SALES AND PURCHASE AGREEMENT “xxxx & ATES”

SALE AND PURCHASE AGREEMENT

DATE July 26th, 2021

BETWEEN

ATES

(as the “Seller”)

AND

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

(as the “Buyer”)

THIS AGREEMENT (“this Agreement”) is made this day of xxxxxxxxxxx of 2021

BETWEEN:

1

. ATES

- Istanbul, Turkey (the “Seller” which

expression shall where to context so admit include its successors and assignees) of

the first part;

and

2

. xxxxxxxxxxxxxxxxxxxx(the “Buyer” which expression shall where the context so admit include its successors and assignees) of the second part.

WHEREAS:

1. Pursuant to the terms of this agreement the seller has agreed to sell to the buyer

subject to the terms and conditions of this agreement.

2. The parties wish to agree to deal with the transaction on the terms set out below and

wish to further enter into this Agreement to reflect their agreed intention.

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NOW IT IS HEREBY AGREED as follows

DEFINITIONS AND INTERPRETATION:

In this Agreement:

Company Name:

Represented By:

ATES

(HEREINAFTER REFERRED TO AS “THE SELLER”)

Company Name:

Represented By:

Company Origin:

Company E-mail:

Company Address:

Company Telephone:

Bank Name:

Account Name:

Swift Code (BIC):

Account No. (IBAN):

Country:

(HEREINAFTER REFERRED TO AS “THE BUYER”)

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CONDITIONS PRECEDENT

a. The headings in this Agreement are inserted for convenience only and shall not be

controlling in construing this Agreement.

b. Unless the context requires otherwise, words (including words defined herein)

denoting the singular number shall also include the plural and vice versa, and words

denoting any gender shall include any other gender.

c. All references to any document or agreement are to be construed as references to

such document or agreement as amended, varied, modified or supplemented from

time to time and any document or agreement in addition to or in substitution therefor.

d. The Parties confirm that each is legally authorized to execute and deliver this

document and to be bound by its terms and conditions.

e. The Parties hereby warrant and declare that all funds applied in the conduct of this

transaction are good, clear, clean, authentic, legally earned and of non-criminal

origin.

f. The Parties hereby warrant and declare that the transaction and contract are not

entered into in order to facilitate and advance terrorist activities, drug trafficking

and/or illegal arms dealings.

g. The Parties have by mutual request to each other reached this agreement for the

sales and purchase of the specified goods;

h. The Seller and the Buyer each declares unto one another that the Goods offered

herein and the origin of the funds used for purchasing the Goods do not contravene

the Drug Trafficking Offenses Act of 1986, the Criminal Act 1988, Prevention of

Terrorism (Temporary Provisions Act 1989, The Criminal Justice (International

Cooperation) Act 1990, The Criminal Justice Act 1993 and the Money Laundering

Regulations 1993, International Money Laundering Abatement and Anti-terrorist

Financing Act of 2001 (Patriot Act) or any other illegal or criminal activity and

accordingly each party to this Agreement indemnifies each other against any such

allegation which may or may not be made in the future, and;

i. The Seller hereby certifies and warrants that he is in position to fulfil the requirements

of this Contract and PROVIDE THE GOODS HEREIN MENTIONED IN A TIMELY

MANNER and under the terms specified and agreed upon by the signatories

hereinafter.

j. The Seller agrees to sell the goods and sell, and Buyer agrees to buy the under

mentioned goods on the terms and conditions as well as in accordance with the

specifications and quality described herein.

PART 2: OBJECT AND THE PRICE

A. Subject to the terms agreed hereof, the Seller agrees to provide and deliver to the

Buyer who accepts and agrees to receive and purchase of a shipment of up to one

million, two hundred thousand Metric Tons (1,200,000 MT, +/-5% in Buyer's option)

with subsequent monthly shipments of one hundred thousand Metric Tons (100,000

MT) +/-5% (in Buyer's option, to be called prior to beginning of respective calendar

month and fixed with respective Annex 1 hereunder) of the goods for twelve (12)

calendar months with possible rollover and extension.

B. The goods shall be free from mud, wood, rust, dust, asbestos and excessive rusted

material while a light atmospheric rust shall be accepted; absolutely free from sealed

gas cylinders and other sealed containers, explosive shells, bombs and inflammable

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material, pig iron and electrical motors, fluff, non- ferrous inclusions and other

impurities.

C. Maximum of 0.50% impurities is allowed and should be non-radioactive (GAMMA-

radiation within natural background level). In case of radioactivity of the goods not

accepted by the Authorities the vessel shall not be unloaded and pushed back, while

the Seller accepts to bear all the arising expenses.

D. Specification and Laboratory analysis:

Carbon (C):

Manganese (Mn):

Silicon (Si):

0.08% max;

1.05% max;

0.28% max;

0.045% max;

0.035% max;

0.150% max;

0.000% max;

Sulphur (S):

Phosphorous (P):

Arsenic (AS):

Copper (Cu):

PART 3: PRICE AND QUANTITY

Product/Goods:

A. The Goods consist of ferrous scrap (as per ISRI classification) of:

a. Used Rails of R-50 (51.67 Kg/M) and R-65 (64.72Kg/M) grades as per ISRI

027-029 and GOST 7173-75/ GOST 8165-75;

cut-to-length 1.4m X 0.5 X 0.5

b. Railway Sleepers

B. Origin: Kenya;

a. First shipment:

25,000MT

b. Monthly shipment: 100,000MT

c. Shipment duration: 12 months

C. The quantity to be shipped for each lot of goods is to be determined latest 10 (ten)

days prior to expected shipment date for respective lot of the goods.

a. Cut Length:

Up to 1.40m maximum

(unless agreed otherwise in written);

b. Contract Duration: Twelve (12) Months from the first Month

c. Port of Loading:

d. Delivery Terms:

e. Price:

Mombasa (Kenya);

CIF as per INCOTERMS 2018;

USD 270.00 per MT

Bulk in bundles

f. Packaging:

PART 4: PAYMENT TERMS

A. The payment of the Goods delivered hereunder will be made via CASH-BACKED,

TRANSFERABLE, ASSIGNABLE, AND NEGOTIABLE STANDBY LETTER OF

CREDIT MT760 from one of the top global banks AND SHALL BE HONOURED ON

MATURITY DATE OF ONE YEAR AND ONE MONTH, BUT MUST BE ACTIVATED

WITH A 2% PERFORMANCE BOND FROM THE SELLER.

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B. Same procedure to be applied for the shipments during the following twelve (12)

calendar months from the first shipment month with possible extension.

C. An original SGS quality inspection certificate (or similar internationally reputable

inspection company, mutually agreed between the Parties, hereinafter referred to as

“

the Surveyor”) will be issued on the exact quantity of the goods loaded at the Port of

Loading.

PART 5: TRANSFER OF OWNERSHIP

The transfer of ownership and the risks over the goods will take place as soon as the goods`

lot will pass the rail of the Vessel as per INCOTERMS 2018.

PART 6: QUALITY AND QUANTITY

A. Loading will commence subject to result of pre-shipment inspection to be made by

the Surveyor (at Seller`s costs) with presence of Buyer`s representative at the Port of

Loading (for bulk vessel).

B. Final quality of the Goods shall be determined by the Surveyor in the Port of Loading

and shall be confirmed by respective Certificate of Quality.

C. Daily reports from the Port of Loading should be sent by independent inspection

company to representatives of the Buyer with all information about loading process.

D. The cost of inspection for quality, quantity and radioactivity levels at the Port of

Loading is for the account of the Seller. Buyer is entitled to send his own

representative(s) at his own expense to oversee loading operation however; the

Surveyor will be a sole and final arbiter on quality matter. In case of dispute the

results, the Surveyor`s Certificate of Quality are to be final and binding for the Parties.

E. For avoidance of doubt, in case of bulk vessel`s shipment, permitted Buyer`s

representatives are the Buyer`s employee(s) and/or employee(s) of authorized

inspection companies accredited (certified) for goods inspection to be engaged (if

any) by the Buyer as protecting surveyor(s). Such representative(s) shall act in

accordance with precaution measures applied and followed by Port of Loading`s

stevedore company and/or the Master of the vessel, and hereby the Seller shall be

released (where the Buyer and its representatives hereby irrevocably agree to

withdraw any litigation and/or claims to the Seller) from any obligations whatsoever

nature caused by any injuries or damages to such representative(s) due to

inappropriate fulfilment of those precaution measures.

F. As per Buyer`s request, the Seller must provide all governmental, official and/or any

other necessities/permissions etc. whatsoever reasonably required for the Buyer’s

representative(s) to attend the loading operations at the Port of Loading before the

initial draft survey till final draft survey take place or, if required by the Buyer, till

performing vessel sails out from the Port of Loading. Otherwise, Seller shall not start

loading till the moment when loading would have been approved by the Buyer (except

force majeure circumstances when the Buyer`s representative won`t arrive to the Port

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of Loading due to the reasons solely attributable to the Buyer or Buyer`s

representative(s).

G. The Seller understands and acknowledges full responsibility for the prompt and full

settlement of export custom duties in country of origin, the Port of Loading handling

charge (including but not limited to THC costs) and/or any other charges arising at the

Port of Loading and/or the country of origin.

H. The Seller must provide all governmental, official and/or any other permissions for

Goods` export (including Export License at the loading port) for the shipment to be

executed.

I. The Seller understands and acknowledges full responsibility for the prompt

procurement of such export license(s) and/or permit(s) required for processing and

loading of the Goods at the Port of Loading.

J. The Seller shall be exempt for the settlement of such costs, losses and (or) damages

and applicable legal expenses in the event of Force Majeure.

K. Final payable weight to be determined as follows:

a. Containers’ shipment: as per weight-bridge of the Port of Loading; 0.5%

tolerance accepted and the lowest of actuals weight at the Port of Loading and

the Port of Destination to be used as final settlement weight (in case of

exceeding 0.5% tolerance);

b. Bulk vessel shipment: as average of draft surveys in the Port of Loading and

the Port of Destination.

PART 7: IMPLEMENTING PROCEDURE

A. The Buyer sends the Letter of Intent (LOI) to the Seller;

B. The Seller then issues Firm Corporate Offer (FCO) and in return, subject to its terms

and conditions, the Buyer issues an Irrevocable Corporate Purchase Order (ICPO) to

the Seller (or countersigns FCO);

C. The Parties agree on the terms of the contract and execute its agreed version with

notarization of each respective party`s signature aimed to further exchange of

originals;

D. The Seller invites the Buyer to perform on-site verification visit and physical

inspection to Kenya of its storage premises (For practical, time and logistical reasons,

the buyer will inspect two or three yards that house large quantities of products as a

show of proof of product and their availability);

E. The seller provides necessary permissions and approvals on the table during office

visit;

F. Once the buyer verifies the product at the site and contract signed, the Buyer opens a

CASH-BACKED, TRANSFERABLE, ASSIGNABLE, AND NEGOTIABLE STANBY

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LETTER OF CREDIT MT760, TO BE ACTIVATED WITH A 2% PERFORMANCE

BOND FROM THE SELLER.

G. The Buyer (or his authorized representative) are entitled to be present during cutting,

stuffing and loading of the goods into containers and (or) bulk vessel at the Port of

Loading and (or) place of stuffing.

PART 8: DOCUMENTATION AND PAYMENT TERMS

A. Subject to the execution physical inspection and confirmation of product availability

as shown in the yards, the Buyer shall open up 100% CASH-BACKED,

TRANSFERABLE, ASSIGNABLE AND NEGOTIABLE STANDBY LETTER OF

CREDIT MT760 in the name of the Seller or the Seller’s financier, to be activated with

a 2% performance bond from the seller.

B. The Seller shall provide the Buyer and (or) submit to the relevant individual

designated by the Buyer the following documents for each delivery and loading:

a. Quantity and Quality Certificate of Surveyor (1 original);

b. Surveyor`s Non-Radioactivity and Non-Explosive Certificate as per inspection

made at the Port of Loading (1 original);

c. Seller’s Commercial Invoice signed (1 original and 1 copy);

d. Cargo Manifest and Stowage Plan (for bulk vessels) (1 original and 1 copy);

e. Bills of Lading (full set of 3/3 originals and 3/3 NN copies);

f. Lay-time, and (if applicable) Dead Freight calculations, both to be presented

by a ship-owner (for bulk shipments) (1 original and 1 copy)

g. Packing List (for containers` shipment);

h. Beneficiary`s shipment certificate (1 original and 1 copy);

i. Weight Report of the Port of Loading (or Shipping Line) (for container`s

shipment) (1 original and 1 copy)

C. Charter Party Bill(s) of Lading is allowed (for bulk vessels).

D. The seller shall cater for all costs related to the cutting and shipment of the goods.

E. Partial shipments and shipment are allowed only for containers` shipments. All

Goods` lot dedicated for bulk vessel`s loading under specific shipment to be loaded

into the same vessel.

F. Overall quantity and value tolerance of 5 (five) percent and value tolerance of 5 (five)

percent are allowed.

G. Amendment charges shall be borne by the Party who requests such amendments.

PART 9: DELIVERY TERMS

A. Stuffing (in case of container shipment), transport of the goods to the Port of Loading

for delivery and loading shall be executed within 30 days after the issuance of SBLC

MT760 Effective Date unless agreed between the Parties.

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B. The Seller shall notify the Buyer by email latest 10 (ten) days prior to expected

loading date that the goods are ready for shipment. The notification will also provide

the full details, including, but not limited to, surveyor`s name for inspection to be

conducted at the Port of Loading or Point of Stuffing.

C. Should the Seller fail to deliver the goods on the time stipulated in clause 10. A.

a. All documentary costs and expenses resulting from non-performance (as

100% reimbursement of respective non-performance fee to be paid by the

Buyer to its Final User), vessel’s detention, dead-freight, warehousing and

additional handling, as well as

b. Buyer’s financial costs and losses (collectively hereinafter referred to as “NP

Costs”)

shall be on the Seller’s account to be reimbursed within five (5) days after receipt of

Buyer`s written notice with supportive documents.

PART 10: CLAIMS

The claims can be filed by the Buyer against the Seller as it follows:

a. In the event of quality deficiencies occurred caused by hidden vices during the

normal period of utilization the claims are to be filed within 7 (seven) days

from their appearance.

b. Within 7 (seven) days from the date the claim has been received, the Seller

has the obligation to notify his point of view against the claim filed by the

Buyer.

c. The time allowed for the settlement of claims is 14 (fourteen) days starting

with the date they have been filed and will consist in granting a discount equal

with the value of the claimed goods, replacing the defective goods, or in

reimbursement their value or other manner agreed upon by the Parties.

PART 11: FORCE MAJEURE

A. The current standard International Chamber of Commerce (ICC, Paris) terms on

Force Majeure shall apply to this Agreement and the Force Majeure clauses of the

International Chamber of Commerce (ICC, Paris) shall be deemed incorporated in

this Agreement.

B. Neither Party shall be held responsible for the settlement of indirect loss or immaterial

damage arising through the failure of performance of obligations under this

Agreement due to Force Majeure.

C. In the event of the occurrence of an event amounting to Force Majeure and being one

affecting the execution of obligations under this Agreement, a notice of such event

together with a certificate confirming the same and issued by the government

authorities or local Chamber of Commerce of the Party concerned shall be deemed

adequate evidence of the event.

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SALES AND PURCHASE AGREEMENT “xxxxxxx & ATES”

D. In the event of the occurrence of an event properly defined as amounting to Force

Majeure, such notice of the same shall be deemed adequately served if given

immediately by email and by delivery to the Seller/Buyer by registered mail and/or

courier service.

E. Should the delay caused by a Force Majeure event last for more than one (1) month,

the Parties shall fully attempt to agree upon measures to allow the Agreement to

continue. Should such an agreement not be reached within thirty (30) days from the

date of the certified Force Majeure event, the Parties are entitled to terminate the

Agreement.

F. Force Majeure event does not exonerate the Buyer from paying for any Goods

already delivered under this Agreement.

PART 12: BINDING AUTHORITY

This Agreement is binding on the parties hereto, their assigns and successors, and is signed

with full authority to act.

PART 13: APPLICABLE LAWS AND JURISDICTION

A. The present Contract (as well as all addendums, amendments, additional

agreements, appendixes and other documents, notices, instruments related hereto)

shall be governed, construed and interpreted in accordance with the Laws of Turkey.

Meanwhile, nothing herein restricts a Party’s right to the proceedings against another

Party in such defaulted Party`s jurisdiction, including such proceedings does not limit

a Party’s right to the proceedings in other jurisdictions. The Party in default

irrevocably and unconditionally waives any objection, which may at any time have to

the place of any proceedings in any court referred to in this paragraph, and any

objections that any such proceedings were brought to an inconvenient place.

B. The Parties shall endeavour to settle any disagreements, dispute or claim in relation

hereto as well as the breach, termination or invalidity of the Agreement in an

amicable manner, failing which any dispute arising out of or in connection with this

Contract, and any documents related to it, or its subject matter, including any

question regarding its existence validity or termination shall be referred to and finally

resolved by arbitration under the rules of the London Court of International Arbitration

(LCIA), which rules shall be deemed to be incorporated by reference to this clause.

The number of Arbitrators shall be one appointed in accordance with the said rules.

The Seat, or legal place of arbitration shall be London. The language to be used in

the arbitral proceedings shall be English.

C. The verdict of the Arbitration shall be final and binding for both Parties.

D. The attorney’s fee shall be covered according to the decision of the Arbitration Court.

The United Nations Convention on contracts for the international Sale of Goods

(CISG) is excluded.

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PART 14: NOTICES AND WARRANTIES

A. All notices required by this Agreement (by each Party) shall be in writing and shall be

delivered either by e-mail or fax followed by dispatch of the original via a courier or by

post (by certified or registered mail, return receipt requested). The notices are valid if

sent to:

a. THE BUYER:

Company Name:

Represented By:

Company Origin:

Company E-mail:

Company Registration No:

Company Address:

Company Telephone:

b. THE SELLER:

Company Name:

Represented By:

Company Origin:

Company E-mail:

Company Registration No:

Company Address:

Company Telephone:

B. The notices are considered delivered via e-mail or fax on the dispatch date if in a

working day and the expedition was made before 6 p.m East African Time. and is

considered delivered in the following day, if otherwise.

C. The Parties undertake to immediately notify each other about any change of the

communication address/headquarter address, e-mail or fax number; contrary it is

considered that the notice/letter/request/communication has been validly delivered to

the old address, e-mail or fax number.

D. Hereby the Seller guarantees and confirms to the Buyer that:

a. Goods to be sold were processed by the Seller

b. The goods are not subject to any encumbrance, pledge, mortgage, financial

instrument (derivatives, options) or any other third party`s secured or non-

secured interest prevailing the Parties of execution of their rights and

obligations hereunder as well as and not derived from illegal/criminal sources.

c. Goods are unsold and/or not pre-sold to any third party except the Buyer.

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SALES AND PURCHASE AGREEMENT “xxxxxxx & ATES”

E. Each Party hereby warrants and represents to the other that it:

a. Is duly organized, validly existing, and in good standing under the laws of the

country in which it was incorporated, formed or constituted with full corporate

power and authority to conduct its business as it is now being conducted, to

own or use the properties and assets that it purports to own or use and to

perform all its obligations under this Agreement.

b. Has the absolute and unrestricted right, power and authority to execute and

deliver this Agreement and to perform their obligations hereunder, and such

action has been duly authorized by all necessary action by each of their

directors, officers, managers, owners, principals, boards of directors and

managing members, as appropriate.

c. Neither the execution and delivery of this Agreement will, directly or indirectly

(with or without notice or lapse of time) (1) breach any provision of any of the

governing documents of each Party, or (2) breach or give any governmental

body or other person or entity the right to challenge any of the contemplated

transactions or to exercise any remedy or obtain any relief under any legal

requirement to which a Party may be subject.

d. No representation or warranty by a Party in this Agreement contains or will

contain any untrue statement of a material fact.

e. Shall not encumber, secure, pledge or create any security interest and/or sell

or transfer or assign or dispose in other ways any contract rights covered

herewith without the written consent of the other Party.

f. Shall not assign, hypothecate or encumber its interest in the Agreement

without prior written consent of another Party; same time, the Buyer is

irrevocably entitled to assign its rights and obligations hereunder without

consent of the Seller (and the Seller hereby withdraw any claims in respect of

hereof) to the Buyer`s financial institute or organization who provides financing

to the Buyer hereunder.

PART 15: RECEIPT OF PAYMENTS

Both parties in this sale and purchase agreement are entitled to appoint legal

representatives/attorneys to do any and every act and deeds and exercise every power at

their discretion and liability, that the company shall deem proper and advisable, intending

hereby to vest in his full and general Power of Attorney, including but not limited to the

following:

a. To perform, develop and manage all the necessary acts and deeds which has

to be done within the line of business, objects and constitution of the

Company. For this purpose he is given the right to sign, act, change, enter into

or cancel any Contracts, and to receive money and manage any other

financial operations for the Company

b. To prepare, sign and submit to the Depositaries and Registries any Depo

orders, stipulated by depository standards, with respect to securities held in

securities accounts of the Company

c. To make payments with Depositaries, Registries, Brokers, Banks and other

natural and legal persons on behalf of the Company.

d. To receive both local and international monetary transfers for realized

securities, term transaction instruments and payments for sales and purchase

instruments duly sanctioned by the Board of Directors.

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PART 16: MISCELLANEOUS

A. This Agreement becomes effective (subject to positive on-site inspection made by the

Buyer) on agreed date by both parties. In case of existence of outstanding non-

settled payments obligations and non-fulfillment of other Party’s obligations have

arisen during the period of validity of the Agreement, these obligations remain in force

until their full execution.

B. This Agreement and its addendums and appendixes create the entire Agreement

between the parties with respect to its subject matter and constitute and supersede

all prior discussion and agreement between the parties reached before, written or

oral. The failure by one party to require performance of any provision shall not affect

that party's right to require performance at any time thereafter, nor shall a waiver of

any breach or default of this Agreement constitute a waiver of any subsequent breach

or default or a waiver of the provision itself.

C. The Buyer and Seller shall not assign this Agreement or any rights or delegate any

duties hereunder (in whole or in part) without the prior written consent of the Seller or

the Buyer. Apart of this, the Parties confirm that the Buyer is entitled to assign its

rights and obligations hereunder to any financing party provide financial support to

the Buyer with respective notice to the Seller. Meanwhile, this Agreement shall be

binding upon and to the benefit of the respective successors and assigns of the

Parties

D. No amendment of this Agreement shall be effective unless made in writing and

signed by both Parties

E. Unless otherwise specified herein, INCOTERMS 2018 and/or any amendments or

replacement thereof shall apply.

F. If the Seller becomes insolvent or is adjudged bankrupt or a receiver or administrator

is appointed over the Seller or any of its assets or insolvency or bankruptcy or similar

proceedings are commenced in relation to the Seller or its assets, the Buyer may

upon written notice thereof (a) terminate this contract, or (b) suspend or defer

performance of this contract pending payments in advance and/or the professional

undertaking by the Buyer’s attorney, as to shipment(s) in default or as to any future

shipment, or both; and the Seller shall become liable for any and all costs, liabilities

and expenses whatsoever incurred by the Buyer due to the exercising its right

hereunder. Any exercise by the Buyer of its rights under this clause shall be without

prejudice to any other rights or remedies available to the Buyer under this Contract or

otherwise. Termination or expiry of the Agreement does not affect the Parties’ rights

to pursue claims for breaches occurring before termination or expiry.

G. The contents of this contract are confidential. Each party and its employees,

consultants and contractors shall hold in confidence any copies of this contract and

all documents and other forms of communications required to be provided under, or

in connection with, this contract. Notwithstanding the foregoing, each party may

disclose this contract to its professional advisors to succeeding entities and to

prospective transferees or assignees who, in any such case, have agreed to be

bound by these confidentiality provisions.

H. The failure or delay by a Party to enforce at any time or for any period any one or

more of the terms or conditions of the Agreement is not a waiver of them or of the

right at any time subsequently to enforce all terms and conditions of the Agreement.

I. If any provision of the Agreement is held by any court or other competent authority to

be invalid or unenforceable in whole or in part, the Agreement continues to be valid

as to its other provisions and the remainder of the affected provision.

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SALES AND PURCHASE AGREEMENT “xxxxxxx & ATES”

J. Each Party guarantees that it has not entered into the Agreement relying on any

warranty, representation or undertaking except those expressly set out in the

Agreement.

K. No waiver, alteration or modification of any of the terms of the Agreement is valid or

binding unless in writing and signed by the Parties.

L. Any notice given under the Agreement must be in writing (including e-mails) and to be

served by personal delivery, pre-paid recorded delivery, first class post or facsimile to

the receiving Party's address set out in the Agreement, or such subsequent

addresses as may be notified by the Parties to each other.

M. For avoidance of doubt, a term “business day” means the day when (simultaneously)

the banks in Nairobi (Kenya) and The United States are open for normal banking

operations.

PART 17: MONEY LAUNDERING AND CRIME PREVENTION MEASURES

A. All parties involved in the transaction shall provide valid passport photo ID.

B. The Parties solemnly declares, under penalty of perjury, that the funds used to buy or

pay for the Goods contained in this Agreement, do not constitute criminal acts of any

kind, including drug trafficking, money laundering or any other act considered a crime

under international law and law of Kenya and United States.

PART 18: NON-CIRCUMVENTION AGREEMENT

A. The Seller agrees and understands that the identity of companies and contacts (and

the arising relationship with such persons) of the Buyer are the proprietary

information of the Buyer and the Seller will not use or seek to benefit from the Buyer’s

proprietary information in breach of this Agreement. In addition, the Seller agrees that

he:

a. will not establish direct or indirect contact or enter into a commercial

understanding with each company, clients or contacts, without the Buyer’s

prior written consent and respective involvement.

b. will include the other party in all discussions or negotiations with the

companies, clients and contacts.

c. will not seek or solicit additional deals, agreements or contacts from any

connection done through this Agreement.

B. The Agreement shall obligate the undersigned Parties and their employers,

employees, parent companies, representatives, beneficial owners, successors, clients

and assigns (hereinafter referred to as “the Participants”) jointly, severally, mutually

and reciprocally bind themselves for the terms and conditions expressly stated and

agreed to below, and that this Agreement may be referenced from time to time in any

document(s), or written agreements, the terms and conditions of this Agreement shall

apply to any exchange of information written or oral involving financial information,

personal or corporate names, supply contract initiated by or involving the parties and

any addition, renewal, extension, roll- over amendment, renegotiation or new

agreement hereinafter referred to as "the Deal” for the purchase of the Goods.

C. The Participants are hereby legally and irrevocably bind themselves into guarantee to

each other that they shall not either directly or indirectly:

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SALES AND PURCHASE AGREEMENT “xxxxxxx & ATES”

a. Make any attempts to solicit any counterparty (including such counterparty`s

prospects) under the Deal (whether realized or prospected or under ongoing

discussion).

b. Interfere with, circumvent or attempt to circumvent, avoid, by-pass or obviate

each other’s interest or the interest or relationship between the Participants

and respective parties with the sellers, buyers, brokers, dealers, distributors,

shippers, financial institutions, technology owners or manufacturers introduced

to the Participants.

c. The Seller may not interfere or circumvent or attempt to circumvent, avoid, by-

pass or obviate the Buyer’s interest or relationship between the Buyer and its

end-users, buyers, brokers, dealers, distributors, shippers, financial

institutions, technology owners or manufacturers introduced to the Seller and

any connections pertaining to the jurisdiction of exclusivity.

d. Initiate buy/sell relationship or transactional relationship that by-passes the

Buyer in connection with any ongoing and future Deals of the Goods to be

developed by the Parties hereunder.

D. In particular, the Parties have agreed to obey and respect the business relationship

maintained by any of the Parties hereunder with a customer of the Buyer or a

supplier/service provider of the Buyer engaged for the deals, and bind legally

themselves not to interfere with, circumvent or attempt to circumvent, avoid, by-pass

or obviate such relationship. The Parties guarantee to each other that they should not

and will not directly or indirectly attempt to circumvent, avoid or eliminate interest in

each other or an interest or relationship between the parties and, sellers, buyers,

brokers, dealers, distributors, processors, shippers, financial institutions or interfere

with contractual relations with intermediaries and consultants. The obligations under

this clause shall apply with respect to all transactions and understandings that the

Parties may individually enter into during the term set forth in this Clause.

E. Each Party represents and undertakes that they will keep confidential any information

concerning the other party or its business, which the other party informs them is

confidential or which a reasonable person receiving that information in the same

circumstances would regard as being confidential (including but not limited to

financial statements and/or ownership and management details and personal

information provided or to be provided in connection with this Agreement) and not

share it with or disclose it to any other party, unless otherwise agreed in writing

between the parties to this contract. For avoidance of doubt, this prohibition as well

as the condition of non-circumvention shall survive also after termination of this

Agreement for a period of 7 (seven) years or (in respect of Confidential information)

until and unless such above mentioned information reaches the public domain.

F. Hereby the Parties agree that the Buyer is the exclusive Buyer of the said goods from

the Seller and the Seller is not entitled to sell the goods hereunder to any buyer

except the Buyer hereunder.

PART 19: COMMISSIONS

A. All considerations, benefits and commissions received or given as a result of this

Agreement relating to transactions of goods will be allocated as mutually agreed.

B. The 2007 CPI Revision, Publication 600, shall apply to this Agreement as well as the

Incoterms 2010 as published by the International Chamber of Commerce

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PART 20: ELECTRONIC COPIES

Electronic copies of this Agreement being duly digitally initialled, signed and stamped shall

be deemed to be originals and shall be binding on all Parties until the originals are

exchanged. Electronic copies of letters exchanged by the Parties and/or signed true copies

of email correspondence exchanged by the Parties shall be deemed admissible as aids in

resolving any issue arising in relation to the interpretation and enforcement of the

Agreement. Grammatical mistakes, typing errors, if any, shall not be regarded as

contradictions.

PART 21: ENTIRE AGREEMENT

A. This contract shall constitute the entire agreement among the Parties hereto relating

to the sale of the goods and any prior understanding or representation of any kind

preceding the date of this contract shall not be binding upon any Party except to the

extent incorporated in this contract.

B. THE PARTIES AGREE TO DO ALL SUCH THINGS AND EXECUTE ALL SUCH

DOCUMENTS AS MAY BE NECESSSARY OR DESIRABLE TO GIVE FULL

EFFECT TO THE PROVISIONS OF THIS AGREEMENT AND THE TRANSACTION

CONTEMPLATED BY IT.

C. THIS AGREEMENT SHALL BE BINDING UPON AND ENSURE FOR THE BENEFIT

OF THE PERMITTED ASSIGNS OF THE PARTIES. BOTH PARTIES SIGNS THIS

AGREMMENT IN FULL CONSENT WITHOUT ANY PRESSURE FROM ANYONE

OR THIRD PARTY.

D. ALL SIGNATORIES HERETO ACKNOWLEDGE THAT HAVE READ THE

FOREGOING CONTRACT AND BY THEIR INITIALS AND SIGNATURE THAT THEY

HAVE FULL AND COMPLETE AUTHORITY TO EXCUTE THE CONTRACT UNDER

THE TERMS AND CONDITIONS STATED AS ABOVE.

E. IN WITNESS WHEREOF, THE PARTIES AFFIX THEIR SIGNATURES, ACCEPTING

ALL THE TERMS AND CONDITIONS AS CONTAINED IN THIS PURCHASE

CONTRACT AND THE GENERAL TERMS. WHENEVER THIS AGREEMENT IS

COUNTERSIGNED BY ALL PARTIES EITHER THROUGH FACSIMILE OR

THROUGH E-MAILS, IT IS EQUALLY LEGALLY BINDING FOR THE PARTIES

(SEPARATELY AND COLLECTIVELY).

F. THE AUTHORIZED REPRESENTATIVES ATTEST THAT THEY HAVE THE

WRITTEN MANDATE AND SIGNATORY POWER TO EXECUTE THIS

AGREEMENT AND HAVE THEREBY UNDERSTOOD, AGREED AND ACCEPTED

ALL GENERAL TERMS, CONDITIONS AND/OR PROVISIONS SO STATED

HEREIN THROUGH AFFIXING THEIR RESPECTIVE SIGNATURES AND SEALS

BELOW. THIS AGREEMENT IS EFFECTIVE AS OF THE DATE AND YEAR FIRST

HEREIN WRITTEN ABOVE.

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Initials: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

SALES AND PURCHASE AGREEMENT “xxxxxxx & ATES”

Done at Istanbul (TURKEY)\*

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Done at xxxxxxxxx

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

THE SELLER

THE BUYER

Name:

Title: Foreign Trade Director

Name: xxxxxxxxx

Title: CEO

Name:

Title: General Manager

\*

Accepted and agreed without change (Electronic signature is valid and accepted as hand

signature)” EDT (ELECTRONIC DOCUMENT TRANSMISSIONS):

1

. EDT (Electronic document transmissions) shall be deemed valid and enforceable in

respect of any provisions of this Contract. As applicable, this agreement shall be:

Incorporate U.S. Public Law 106-229, ‘‘Electronic Signatures in Global & National

Commerce Act’’ or such other applicable law conforming to the UNCITRAL Model

Law on Electronic Signatures (2001).

2

. ELECTRONIC COMMERCE AGREEMENT (ECE/TRADE/257, Geneva, May 2000)

adopted by the United Nations Centre for Trade Facilitation and Electronic Business

(UN/CEFACT).

3

. EDT documents shall be subject to European Community Directive No. 95/46/EEC,

as applicable. Either Party may request hard copy of any document that has been

previously transmitted by electronic means provided however, that any such request

shall in no manner delay the parties from performing their respective obligations and

duties under EDT instruments.

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Annex 1: Delivery Schedule (tbd)

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Initials: \_\_\_\_\_\_\_\_\_\_\_\_\_\_