut down times, mill availability, throughput, and therefore, mine site profitability. This project will consist of putting new lines on or a new lining in for the Kipushi Ball mill.

##### **SECTION B:**

###### **GENERAL REQUIREMENTS**

###### 2.1 Scope of Work

###### **PRELIMINARIES AND GENERALS**

Contractor shall provide its expert qualified and skilled personnel and resources including transportation if required, necessary working tools and safety equipment such personal protective equipment to carry out the relining works and onsite technical support services on the ball mill as per OEM specifications and as requested by the company's representative. Skilled and experienced personnels consist of reline supervisor, reline rubber liners, riggers, and reline general workers.

###### 1. On call relining services

- Contractor shall provide five (5) experts, qualified and skilled personnels to perform the on-call relining services:
  - ✓ 1 x experienced and qualified Supervisor,
  - ✓ 1 X experienced and qualified rigger,
  - ✓ 1 X experienced rubber liner,
  - ✓ 2 X experienced general worker.
- 24 hours reline support to be provided with or without liner handler to the planned and unplanned relines occurring, 12 hours day shift and 12 hours night shift. The team will be permanent onsite on day shift and ready to assist once any unexpected event.

###### 2. Annual relining services





- Contractor shall provide additionally seven (7) experts, qualified and skilled personnels:
  - ✓ 1 X qualified and experienced site Manager,
  - ✓ 1 X experienced site safety representative,
  - ✓ 1 X shift Supervisor,
  - ✓ 1 X shift experienced and qualified rigger,
  - ✓ 1 X shift experienced rubber liner,
  - ✓ 2 X shift experienced general worker.
- 24 hours reline support to be provided with or without liner handler to the current planned and unplanned relines occurring.
- Conduct site setup up for planned and unplanned relines.
- Detailed inspection of current liners status based on format /requirement set out by responsible onsite metallurgist. Utilizing a minimum standard ultra-sonic thickness tester or equivalent identified measuring points per liner type.
- Removal of feed chute.
- Inspection of feed chute.
- Feed chute maintenance.
- Removal of the manholes for adding balls to the mill including inspections and relines where relevant.
- Strip out, removal and discarding of identified worn out liners or complete liners sets as required.
- Cleaning and inspection of rubber backing and perform rubber lining when and as required.
- Install new liners to Original Equipment Manufacturer (OEM) specification or equivalent relining standard approved by end user (Plant metallurgist).
- Re-torque mill bolts to Original Equipment Manufacturer (OEM) and/or Equivalent specification after 24hrs of operation.
- Conduct onsite maintenance of reline equipment supplied.
- General operating condition inspection of trommel and maintenance of trommel wear parts
- Supply of all consumables except if listed in KICO exclusions and all relevant tooling as listed min requirements to be supplied by service provider and be made available for the duration of the contract in sufficient quantities.

#### **Relining Administration prior to each planned reline:**

- Prepare list "bill of quantities" of all components spares required to conduct relines. At least 1 week ago (7 days) for any planned relining.
- Reline work plan indicating duration and allocation of work force.
- SWP/SOP to be reviewed.
- JSA to be completed and submitted 1 week (7 days) prior to planned reline.
- Tooling list for all tools planned to be utilized submitted 96 hours before the shut.
- Monthly or periodical inspection register to be made available for all relevant equipment falling under the required inspection period.
- Undertake pre- start checklist prior to use of the electrical and pneumatic tools.
- All IVN safety procedures to be followed prior to entering the mill or commencing any work on site.

#### **Relining administration extended scope:**

- Drafting SWP/SOP for mill reline and related work in accordance with IVN standards. including Original Equipment Manufacturer (OEM) specifications as per drawings or recommended relevant procedures.
- Prepare Mill Reline forecasts for min 12-month period, track current liner wear rates and update as duration progresses and change of wear rates occur.



- Perform monthly stock taking of liners and fixing forecast on liner usage and reorder.
- Prepare a list of all critical mill liner spares if required.
- Identify and submit improvement projects, if possible, provide KICO with forecast and material lists.
- Provide recommended spares list for all critical reline equipment.
- Undertake Site Forklift training to be able to undertake mill reline setup.
- Submit monthly/quarterly reports (stock taking of liners and fixings).
- Forecast liner usage and quantities to be reordered.
- Forecast material lists for improvement projects.
- Progress report of all services performed for each month.
- Working hours will be arranged as listed below:
  - ✓ During planned & unplanned relines there will be 24 hours coverage of the reline work 12 hours day shift and 12 hours night shift.
  - ✓ During period where no relining is planned all staff will then adhere to the working hours and days set aside as follows 07H00 to 17H00 from Monday to Friday and 07H00 to 12H00 on Saturday with an average of two hundred and ninety six (296) working hours per month.

**Contractor shall submit following:**

- Detailed report on mill liners condition inspection within 48 hours of every inspection completed. Monthly report consists of following:
  - ✓ Monthly stock taking of liners and fixings.
  - ✓ Monthly Forecast liner usage and quantities to be re-ordered. Monthly Forecast and material lists for improvement projects. Monthly progress report of all Services performed for each month. Daily work sheet.
  - ✓ Daily time sheet.
- Quality control document listing details of standard or min Original Equipment Manufacturer (OEM) requirements with proof of adherence accompanied by Certificate of Completion / Work Acceptance upon completion of Services for each reline.

The above-said deliverables shall be submitted in hard copies and electronic copies, in the format as advised by the Company's Representative in a timely manner.

**Contractor will provide the following:**

- Fully qualified and experienced personnel as per scope of supply
- Tooling and consumables as per min list in sufficient quantities considering possibilities for tooling failures and possible defective equipment occurring. TBC
- Personal Protective Equipment (PPE) for its Personnel and equipment (extinguishers, lights, safety belt/harness, etc.) in accordance with the Company's standard
- Fuel, lubricant, spare parts, consumables and maintenance of its equipment.
- Onsite transportation of Personnel, equipment, working tools and materials to and from the work location to do the work when required.
- Transportation, accommodation and meals of its personnel.
- Medical care and insurance for the Personnel and the equipment.
- Communication means for Contractor's Personnel.
- Provide a risk assessment for all planned activities required to complete the services.
- Copies and records of induction, training, competency, medical, etc. upon request by the Company.
- Participate in daily safety talk and discussions when on site.
- Risk & Method Statements provided for jobs undertaken.
- Housekeeping



## SECTION 3

### TERMS AND CONDITIONS

#### STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

Entered between

#### Kipushi Corporation SA

1148-6 Avenue de la Libération, Quartier Golf les Battants  
Commune de Lubumbashi, Ville de Lubumbashi  
Province du Haut-Katanga, République Démocratique du Congo

(Hereafter called “KICO SA”)

and

#### SERVICE PROVIDER

(Hereafter called “Service Provider”)

### 1. DEFINITIONS

For the purpose of these conditions, unless the context indicates otherwise, the words and expressions set out below shall have the meanings assigned to them and cognate expressions shall have corresponding meanings, namely:

- 1.1 “**ABAC Laws**” means any and all applicable laws relating to anti-bribery and -corruption and anti-money laundering which may be applicable to the Company and/or the Supplier, including but not limited to the Corruption of Foreign Public Officials Act (Canada), the Foreign Corrupt Practices Act (USA), the Bribery Act (UK), The DRC Applicable law relative to Corruption and the Prevention and Combating of Corrupt Activities Act (RSA);
- 1.2 “**Business Day**” means any day other than a Saturday, Sunday or official public holiday within the meaning of the Public Holidays as stipulate by the Ordonnance n° 14/010 of 14 may 2014 relative to legal public holiday in DRC;
- 1.3 “**Buyer**” means Kipushi Corporation SA
- 1.4 “**Conditions**” means these standard terms and conditions of purchase and all the schedules hereto;
- 1.5 “**Delivery Date**” means the date specified as such in the applicable Order;
- 1.6 “**Place of delivery**” means the place specified in the Order for the delivery
- 1.7 “**Goods**” means the goods specified in the applicable Order;
- 1.8 “**Ivanhoe Codes**” means the Ivanhoe Mines Group’s corporate policies (available electronically online at <https://www.ivanhoemines.com/about/corporate-governance>), including without limitation (i) the Code of Business Conduct and Ethics; (ii) the Companion



- Booklet to the Code of Business Conduct and Ethics; and (iii) the Corporate Citizenship Statement of Values and Responsibilities.
- 1.9 **"Losses"** means any and all damages, penalties, claims (including without limitation claims by third parties), demands, expenses or other liabilities of any nature incurred or suffered by a party.
  - 1.10 **"Order"** means a purchase order for Goods and/or Services placed by the Company with the Supplier in terms of these Conditions
  - 1.11 **"Price"** means the price of the Goods or Services as specified in the Order in question;
  - 1.12 **"Services"** means the services specified in the Order in question;
  - 1.13 **"Supplier"** means the party to whom an Order is addressed.
  - 1.14 **"Tax"** means all taxes required legally in term of the Order
  - 1.15 **"ARSP payment"** means 1,2% payment required in DRC before tax for the Authority of Regulation of the subcontracting in Private Sector in DRC.

## 2. SCOPE OF APPLICATION

- 2.1 These General Terms and Conditions of Purchase shall apply to the purchase or delivers by KIPUSHI CORPORATION SA (the **"Buyer"**) of any equipment, materials, products, components, software or other items (**"Goods"**) or specific service approved by the Buyer, applicable offered, or provided by any third party (**"Supplier"**) (collectively referred to as the **"Parties"** or **"Party"** as the context may require) in terms of any purchase order (or amendment thereto) provided by the Buyer to the Supplier (**"Order"**).
- 2.2 No terms and conditions other than these General Terms and Conditions of Purchase, the provisions of the Order and any and all documents incorporated therein by reference shall be binding upon the Buyer unless expressly accepted in writing by the Buyer. Neither acceptance of any Goods by the Buyer (including any signature by any representative of the Buyer on any quotation or delivery confirmation) nor payment therefor shall constitute an acceptance by the Buyer of any such terms and conditions.
- 2.3 No Order, variation or amendment thereof, addition or a complement thereto shall be binding on the Buyer other than an Order or change Order issued by the Buyer and duly signed by an authorised representative of the Buyer.
- 2.4 If individual terms of these General Terms and Conditions of Purchase cannot be applied for any reason whatsoever in respect of a particular Order, such terms shall be severed from the remaining terms of these General Terms and Conditions of Purchase, which remaining terms and conditions will remain unaffected and binding on the Buyer and Supplier.
- 2.5 Special provisions of an Order and specific terms agreed in writing by the Buyer and the Supplier, which may be in contradiction with these General Terms and Conditions of Purchase, shall prevail over the corresponding General Terms and Conditions of Purchase provisions.

## 3. PRICES - QUOTATION - CONDITIONS OF PAYMENT – INVOICING

- 3.1 Any offer/s, proposals and/or price quotation/s delivered by the Supplier to the Buyer shall be subject to the terms and conditions set out on the initial quotation received by the Supplier.
- 3.2 All Order prices are fixed, firm and not subject to revision or escalation for any reason whatsoever, including but not limited to as a result of variations to exchange rates or metal prices unless expressly stated otherwise in the Order. Prices shall be inclusive of all applicable taxes (including the taxes due by the Supplier on behalf of the Buyer) ,ARSP payment where applicable, contributions, insurances and all other costs incurred by the Supplier in performing the Order, including, the costs of: (i) Delivering the Goods at the location designated by the Buyer, (ii) all packaging, protecting, lashing and anchoring materials required for packing and transporting the Goods, (iii) all necessary documents, accessories, devices and/or appropriate tools necessary for the complete and functional use and maintenance of the Goods, and (iv) all necessary licence fees or other payments for the use by the Buyer of any intellectual property rights in relation to the Goods, including those of third parties.
- 3.3 After each Delivery of Goods pursuant to an Order, the Supplier shall send invoices in accordance with the Buyer's requirements, which invoices shall reflect the Buyer's Order number, date, the Supplier's references, the relevant stage of contractual performance at which a progress payment may be invoiced in accordance with the Order and shall specify the amount of any progress payment or balance requested. No invoice shall relate to more than one Order.
- 3.4 The Buyer shall pay the amount of duly issued and undisputed invoices within 30 days, after the date of receipt of the statement. Notwithstanding anything else contained in these General Terms and Conditions of Purchase, the Buyer is not required to pay the amount of any invoice if the Supplier fails to meet the requirements of the Order. In this case, the Supplier shall have no



claim for interest (even on a portion of the price), penalties or any other compensation whatsoever in relation to such non-payment.

- 3.5 Payment shall be made by electronic funds transfer into a bank account nominated in writing by the Supplier.
- 3.6 Not more than 30% up-front payment required by ARSP may be accepted by the Buyer depending on the particularity of the good or service unless a particular agreement accepted by the Buyer.

#### **4. DELIVERY - TRANSFER OF TITLE - PACKAGING – TRANSPORTATION**

- 4.1.1 Unless otherwise specified in the Order, the Supplier shall deliver the Goods at the Buyer's business address indicated on the Order. If no specific place of Delivery is specified, Delivery can be made only at the place where the Buyer usually takes Delivery of such Goods.
- 4.1.2 The Buyer shall, in its discretion, be entitled to impose a penalty for late delivery of Goods at a rate not exceeding 0, 5% of the Price per day and in total not exceeding 10% of the Price. The Parties agree that the penalty so imposed shall be deemed to be the reasonable, pre-estimated liquidated damages suffered by the Buyer resulting from such delay.
- 4.1.3 The Goods shall be packaged in full accordance with the "**Packing and Marking Specification**" contemplated in or accompanying the relevant Order so that they will not be damaged during transportation or handling. All items shall be properly marked according to (i) applicable rules and laws, especially in the case of hazardous or dangerous goods, and (ii) the Buyer's instructions.
- 4.1.4 If the Supplier requires the use of the Buyer's lifting equipment or employees to assist with unloading at the place of Delivery, the Buyer will require at least 24 hours' notice and their use by the Supplier shall be at the Supplier's risk.
- 4.1.5 Transportation and Supply:
- 4.1.6 The Supplier undertakes to take all measures necessary to perform proper transportation or supply of the Goods with accessory such manual, software by all appropriate means and using all appropriate equipment and accessories, and with the assistance of competent and solvent agents or subcontractors where necessary.
- 4.1.7 Delivery times set out in the Order shall be of the essence. If the Order is not performed within the specified time, the Buyer shall be entitled to cancel the Order. The Buyer reserves the right to refuse partial or early Deliveries, and in such cases may return the Goods or, in its discretion, store them, at the Supplier's cost and risk.
- 4.1.8 The Supplier shall immediately notify the Buyer in writing of any delays in delivering the Goods and simultaneously provide all information concerning the reason for and/or extent of the delay, as well as details relating to the efforts the Supplier is making or intends to make in order to avoid further delay and expedite Delivery. In the event of a repeated delay in Delivery, the Buyer shall be entitled, without prejudice to any other remedies or rights it may have in terms of these General Terms and Conditions of Purchase.

#### **5. WARRANTY – LIABILITY**

- 5.1 The Supplier represents and warrants that: (i) the Goods shall comply with all specifications and requirements contained in the Order or agreed in writing between the Buyer and Supplier; (ii) the Goods shall be state of the art and new; (iii) the Goods shall be fit for the particular purposes that such specific Goods will usually be expected to be used for; (iv) the Goods shall be free from defects in design, materials and workmanship; (v) the Goods shall satisfactorily comply with the performance requirements expected by the Buyer; and (vi) the Goods shall meet all applicable statutory requirements and standards, especially those relating to the environment, safety and health (individually "**Warranty**" and collectively "**the Warranties**"). Any representations or warranties relating to the Goods and included in the Supplier's catalogues, brochures, proposals, sales literature and quality systems or otherwise made by the Supplier to the Buyer (whether verbally or in writing) shall be binding on Supplier. The Supplier warrants the adequacy of the technical specifications of the Order to meet the specific needs of the Buyer, and the Supplier acknowledges having examined those specifications thoroughly.
- 5.2 The Supplier warrants that all Goods sold and delivered to the Buyer (whether in terms of clause 4.1 or otherwise) are free from any lien or encumbrance of any nature whatsoever and upon delivery (whether in terms of clause 4.1 or otherwise), of the Goods to the Buyer, free and unencumbered ownership of the Goods shall pass to the Buyer upon receipt of payment for the Goods and thereafter the Buyer will be the sole owner of, and have valid and exclusive title to, the Goods. The Supplier warrants further that no third party shall have any right to acquire the Goods.



- 5.3 The Supplier warrants that the Goods will comply with the Manufacturers' Warranty from date of delivery thereof.
- 5.4 If any Goods at any time are found not to comply with the Manufacturers' Warranty, the Buyer shall be entitled, at its sole discretion, by written notice to the Supplier to: (a) rescind the Order according to the provisions of clause 10 (Termination); (b) accept such Goods with a reduction in price equal to a reasonable estimate of the reduced utility of the Goods to the Buyer; or (c) to reject such non-complying Goods and, in its sole discretion, require Delivery of replacement Goods or the repair of the Goods, at the Supplier's expense.
- 5.5 All Goods rejected due to a fault and inherent defect cause by the Buyer must be collected by the Supplier or will be returned to the Supplier, at the Supplier's risk and expense, and will be stored at the Supplier's risk in the Buyer's warehouses until such time as they are collected by the Supplier or its agent or sub-contractor. Should the Supplier fail to collect the Goods within 15 days following notification of rejection, the Supplier shall be liable to pay warehouse storage charges for the Goods from that date until the date on which the Goods are collected. Notwithstanding the above, should the Supplier fail to collect the Goods within 30 days following notification of rejection, the Buyer shall be entitled to have the rejected Goods delivered to the Supplier's address appearing on the Order at the Supplier's risk and expense.
- 5.6 If the Supplier fails to deliver suitable replacements or make repairs promptly to the Goods, as the case may be, the Buyer shall be entitled to repair the Goods itself, or to appoint any contractor to do so, or to replace the Goods through any alternative supplier and recover all costs relating to such repair or replacement from the Supplier.
- 5.7 Any Goods repaired or replaced shall be subject to the provisions of this clause 6, and the warranty period hereunder shall start anew following such Delivery of replacement Goods or completion of repair of the Goods, to the satisfaction of the Buyer.
- 5.8 The Supplier shall be liable on the scale set out in 4.2.3 for any direct, damages, incurred by the Buyer because of any delays in Delivery, any defects in the Goods, any breach of the Warranties or any other non-compliance by the Supplier with the provisions of the Order or these GPC. The Supplier's liability will not be affected by the Buyer's choice of remedy, or the period taken by the Buyer to elect an appropriate remedy.
- 5.9 No inspection, approval or acceptance of Delivery of Goods shall relieve the Supplier from responsibility for defects or other failures to meet the requirements of the Order or comply with these GPC.
- 5.10 The Supplier shall supply the Goods and all spare parts, accessories, or components thereof for repair, maintenance, or extensions of the Goods ("**the Parts**"), through the whole period of the Order and thereafter for a period of 2 years after the relevant Goods have been put into service and warrants that the production and/or distribution of the Goods and the Parts will not be discontinued. If the Supplier intends to stop production and/or distribution of all or part of the Goods or the Parts after the Delivery date of the Order, the Supplier shall inform the Buyer of this fact at least one year in advance, so that the Buyer still has an opportunity to place additional orders and obtain sufficient Parts.
- 5.11 Without prejudice to any of the rights of the Buyer arising from any of the provisions of these GPC, the Supplier indemnifies the Buyer and holds it harmless against all loss, liability, damage or expense which the Buyer may suffer as a result of, or which may be attributable to any claims or liabilities as a result of a breach by the Supplier of any of the Warranties or other obligations set out these General Terms and Conditions of Purchase and/or arising from any negligent act or omission of the Supplier or any of its employees or agents in relation to the performance of its obligations in terms of any Order or these General Terms and Conditions of Purchase .

## 6. NON-DISCLOSURE - PROPRIETARY RIGHTS

- 6.1 All written or verbal information supplied by the Buyer to the Supplier regarding the Buyer's know how, specifications, procedures, needs, business strategies and all technical information, documents, and data ("**Confidential Information**") shall be treated as confidential and shall not be disclosed by the Supplier to third parties without the Buyer's prior written consent.

## 7. FORCE MAJEURE

- 7.1 A Party affected by an event beyond its reasonable control, which prevents it from complying with any of its obligations under an Order or these General Terms and Conditions of Purchase and Service ("**Affected Party**"), and which could not reasonably have been foreseen or avoided, including (without limitation) terrorism, insurrection, epidemic, flood, earthquake or like natural disaster ("**Force Majeure Event**"), as defined by the DRC law, shall immediately notify the other Party in





writing of such event and furnish the other Party with all relevant information and proof relating thereto, and particularly the period of time the Force Majeure Event may delay the timely performance of any obligation in respect of an Order.

7.2 In the event of a Force Majeure Event affecting the Supplier, the Buyer shall be entitled, in its sole discretion:

- (a) to agree with the Supplier on an extension of time for Delivery of the Goods; or
- (b) to terminate the Order or any part thereof, at any time, without further obligation or liability, in which case the Buyer shall be entitled to reimbursement by the Supplier of any sums already paid by the Buyer in respect of those Goods within 7 days of such termination.

## **8. TERMINATION**

8.1 The Buyer shall always be entitled, even though the Supplier is not in breach of any obligation, to suspend the Order for a period determined by the Buyer, or to terminate the same, in whole or in part, by giving 10 days' prior written notice to the Supplier.

8.1.1. Delivery of the relevant Goods (or any portion thereof, if a portion of the Goods have already been delivered); or

8.1.2. Performance of the relevant Services (or any portion thereof if a portion of the Services have already been performed).

8.2 Upon such termination, the Supplier shall be compensated by the Buyer for any reasonable costs incurred by the Supplier in carrying out that Order until the date of termination of that Order, provided:

8.2.1 That such compensation shall in no circumstances whatsoever exceed the Price; and

8.2.2 That the termination of the Order is not because of any breach of contract on the part of the Supplier.

8.3 Should the Supplier default in the performance of any term or condition of any Order, and fail fully to remedy such default within 20 Business Days after receipt of written notice by the Company requiring the Supplier so to do, then the buyer shall be entitled, without prejudice to any other rights which it may have in law, immediately to cancel the Order in question in whole or in part, and/or to claim damages from the Supplier.

8.4 Either party may terminate an Order immediately when the other party:

8.4.1 is a natural person who dies or is sequestrated, surrenders his estate, or is placed under any form of judicial management, curatorship, or trusteeship.

8.4.2 is a partnership which is dissolved.

8.4.3 is a company which is placed, or becomes liable to be placed, in business rescue, provisional- or final liquidation or

any form of judicial management, trusteeship, or receivership.

8.4.4 becomes factually or commercially insolvent.

## **9. INSURANCE**

The Supplier shall take out and maintain in force all insurance policies necessary to cover its liability under these General Terms and Conditions of Purchase (whether actual or contingent). The Supplier agrees to provide the Buyer, upon request, with evidence of insurance pursuant to any Buyer requirements regarding insurance coverage, and to comply with such requirements, including third party liability as well liability towards the Buyer.

## **10. FRAUD AND CORRUPTION**

The Supplier hereby warrants that, for the duration of these General Terms and Conditions of Purchase, it will comply (and will procure that all its employees, directors, officers or agents comply) with all laws, regulations or policies relating to economic sanctions, trade sanctions and/or import/export controls and the prevention or combating of bribery, corruption and money laundering ("**Anti-Corruption and Sanctions Regulations**"), to which it or the Buyer is subject. In particular, the Supplier undertakes not to, and will procure that all its employees, directors, officers, or agents, do not:

10.1.1 Offer, promise or give any undue pecuniary or other advantage, whether directly or indirectly to any public official, with the intent of influencing the actions or decisions of such official in performance of his/her official duties, with the purpose of obtaining or retaining business or other improper benefit or advantage. In case of violation, the Buyer shall be entitled to immediately terminate the Order on written notice to the Supplier without prejudice to any other remedy that may be available to it in terms of these General Terms and Conditions of Purchase.



## 11. ARBITRATION

- 11.1 Should any dispute or claim arise out of, or relating to, these GPC, including the breach, Termination, or invalidity of it ("**Dispute**"), the Parties shall use all reasonable endeavours to resolve the Dispute amicably within a period of 10 business days from the date on which the Dispute arose (or such longer period as may be agreed between the Parties).
- 11.2 If the Dispute is not resolved amicably within the period contemplated in clause 15.1, either Party shall be entitled to refer the Dispute to arbitration on written notice to the other Party.
- 11.3 Unless agreed otherwise in writing by the Parties, the arbitration shall be administered by the Parties and the number of arbitrators shall be 1. The place of the arbitration shall be Lubumbashi, Democratic Republic of Congo ("**DRC**"). The governing procedural law of the arbitration shall be the law of the DRC. The arbitrator shall have the same remedial powers as a court of law in the DRC would have been it adjudicating the dispute. The arbitrator shall deliver an award together with written reasons within 30 days from the date upon which the arbitration ends. The decision of the arbitrator shall be final and binding.

## 12. GENERAL PROVISIONS

- 12.1 The Order and these General Terms and Conditions of Purchase shall be governed by and construed exclusively in accordance with the laws of the DRC.
- 12.2 No modification, amendment, or waiver of any of the provisions of this Agreement shall be of any force or effect unless reduced to writing and signed by the Parties or their duly authorised representatives. No extension of time or other indulgence which either Party allows the other Party, including the failure by a Party to enforce any provision of this Agreement, shall constitute a waiver by the former of its rights to require the latter to comply with its obligations strictly in accordance with this Agreement.
- 12.3 By signing the document, you accept all the terms contained in these General Terms and Conditions of Purchase without any exclusion.

Thus, done and signed at \_\_\_\_\_ on this the \_\_\_\_ day of \_\_\_\_\_ 2024.

For and on behalf of Buyer

Name. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Name and signature of  
authorised  
representative, who duly  
engage the Supplier or  
duly mandated.**



## 1. ANNEXURE “A”

The responsibility to ensure compliance with KICO’s Ethics, rests with the Service Provider. KICO's Ethics Compliance Framework is detailed below.

TITLE
<a href="https://www.ivanhoemines.com/what-we-do/leadership-governance/">https://www.ivanhoemines.com/what-we-do/leadership-governance/</a>
IVN Companion Booklet to the Code of Business Conduct and Ethics
IVN Guide d'accompagnement du Code de conduite professionnelle et d'éthique
IVN Code of Business Conduct and Ethics
IVN Code de conduite professionnelle et d'éthique
IVN Corporate Disclosure, Confidentiality and Securities Trading policy
IVN Politique de divulgation, de confidentialité et de négociation des titres
IVN Corporate Citizenship
Kico SA Child and Forced Labour Policy
Kico SA Corporate Social Responsibility Policy
Kico SA Chapter 1: Contractor Compliance General
Kico SA Chapter 2 : Contract Documents
Kico Sa Chapter 3: Safety Health and Environmental Management Specification
Kico SA Chapter 4 : Environmental Management Specification
Kico SA Chapter 5: Quality Control Requirement
Kico SA Chapter 6: Human Resources Management
Kico SA Chapter 7 : Procurement Management
Kico SA Vendor form check list
Kico SA Compliance questionnaire