

ANNEXURE C

STANDARD TERMS OF THE AGREEMENT

1. BID SECURITY

- 1.1 The Parties acknowledge and agree that the Purchaser had submitted the Bid Security to the Seller in accordance with the provisions of the Scheme Document.
- 1.2 The Bid Security will be either (a) returned by the Seller to the Purchaser, without any interest, post submission of executed copies of the Agreement to the Seller; or (b) adjusted against the periodic payments to be made by the Purchaser in accordance with Clause 5.3 of the Scheme Document, upon receipt of a request from the Purchaser prior to execution of the Agreement.

2. PERFORMANCE SECURITY

- 2.1 The Purchaser has submitted the Performance Security to the Seller in accordance with Clause 5.4 of the Scheme Document. The amount of Performance Security is and shall continue to be computed as follows:

*Performance Security = [(Allocated Quantity of the Purchaser) multiplied by (X)].
Where, X is (i) the difference between the notified price of the relevant grade of coal for regulated sector and the corresponding notified price of the relevant grade of coal for the non-regulated sector; or (ii) 6% of the notified price of the relevant grade of coal for the regulated sector, whichever is higher.*

- 2.2 In case the Performance Security was provided in the form of a non-interest bearing security deposit, the Purchaser, if desires, can replace the non-interest bearing security deposit with an irrevocable and unconditional performance bank guarantee (in the format provided in Schedule I hereof) issued by an Acceptable Bank in favour of the Seller at a later stage and upon submission of the performance bank guarantee, the Purchaser shall have the option to get the refund of security deposit or adjust the security deposit against the price of coal pursuant to Clause 5 of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 2.3 The Performance Security shall be provided to the extent of the Allocated Quantity. The Performance Security shall remain valid till 9 (nine) months from the Execution Date and the validity of the same shall be extended or renewed by the Purchaser if the Seller deems necessary. Subject to Para 2.6 of this Annexure C, the Performance Security shall be returned or refunded to the Purchaser at the end of its validity or on submission of Coal Utilization Certificate in accordance with Clause 4.3.7 of the Detailed Terms and Conditions of the Fuel Supply Agreement, whichever is earlier, subject to successful completion of and complete settlement of all claims of the Seller arising out of this Agreement.
- 2.4 The amount of Performance Security stipulated in Para 2.1 of this Annexure C shall be suitably revised, in case of change in the Notified Price in accordance with Clause 5 of the Detailed Terms and Conditions of the Fuel Supply Agreement:

- 2.4.1 In the event of any increase in the Notified Price pursuant to Clause 5 of the Detailed Terms and Conditions of the Fuel Supply Agreement, then:
- A. In case the Performance Security was provided in the form of a bank guarantee, the Purchaser may;
 - i. provide a new bank guarantee issued by any Acceptable Bank for the revised value computed as per Para 2 of this Annexure C; or
 - ii. provide an additional/ top up bank guarantee issued by any Acceptable Bank for an amount corresponding to the incremental value of the Performance Security computed as per Para 2 of this Annexure C.
 - B. In case the Performance Security was provided in the form of a non interest bearing security deposit, the Purchaser shall deposit additional amount towards the security deposit.
- 2.4.2 Within 7 (seven) days of extension in the Term of the Agreement, the Purchaser shall submit a new/ revised/ amended Performance Security with validity as may be prescribed in Para 2.3 of this Annexure C. The new/ revised/ amended/ top up bank guarantee shall be in the format set out in Schedule I hereof. In case the Performance Security was provided in the form of a security deposit, the deposit shall remain with the Seller for such period as may be prescribed in Para 2.3 of this Annexure C.
- 2.5 Any failure of the Purchaser to replenish the Performance Security in the manner specified herein above within 7 (seven) days of notification of change in the Notified Price under Clause 5 of the Detailed Terms and Conditions of the Fuel Supply Agreement or within 7 (seven) days of extension in the Term of the Agreement, shall entitle the Seller to suspend the Coal supply in accordance with Para 12 of this Annexure C without absolving the Purchaser of its obligations under this Agreement. Further, if the Purchaser fails to replenish the Performance Security within 30 (thirty) days of such suspension of Coal supplies, the Agreement shall unless otherwise agreed in writing by the Parties, stand automatically terminated without any further act on the part of the Seller and the Seller shall also have the right to invoke the existing Performance Security.
- 2.5.1 In the event of any decrease in the Notified Price pursuant to Clause 5 of the Detailed Terms and Conditions of the Fuel Supply Agreement:
- i. In case the Performance Security was provided in the form of a bank guarantee, the Purchaser may provide a new bank guarantee issued by an Acceptable Bank in the format specified in Schedule I for the revised value computed as per Para 2 of this Annexure C. The Seller shall, within 7 (seven) days of receipt of such new bank guarantee, return the original Performance Security to the Purchaser.
 - ii. In case the Performance Security was provided in the form of a security deposit, the Seller shall refund the excess value of the security deposit.

2.5.2 The period of validity of any new bank guarantee, amended bank guarantee, top up/ additional bank guarantee furnished by the Purchaser and/ or any additional security deposit provided by the Purchaser pursuant to this Para 2, shall be the same as that of the initial Performance Security.

2.6 Invocation/ Forfeiture of Performance Security

2.6.1 The Seller shall be entitled to forfeit / invoke the whole or a part of the Performance Security in the following situations:

- i. in the event that the Purchaser fails to submit the revised incremental Performance Security to the Seller within the timeline stipulated in Para 2.5 of this Annexure C above;
- ii. in accordance with Para 3.3.4 (*Compensation for Failed Quantity*), Para 11 (*Interest on Delayed Payment*), Para 12 (*Suspension of Coal Supplies*) of this Annexure C;
- iii. proportionate forfeiture in case any portion of the Allocated Quantity is not certified by the CEA to have been utilized by the Purchaser;
- iv. in the event that the Purchaser fails to submit the Coal Utilization Certificate to the Seller within 4.5 months of the expiry of the Supply Period, in accordance with Clause 4.3.7 and Clause 4.3.9 of the Detailed Terms and Conditions of the Fuel Supply Agreement;
- v. in the event of any diversion of Coal in accordance with Clause 4.3.11 of the Detailed Terms and Conditions of the Fuel Supply Agreement; and/ or
- vi. in the event that the Seller becomes entitled to exercise its right to terminate or actually exercises its right to terminate this Agreement for any of the reasons specified in Para 13.2.1 to Para 13.2.4 of this Annexure C.

2.6.2 In the event of any partial or complete invocation of the Performance Security under this Agreement, the Purchaser would have to replenish the Performance Security within 30 (thirty) days of its invocation hereunder, failing which the Seller shall be entitled to terminate this Agreement in accordance with Para 13 of this Annexure C. The period of validity of the replenished Performance Security furnished by the Purchaser pursuant to this Para 2.6, shall be the same as that of the initial Performance Security. In the event that the Acceptable Bank issuing the Performance Security does not permit a partial invocation of the Performance Security, the Seller shall be entitled to invoke the whole Performance Security and recover thereunder, the amounts due to it and the balance amount, if any, shall be refunded immediately to the Purchaser within 1 (one) day of replenishment of the Performance Security to the Seller in the manner as stipulated above.

3. QUANTITY

3.1 Scheduled Quantity (SQ)

3.1.1 The CQ may be supplied (a) in 3 (three) equal monthly installments, where each installment shall be one third (1/3rd) of the CQ; or (b) entirely in a single installment

in the first month of the Supply Period, and each such installment may hereinafter be referred to as the “**Scheduled Quantity**” or “**SQ**”).

3.1.2 In the event the SQ is not sufficient for formation of a rake in a month, such SQ or part thereof shall be permitted to be carried forward and clubbed with the SQ of the next month or of the subsequent month, if required, until such cumulative quantity is sufficient to form a rake of Coal. However, no carry forward of any SQ or part thereof will be permitted beyond the Supply Period and the same shall lapse upon expiry of Supply Period. It is hereby clarified that no carry forward for the purpose of rake formation or otherwise will be permitted in case if the CQ is to be supplied in a single installment. No penalty shall be levied on the quantity which could not be lifted due to such quantity being insufficient for formation of rake.

3.2 Variation in SQ

3.2.1 Variation of less than 10% (ten percent) in a SQ, may be made if the same is notified to other Party prior to commencement of that Month. Variation of 10% (ten percent) or more, in SQ whether due to insufficient quantity for formation of a rake or otherwise, may be made only with the written mutual consent of the other Party, expressed prior to commencement of that Month.

3.2.2 Notwithstanding the provisions of Para 3.2.1 of this Annexure C, the total Coal supply, in the Supply Period, shall not exceed the CQ. It is hereby clarified that no variation will be permitted in case if the CQ is to be supplied in a single installment.

3.3 Compensation for short delivery/lifting

3.3.1 If for the Supply Period, the Level of Delivery by the Seller, or the Level of Lifting by the Purchaser falls below the CQ, the defaulting Party shall be liable to pay compensation to the other Party for such shortfall in Level of Delivery or Level of Lifting, as the case may be (“**Failed Quantity**”) in terms of the following:

Level of Delivery / Lifting of Coal in the Supply Period	Percentage of Penalty for the failed quantity (at the rate of weighted average of Notified Prices of Grades of Coal supplied)
Below 75% but up to 65% of CQ	0 – 10
Below 65% but up to 50% of CQ	10 – 40
Below 50% of CQ	40

Such compensation for short delivery/lifting, shall, however, not be applicable for both Purchaser/Seller in the following case:

- Portion of bid quantity not sufficient to form a rake and not deliverable by Rail mode

3.3.2 The penalty payable shall be computed in the same manner as done slab-wise for computation of income-tax. However, unlike income tax, the percentage of compensation shall grow on linear basis within each slab.

3.3.3 The Seller shall be entitled to modify/amend the penalty levels as specified at Para 3.3.1 of this Annexure C pursuant to review undertaken by the MOC.

- 3.3.4 Compensation for the Failed Quantity shall be payable by the defaulting Party to the other Party within a period of 15 (fifteen) days from the date of receipt of a claim in this regard from the non-defaulting Party. In the event of non-payment within the due date, the defaulting Party shall be liable to pay interest as mentioned in Para 11 of this Annexure C. In the event that the compensation along with interest payable thereon is not paid within a period of 30 (thirty) days of receipt of the claim as aforesaid, the Seller shall have the right to invoke the Performance Security.

3.4 Level of Delivery

Level of Delivery shall be calculated in the form of percentage as per the following formula:

$$\text{Level of Delivery (LD)} = \frac{(\text{DQ} + \text{DDQ} + \text{FM} + \text{RF}) \times 100}{\text{CQ}}$$

Where:

LD = Level of Delivery of Coal by the Seller for the Supply Period.

DQ = Delivered Quantity, namely, aggregate actual quantities of Coal delivered by the Seller.

DDQ = Deemed Delivered Quantity, reckoned in the manner stated in Para 3.7 of this Annexure C.

FM = Proportionate quantity of Coal which could not be delivered by the Seller during the Supply Period due to occurrence of a Force Majeure Act(s) affecting the Seller and/or the Purchaser, calculated as under:

$$\text{FM} = \frac{\text{CQ} \times \text{Number of days lost under applicable Force Majeure Act(s)}}{90}$$

Note: For the purpose of calculation of 'Number of days lost under applicable Force Majeure Act(s)', affecting both the Parties shall be counted only once.

RF = Quantity of Coal that could not be supplied by the Seller owing to the railways not allotting wagons or not placing wagons for loading, in spite of valid indent/offer submitted by the Seller to the railways against valid program(s) submitted by the Purchaser for the purpose.

3.5 Level of Lifting

Level of Lifting shall be calculated in the form of percentage as per the following formula:

$$\text{Level of Lifting (LL)} = \frac{(\text{CQ} - \text{DDQ}) \times 100}{\text{CQ}}$$

Where:

LL = Level of Lifting of Coal by the Purchaser.

DDQ shall have the same meaning as given in Para 3.7 of this Annexure C.

3.6 For the purpose of computing DDQ and RF, the weight per rake will be *[[•] to be specified by the Seller]*, which shall be used for calculation of compensation from either the Purchaser or the Seller.

3.7 **Deemed Delivered Quantity**

For the purpose of this Agreement, the aggregate of the following items provided under Para 3.7.1 of this Annexure C and Para 3.7.2 of this Annexure C shall constitute the Deemed Delivered Quantity.

3.7.1 For supply of Coal by rail

- i. The quantity of Coal not supplied by the Seller owing to omission or failure on the part of Purchaser to submit the requisite rail programme(s) as per extant procedure with respect to the Scheduled Quantity.
- ii. The quantity of Coal not supplied by the Seller owing to cancellation, withdrawal or modification of the rail programme(s) by the Purchaser after its submission whether before or after allotment of wagon(s) by railways.
- iii. The quantity of Coal not supplied by the Seller owing to Purchaser's failure to pay and/or submit/maintain IRLC or Usance LC, as applicable, in accordance with Para 10.1.2(ii) of this Annexure C.
- iv. The quantity of Coal not supplied by the Seller owing to Seller exercising the right of suspension of supplies in terms of Para 12 of this Annexure C.
- v. The quantity of Coal offered by Seller in terms of Clause 4.4 of the Detailed Terms and Conditions of the Fuel Supply Agreement not accepted by the Purchaser.

3.7.2 For Supply of Coal by road/ ropeways/MGR/belt conveyor

- i. The quantity of Coal not supplied by the Seller owing to the Purchaser's failure to pay and/or submit IRLC or Usance LC, as applicable, in accordance with Para 10.1.2(ii) of this Annexure C.
- ii. The quantity of Coal not supplied by the Seller owing to the Seller exercising the right of suspension of supplies in terms of Para 12 of this Annexure C.
- iii. The quantity of Coal not supplied by the Seller owing to the Purchaser's failure to place the requisite number/type of transport at the Delivery Point for delivery of Coal within the Validity Period of the sale order/delivery order.
- iv. The quantity of Coal offered by Seller in terms of Clause 4.4 of the Detailed Terms and Conditions of the Fuel Supply Agreement not accepted by the Purchaser.

4. QUALITY

4.1 The quality of Coal delivered/to be delivered shall be as per the specifications given in Schedule II.

4.2 The Seller shall make adequate arrangements to assess the quality and monitor the same. In this regard, kindly refer to notifications issued by CIL from time to time. Statutory Charges shall be paid as per the Declared Grade. In this regard, any credit in respect of the Statutory Charges, if and when received by the Seller, shall be adjusted through issuance of credit note(s). Railway freight shall be borne by the Purchaser.

4.3 The Seller shall endeavour to deliver Coal with size conforming to specifications set out in Schedule II and shall make reasonable efforts to remove stones/extraneous material from the Coal.

4.4 Re-declaration of Grade by the Seller

If the Grade analysed pursuant to Para 4.2 of this Annexure C shows variation from the Declared Grade, consistently over a period of three (3) Months, the Purchaser shall request the Seller for re-declaration of Grade, which shall be duly considered by the Seller for future tranches of auction.

4.5 Oversized Coal/stones

In the unlikely event of supply of any oversized Coal/stones beyond the specifications set out in Schedule II, the Purchaser shall inform the Seller of such incident(s) in any specific consignment(s), immediately on its detection at the Delivery Point and/or Unloading Point and the Seller shall take all reasonable steps to prevent such ingress at its end. If, in the Purchaser's reasonable assessment, the incidents of oversized Coal and/or stones are causing operating or maintenance problems at the Specified End Use Plant, then, upon the request of the Purchaser, the Purchaser and the Seller shall meet and prepare a mutually acceptable plan for effectiveness of the Seller's endeavours to avoid such instances.

4.6 Assessment of Quality of Coal at the loading end

4.6.1 Sample collection

- i. Samples of Coal shall be collected by the Third Party either manually or through any suitable mechanical sampling arrangement, including Augur Sampling method, if physically operable at each of the Delivery Points for determining the quality of Coal in the presence of representatives of the Seller and the Purchaser.
- ii. For the purpose of sampling, each rake of Coal supplied from one Delivery Point shall be considered as a lot. However, if a rake comprises Coal from more than one (1) coal mine and/or Grade, then the number of lots for sampling will be coal mine/Grade wise, as the case may be.

- iii. Each day's supply to the Purchaser from a Delivery Point shall be considered as one lot for the purpose of sampling in case of Coal supplies by road, ropeways, belt and MGR system etc. However, if such Coal supplies comprise Coal from more than one (1) coal mine and/or Grade, then the number of lots for sampling will be coal mine/Grade wise, as the case may be.
- iv. Detailed modalities for collection, handling, storage, preparation and analysis of samples by Third Party shall be as per Schedule III.
- v. Each sample shall be assigned with a code number and will be identified by such code only and no other particulars will be indicated or written on the tag attached with the relevant bag containing the sample. Detailed modalities of coding/de-coding for the purpose of sampling and analysis may be worked out separately by the Parties to facilitate confidentiality and reliability of the process.
- vi.
 - (i) In the event, for any reason whatsoever, Third Party sampling and analysis could not be conducted, joint sampling and analysis shall be carried out by the Seller in presence of the Purchaser at the loading end; and
 - (ii) In the event that, no sample is collected either by the Third Party or Seller and Purchaser jointly as mentioned at sub-clause (i) above, from dispatches by a rake or on any day, as the case may be, from a Delivery Point for any reason, the weighted average of the most recent results available in any preceding Month against respective Delivery Point/Grade shall be adopted for such dispatches for which samples were not collected.

5. WEIGHMENT OF COAL

- 5.1 For dispatch of Coal by rail, all the wagons loaded for the Purchaser shall be weighed at the loading end at the electronic weighbridge of the Seller and electronic print-out of actual weight recorded shall be provided. Such weighment shall be final and binding for determination of the quantity delivered. The Purchaser shall have the right to witness the weighment of the wagons at the weighbridge, if desired. The Seller shall annex copy of such electronic print-outs along with the bill(s) raised by the Seller.
- 5.2 Only in the absence of weighment of Coal on electronic weighbridge at the loading end, the weight recorded at the Purchaser's electronic weighbridge with an electronic print-out facility at the Unloading Point, if in proper working order, shall be taken as final. In respect of unweighed consignments/wagons at the Delivery Point on electronic weighbridge and weighed on electronic weighbridge at the Purchaser's end, the Purchaser shall submit the associated electronic print-out to the Seller for such consignments/wagons within thirty (30) days from the date of railway receipt, beyond which time the weight of the consignment shall be considered on railway receipt basis.

- 5.3 If both the weighbridges installed by the Seller as well as the Purchaser are defective/not available for recording weight of the consignments of Coal, weighted average quantity of Coal per wagon (to be determined separately for respective types of wagons in the circuit), as per the actual weighment over a continuous period of immediately preceding seven (7) days shall form the basis for determining the quantity of Coal at that Delivery Point, till such time any one of the weighbridges is corrected and put back into operation. If the weighbridges at both the Seller's and the Purchaser's end are not available for recording weight of Coal and actual weighment over a continuous period of immediately preceding seven (7) days is also not available then weight of Coal for such unweighed wagons shall be taken as per the weight indicated in the railway receipts.
- 5.4 The Seller and the Purchaser shall permit access to and make facilities available at its weighbridge, for representatives of either Party to witness and note the weight for the consignment. In case the representative of any Party fails to be present, at the time of such weighment, the weight recorded by the representative of the other Party in accordance with Para 5.1 and Para 5.2 of this Annexure C, shall be final and binding.
- 5.5 The weighbridges both at the Seller's end and at the Purchaser's end shall be kept duly calibrated as per the Weights and Measures Standards. Both the Seller and the Purchaser shall have the right to witness the calibration of the weighbridge at each other's end.
- 5.6 **Operation and Maintenance of Weighment System**
- The Parties shall at their respective costs,
- 5.6.1 Operate and maintain their weighbridges in good working order and in accordance with the Weights and Measures Standards and other Applicable Laws;
- 5.6.2 Cause the weighbridge to be inspected, tested and certified by the statutory agencies in accordance with and at the intervals required by the Weights and Measures Standards and the Parties shall, at their cost, extend/make available all requisite facilities required for the purpose of testing and/or calibrating the weighbridge.
- 5.6.3 For dispatch of Coal by road, the weight recorded at the electronic weighbridge of the Seller at the loading end shall be final for the purpose of billing and payment. The Purchaser shall have the right to witness the weighment at the colliery, if desired. The weighbridge shall be calibrated as per the provisions of Applicable Laws. The Purchaser shall have the right to witness such calibration.
- 5.7 For dispatch of Coal by belt conveyor, a weightometer shall be installed at the end of the Seller and weight recorded by the weightometer shall be the weight of Coal supplied. The weightometer shall be kept under joint seal and will be repaired/recalibrated in the presence of the representatives of the both the Parties, wherever necessary.
- 5.8 For dispatch of Coal by MGR system, weight recorded at the loading end through the electronic weighment system shall form the basis for determining the quantities of Coal delivered.

6. METHOD OF ORDER BOOKING AND DELIVERY OF COAL

The Purchaser shall submit programme either on a monthly basis or a single programme for the entire CQ, during the Supply Period, mode-wise for off-take of Coal as under:

6.1 Order Booking by Rail

6.1.1 The Purchaser shall submit the programme(s) and shall comply with all requisite formalities, rules and procedures as prescribed by the railways by time to time.

6.1.2 Subject to Para 6.1.1 of this Annexure C and other obligations of the Purchaser under this Agreement, the Seller shall provide consent, take allotment and place indents etc. in accordance with extant railway rules and procedures.

6.1.3 In case of formation of rakes with wagons loaded from different Delivery Points, the Seller shall make best efforts to complete documentation formalities as per railway rules and procedures so as to enable the Purchaser to avail a trainload freight rate.

6.1.4 In the event rail movement is declared/considered not feasible by railways, a joint review will be undertaken in this regard.

6.2 Order Booking by Road

6.2.1 During the Supply Period, the Purchaser shall offtake the CQ either by providing i) monthly programmes of 3 equal SQs or ii) a one-time programme for offtake of entire CQ, for order booking/allocation in respect of the coal mine wise quantities offered, as per the procedure prescribed by the Seller from time to time.

6.2.2 Subject to fulfillment of payment obligations pursuant to Para 10.1.2 of this Annexure C by the Purchaser, the Seller shall arrange to issue sale order(s)/delivery order(s) separately for each colliery and issue necessary loading programme/schedule from time to time. The Purchaser shall arrange to place the required number/type of trucks to lift the Coal as per such loading programme/schedule. The Seller shall ensure that the sale order/delivery order in favour of the Purchaser reaches the concerned colliery/weigh bridge within five (5) working days of the last day of the period notified by the Seller for booking orders.

6.2.3 The Seller shall ensure delivery and the Purchaser shall ensure lifting of Coal against sale order/delivery order of any Month or the Supply Period, as the case may be, within the Validity Period, as mentioned in the sale order.

6.2.4 In the event of any quantity remaining undelivered/unlifted, the Purchaser shall be entitled to receive, once the Validity Period of the sale order/delivery order expires, the refund of the proportionate value of such quantity.

7. TRANSFER OF TITLE TO GOODS

Once delivery of Coal has been effected at the Delivery Point by the Seller, the property/title and risk of Coal so delivered shall stand transferred to the Purchaser in terms of this Agreement. Thereafter, the Seller shall not be responsible or liable

in any manner whatsoever, including in respect of security or safeguard of the Coal so transferred. The Seller shall have no liability, including any liability towards increased freight or transportation costs, as regards missing/diversion of wagons/rakes or road transport en route, for whatever causes, by railways, or road transporter or any other agency.

8. COMPENSATION

8.1 Excess Surface Moisture

8.1.1 In the event that monthly weighted average Surface Moisture in Coal exceeds seven percent (7%) during the Months from October to May and nine percent (9%) during the months from June to September, the Seller shall give credit note on account of quantity equivalent to excess Surface Moisture, calculated at the rate of the weighted average Notified Price of analyzed Grade(s) of Coal and Other Charges. The said compensation shall not include railway freight and Statutory Charges. In this regard, any credit in respect of the Statutory Charges, if and when received by the Seller, shall be adjusted through issuance of credit note(s).

8.1.2 Sampling/analysis and determination of Surface Moisture for compensation shall be done as per the procedure set out in Schedule III.

9. OVERLOADING AND UNDER-LOADING

9.1 Any penal freight for overloading charged by the railways for any consignment shall be payable by the Purchaser. However, if overloading is detected from any particular colliery, consistently during three (3) continuous months, on due intimation from the Purchaser to this effect, the Seller may take suitable remedial measures in future.

9.2 For non-coking coal of GCV exceeding 5800 Kcal/Kg and coking coal of Steel Grade I, Steel Grade II, Washery Grade I, Washery Grade II, Semi-coking Grade I, Semi-coking Grade II and washed Coal; any idle freight for under-loading below the stenciled carrying capacity, as shown on the wagon or minimum chargeable weight for the purpose of freight charges as notified by the railways (route-wise) for any particular type of wagon from time to time, whichever is lesser, shall be borne by the Seller. For all other Grades of Coal, any idle freight for under-loading below the stenciled carrying capacity, plus two (2) tonnes, or minimum chargeable weight for the purpose of freight charges as notified by the railways (route-wise) for any particular type of wagon from time to time, whichever is lesser, shall be borne by the Seller.

9.3 Idle freight resulting from under-loading of wagon, as per Para 9.2 of this Annexure C, shall be adjusted in the bills. Idle freight shall be reckoned as the difference between the freight charged by the railways/freight payable for stenciled carrying capacity/freight payable for stenciled carrying capacity plus two (2) tonnes, as applicable in terms of Para 9.2 of this Annexure C and the freight payable for the actual recorded weight of Coal loaded in the wagons. It is clarified that the compensation shall comprise basic railway freight and other applicable charges such as DPC, DS etc. actually levied by the railway under the respective consignment.

10. MODALITIES FOR BILLING, CLAIMS AND PAYMENT

10.1 Bills on Declared Grade basis

10.1.1 The Seller shall raise bills for the Coal supplied to the Purchaser on Declared Grade basis. The Seller shall raise such bills on rake-to-rake basis for delivery of Coal by rail and on daily basis for delivery of Coal by road and other modes of transport. Such bills shall be raised within seven (7) days of delivery.

10.1.2 The Purchaser shall make payment in accordance with either of the following payment mechanisms:

- i. The Purchaser shall make advance payment against SQ, as per the payment schedule notified by the Seller. The consent in respect of rail programme(s) and/or order booking/allocation in case of road/other modes by the Seller shall be commensurate with the payments made by Purchaser.
- ii. The Purchaser shall maintain with the Seller an Irrevocable Revolving Letter of Credit (“**IRLC**”) or an Usance Letter of Credit (“**Usance LC**”) issued by a bank in a format acceptable to the Seller and fully conforming to the conditions to be stipulated as Schedule IV for an amount equivalent to As Delivered Price of Coal for the Coal quantities that is one-ninth (1/9th) of the CQ. The As Delivered Price of Coal in this context shall take into account the highest of Notified Prices of Grades mentioned in Schedule II plus the Winning Premium. The amount of IRLC or Usance LC shall be suitably changed whenever there is a change in any component of the As Delivered Price of Coal. In addition to the IRLC or Usance LC, the Purchaser shall pay advance amount equivalent to seven (7) days Coal value by way of electronic fund transfer.

10.1.3 All the payments shall be made through electronic fund transfer payable at *([•] to be stated by the Seller)*. In the event of non-payment/delayed payment of any amount(s) as prescribed in this Agreement, the Purchaser shall be liable to pay interest in accordance with Para 11 of Annexure C.

10.1.4 Advance payment made by the Purchaser shall be non-interest bearing, and it shall change in accordance with change in the As Delivered Price of Coal.

10.2 Adjustment for analyzed quality/Grade

10.2.1 The debit note/credit note with regard to adjustment for quality, as determined under Para 4.6 of this Annexure C, shall be supported by the relevant analysis report(s) of the Third Party/referee results/joint sampling/weighted average analysis, as the case may be, in accordance with Para 4.6 of this Annexure C.

10.2.2 The Seller shall issue credit note/debit note on account of Grade variation to the extent of difference in the Notified Price of Declared Grade and analysed Grade of Coal as follows:

- i. In case of Third Party result which is not sent for referee analysis, within seven (7) days of receipt of Third Party result by the Seller;

- ii. In case of referee analysis, within seven (7) days of receipt of referee analysis results by the Seller;
- iii. In case of joint sampling, within seven (7) days of the date of jointly signed result; or
- iv. In case of weighted average analysis, within seven (7) days of the joint determination of weighted average result to be applied.

10.3 Bills of Miscellaneous Claims

10.3.1 The bills towards interest charges pursuant to Para 11 of this Annexure C raised by the Parties shall be paid within fifteen (15) days of receipt of such bills.

10.4 Diverted rakes/missing wagons

In case of diversion of rakes en route or missing wagons, bills shall be paid to the Seller by the Purchaser.

10.5 Reconciliation / Adjustments

10.5.1 The Parties shall jointly reconcile all payments made for the Coal supplied during the Term, after the end of Supply Period. Subject to the Term of the Agreement, reconciliation of the quantity supplied/lifted shall be completed immediately after the Supply Period and the overall reconciliation shall be completed after submission of Coal Utilization Certificate by the Purchaser to the Seller in accordance with Clause 4.3.7 of the Detailed Terms and Conditions of the Fuel Supply Agreement. The parties shall, forthwith, give credit/debit for the amount reconciled, if any, as assessed during such joint reconciliation. The reconciliation statement shall be jointly signed by the representatives of the Seller and Purchaser which shall be final and binding.

10.5.2 In the event of due date of any payment obligation under this Agreement falls on a day other than a Business Day or on a day of nationwide strike affecting banking services, the next Business Day shall be effective due date for the purpose.

11. INTEREST ON DELAYED PAYMENT

In the event of delay in payment/adjustment of any amount payable/recoverable pursuant to the provisions of this Agreement, the Seller/the Purchaser shall be entitled to charge interest on such sum remaining outstanding for the period after the due date till such time the payment is made. The interest charged by the Seller/the Purchaser pursuant to this Para 11 shall be at the Interest Rate. Without prejudice to the foregoing, in the event the Purchaser fails to pay the overdue amount along with the interest within 15 (fifteen) days, the Seller shall be entitled to invoke the Performance Security and suspend Coal supplies in accordance with Para 12 of this Annexure C. For removal of doubts, it is clarified that it shall be permissible for the Seller to adjust or recover the interest due in terms of this Para from the Performance Security.

12. SUSPENSION OF COAL SUPPLIES

- 12.1 Notwithstanding other provisions of this Agreement, in any of the following events, the Seller shall have the rights mentioned in Para 12.2 of this Annexure C:
- 12.1.1 If the Purchaser fails to pay any amount, including any interest, due to the Seller under this Agreement within a period of five (5) days of the same falling due;
- 12.1.2 In the event of any *prima facie* breach, default or violation by the Purchaser in respect of Clause 4.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement;
- 12.1.3 In the event of any *prima facie* breach, default or violation or intimation from any governmental/statutory authority in relation to any breach, default or violation, by the Purchaser in relation to the terms of this Agreement; and/or
- 12.1.4 In the event of any *prima facie* breach, default or violation by the Purchaser in respect of Para 17.3 of Annexure C.
- 12.2 The Seller shall have the right to resort to any one or more of the following:
- 12.2.1 Adjust the outstanding amount against the Performance Security by invoking the Performance Security or such portion of it as may be deemed necessary;
- 12.2.2 Adjust the outstanding amount from any amount of the Purchaser lying with Seller including payments made for Coal supplies; and/or
- 12.2.3 Suspend supplies of Coal to the Purchaser.
- 12.3 During the period of suspension of supplies in terms of Para 12.1 of this Annexure C, the Seller shall be relieved of his obligations to supply Coal. However, the obligations of the Purchaser under this Agreement shall be deemed to remain in full force and effect.
- 12.4 In the event of suspension of Coal supplies pursuant to this Para, the Seller shall have the right to continue the suspension for as long as the occurrence of the said breach, default or violation is not duly explained by the Purchaser to the satisfaction of the Seller and the Performance Security has not been fully replenished. The Seller shall resume the Contracted Grade of Coal supplies within 3 (three) days of payment/ adjustment of the outstanding amount together with interest as also the full replenishment of Performance Security.

13. TERMINATION OF THIS AGREEMENT

13.1 Force Majeure Act/Change in Law

This Agreement may be terminated upon the occurrence of any of the following events and in the manner specified hereunder:

- 13.1.1 In the event either Party (“**Affected Party**”) is unable to deliver or offtake, as the case may be, any SQ or part thereof because of a Force Majeure Act, then the other Party (“**Non-Affected Party**”) shall have the right to terminate this Agreement by

giving written notice to the Affected Party of its intention to terminate this Agreement. In such an event, unless the said notice of termination is withdrawn by the Affected Party, the termination shall take effect on expiry of the notice period or thirty (30) days whichever is later, and the Parties shall be absolved of all rights/obligations under this Agreement, save those that had already accrued as on the effective date of termination. It is clarified that in such an event, the Performance Security for corresponding coal quantity which remains undelivered or unlifted, as the case may be, at the end of the Supply Period will not be forfeited by the Seller.

13.1.2 However, if the Affected Party is able to perform its obligations before the expiry of the notice period provided in Para 13.1.1 of this Annexure C or before the expiry of Supply Period, whichever is earlier, then the Non-Affected Party shall not have a right to terminate the Agreement.

13.1.3 In the event that the Purchaser is prevented/disabled under Applicable Law from using Coal within the Term of the Agreement, for reasons beyond their control, owing to changes in applicable environmental and/or statutory norms, howsoever brought into force, the Purchaser shall have the right to terminate this Agreement, subject to a prior written notice to the Seller of not less than thirty (30) days and in such cases, the Performance Security will not be terminated by the Seller.

13.1.4 It is hereby clarified that notwithstanding anything contained in this Para 13.1, the CQ or any part thereof will not be delivered or lifted after the Supply Period.

13.2 Termination in Event of Default

This Agreement may be terminated upon the occurrence of any of the following events of default and in the manner specified hereunder:

13.2.1 In the event that the matter pertains to Para 12.1.2 of Annexure C, the Seller shall have the right to terminate this Agreement forthwith without any liabilities or damages, whatsoever, payable to the Purchaser.

13.2.2 In the event of continuation of suspension for a continuous period of thirty (30) days pursuant to Para 12.1.1, Para 12.1.3 and Para 12.1.4 of Annexure C, the Seller shall have the right to terminate this Agreement by providing a prior written notice of seven (7) days to the Purchaser.

13.2.3 In the event that either Party suffers insolvency, appointment of liquidator (provisional or final), appointment of receiver of any of material assets, levy of any order of attachment of the material assets, or any order or injunction restraining the Party from dealing with or disposing of its assets and such order having been passed is not vacated within thirty (30) days, the other Party shall be entitled to terminate this Agreement by giving prior written notice of seven (7) days to the first Party.

13.2.4 In the event that any Party commits a breach of term or condition of this Agreement (“**Defaulting Party**”) not otherwise specified under this Agreement, the other Party (“**Non-Defaulting Party**”), shall have the right to terminate this Agreement after providing the Defaulting Party seven (7) days prior written notice and the breach has not been cured or rectified to the satisfaction of the Non-Defaulting Party within the said period of seven (7) days.

13.3 Accrued rights to survive termination

Termination of this Agreement shall be without prejudice to the accrued rights and obligations of either Party as at immediately prior to the termination.

14. FORCE MAJEURE

14.1 “**Force Majeure Act**” shall mean any act, circumstance or event or a combination of acts, circumstances and events which wholly or partially prevents or delays the performance of obligations arising under this Agreement by any Party (such Party being the “**Affected Party**”), and if such act, circumstance or event is not reasonably within the control of and not caused by the fault or negligence of the Affected Party, and provided that such act, circumstance or event is in one or more of the following categories:

14.1.1 Flood, inundation of mine, drought, lightening, cyclone, storm, earthquake, adverse geo-mining conditions, eruption of gases, subsidence and such natural occurrences;

14.1.2 Explosion, mine fire and other fire, contamination of atmosphere by radioactive or hazardous substances;

14.1.3 Civil disturbance such as riot, terrorism etc.;

14.1.4 Industry wise/nationwide strikes in the sector in which either Party operates;

14.1.5 Any law, ordinance or order of the Central or State Government, or any direction of a statutory regulatory authority that restricts performance of the obligations hereunder;

14.1.6 Epidemic;

14.1.7 The enactment, promulgation, amendment, suspension or repeal of any Applicable Laws after the Execution Date;

14.1.8 Any delay or direction or order on the part of the Government of India or relevant State Government or denial or refusal to grant or renew, or any revocation, or modification of any required permit or mining lease or governmental approvals including those related to land acquisition or environment/forest clearance provided that such delay, modification, denial, refusal or revocation was not due to a cause attributable to the Affected Party;

14.1.9 Any law and order problems affecting Coal production and transportation of Coal; and/or

14.1.10 Failure of supply of power from power supplier(s).

14.2 Burden of Proof

The burden of proof as to whether a Force Majeure Act has occurred shall be upon the Party claiming the occurrence or existence of such Force Majeure Act.

14.3 Effect of Force Majeure

If either Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Act, that Party shall be excused from whatever performance is affected by the Force Majeure Act to the extent so affected, provided that:

- 14.3.1 Upon the inability of the Affected Party to perform due to the occurrence of a Force Majeure Act, the Affected Party provides a written notice to the other Party of the particulars of the occurrence, including an estimation of its expected duration and probable impact on the performance of its obligations hereunder, and continues to furnish periodic reports with respect thereto, every seven (7) days from the date of such notice, during the period of Force Majeure;
- 14.3.2 The Affected Party shall use all reasonable efforts to continue to perform its obligations hereunder and to correct or cure as soon as possible the Force Majeure Act;
- 14.3.3 The suspension of performance shall be of no greater scope and duration no longer than is reasonably necessitated by the Force Majeure Act;
- 14.3.4 The Affected Party shall provide the other Party with prompt written notice of the cessation of the Force Majeure Act giving rise to the excuse from performance and shall thereupon resume normal performance of obligations under this Agreement with utmost promptitude;
- 14.3.5 The non-performance of any obligation of either Party that was required to be performed prior to the occurrence of a Force Majeure Act shall not be excused as a result of such subsequent Force Majeure Act;
- 14.3.6 The occurrence of a Force Majeure Act shall not relieve either Party from its obligations to make any payment hereunder for performance rendered prior to the occurrence of Force Majeure Act or for partial performance hereunder during period of subsistence Force Majeure Act; and
- 14.3.7 The Force Majeure Act shall not relieve either Party from its obligation to comply with Applicable Laws. The Affected Party shall exercise all reasonable efforts to mitigate or limit damages to the other Party.

15. SCHEDULES

The Schedules detailed below shall form part of this Annexure C:

Schedule I – Format of the Bank Guarantee

Schedule II – Quality of Coal

Schedule III – Procedure for Third Party Sampling and Analysis

Schedule IV – IRLC or Usance LC Stipulations

Schedule V – List of Documents

Schedule VI – Format of Affidavit

Schedule VII – Format of Indemnity Bond

Schedule VIII – The Guidelines

Schedule IX – The Office Memorandum dated August 5, 2019

Schedule X – The Office Memorandum dated August 20, 2019

16. INFORMATION RIGHTS OF THE SELLER

- 16.1 The Seller shall have the right, throughout the Term: (i) to call for such information and/or documentation from the Purchaser (including the documentation detailed in Schedule V); and (ii) to obtain and seek information and/or documentation from any governmental/statutory authority, as may be necessary by the Seller from time to time, *inter alia* to verify:
 - 16.1.1 the veracity of the Purchaser’s claim of being a *bona fide* consumer of the Coal allocated to it in respect of the Specified End Use Plant;
 - 16.1.2 the Purchaser’s compliance with the terms and conditions of the Intimation Letter, the Eligibility Conditions, the Scheme Document and this Agreement; and/or
- 16.2 The Purchaser shall at all times extend necessary cooperation to the Seller in this regard and shall provide relevant information and/or documentation requested by the Seller via electronic mode at an address to be specified by the Seller or on the specified portal within such reasonable time as may be requested by the Seller.

17. OTHER TERMS

- 17.1 **Notice:** Any notice to be given under this Agreement shall be in writing and shall be deemed to have been duly and properly served upon the Parties hereto if delivered against acknowledgement, by registered mail with acknowledgement due, by facsimile, by e-mail or by Speed Post, addressed to the signatories or the authorised representatives of the signatories nominated in accordance with the provisions of this Agreement at the following addresses:

1) Seller’s address	2) Purchaser’s address
Designation:	Designation:
Address:	Address:
Telephone:	Telephone:
Fax:	Fax:
E-mail:	E-mail:

Any notice given by the Purchaser under this Agreement, if delivered otherwise than by e-mail, shall always be backed by an e-mail to the above mentioned e-mail address of the Seller.

Any notice delivered to the Party to whom it is addressed as provided in this Para 17.1 shall be deemed (unless there is evidence that it has been received earlier) to have been given and received, if:

- 17.1.1 hand delivered or sent by registered mail, at the time of acknowledgment of receipt of the same;
- 17.1.2 sent by Speed Post, the date of delivery as recorded in the system of postal service provider; and

- 17.1.3 sent by facsimile or e-mail, when confirmation of its transmission has been recorded by the sender's facsimile machine or the sender's e-mail system, as the case may be.
- 17.2 **Severability:** In the event any part or provision of this Agreement becomes, for any reason, unenforceable or is declared invalid by a competent court of law or tribunal, the rest of this Agreement shall remain in full force and effect as if the unenforceable or invalid portions had not been part of this Agreement.
- 17.3 **Change in Constitution:** In the event there is any change in constitution of the Purchaser company due to amalgamation, merger, de-merger, takeover, court order or change in ownership/shareholding pattern etc., in this regard, the Purchaser shall give a written notice to the Seller within seven (7) days of such change taking effect along with an affidavit (in the format prescribed in Schedule VI) confirming that such change in constitution is in compliance with in the Office Memorandum of the MOC dated April 7, 2015 and/or any other directive/guideline as may be issued by the MOC in this regard and an indemnity bond (in the format prescribed in Schedule VII) underlying such affidavit. The person submitting the affidavit (in the format prescribed in Schedule VI) must be duly authorised by the board of directors of the Purchaser. Subject to the Seller's satisfaction in this regard, a novation agreement or deed of assignment shall be entered into between the Seller, the Purchaser and the resultant company, as applicable. In the event the affidavit cum indemnity bond is not submitted to the satisfaction of the Seller within the timeline prescribed herein above, or if the amendment agreement is not executed, the Seller shall have a right to suspend supply of Coal as per Para 12 of this Annexure C and other provisions set out in Para 12.4 and Para 13.2 of this Annexure C shall accordingly also apply.
- 17.4 **Change in Name:** The Purchaser shall intimate the Seller of any change in its name (on account of reasons other than as set out in Para 17.3 of this Annexure C), immediately upon occurrence of name change. The Parties shall thereafter take necessary steps to record such change in the name of the Purchaser in the books and records of the Seller and shall also execute an amendment agreement to this Agreement to record such name change.
- 17.5 **Assignment:** Except as provided in Para 17.3 of this Annexure C, the Purchaser shall not, without the express prior written consent of the Seller, assign to any third party this Agreement or any part thereof, or any right, benefit, obligation or interest therein or there under.
- 17.6 **Limitation of Liability:** Except as otherwise expressly agreed in this Agreement, neither Party shall have any right or entitlement to any consequential losses, costs or damages, loss of profit or market, as a result of a breach by the other Party of this Agreement.
- 17.7 **Costs and Expenses:** Except as otherwise expressly provided for in this Agreement, each Party shall pay its own costs and expenses in connection with this Agreement and the transactions contemplated hereby.
- 17.8 **Waiver, Rights and Remedies:** No failure or delay by any Party in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof. No single or partial exercise of any right, power or remedy under this Agreement by

any Party shall preclude any further exercise thereof or the exercise of any other right, power or remedy by that Party. Without limiting the foregoing, no waiver by any Party of any breach by any other Party of any provision hereof shall be deemed to be a waiver of any subsequent breach of that or any other provision hereof.

- 17.9 **No Agency:** The Parties agree that nothing in this Agreement shall be in any manner interpreted to constitute an agency for and on behalf of any other Party.

18. IMPLEMENTATION OF THE AGREEMENT

- 18.1 The respective [[•] *designation of the authorized representative*] of the Specified End Use Plant or its nominated representative shall be authorised to act for and on behalf of the Purchaser.
- 18.2 General Manager (Marketing and Sales) or any representative duly authorized by the Seller shall act for and on behalf of the Seller.
- 18.3 Any other nomination of authorised representative shall be informed in writing, by the Seller and the Purchaser, as the case be, within one (1) Month of execution of this Agreement or by giving thirty (30) days' notice.
- 18.4 It shall be the responsibility of the Parties to ensure that any change in the address for service or in the particulars of the designated representative is notified to the other Party and all other concerned, before effecting a change and in any case within two (2) Business Days of such change.

Schedule I

Format of the Bank Guarantee

[to be stamped in accordance with the relevant Stamp Act]

To

[insert name of the Seller]

[insert address of the Seller]

This bank guarantee (hereinafter referred to as “**Guarantee**”) is made onday of2023 by *[insert name of bank]* having its head office at..... acting through its Manager/officer/Agent (hereinafter referred to as the “**Bank**” which expression shall, where the context so permits, include its administrators, executors, successors in interest and permitted assignees) on behalf of *[insert name of the Purchaser]*, a company registered under Companies Act 1956/2013 and having its registered office at (hereinafter referred to as “**Purchaser**”) which expression as the context so permits, shall include its representatives, administrators, executors, successors and permitted assignees) in favour of *[insert name of Seller]*, a company registered under Companies Act 1956/2013 and having its registered office at (hereinafter referred to as “**Seller**”) which expression as the context so permits, shall include its representatives, administrators, executors, successors and permitted assignees).

WHEREAS the Purchaser has been declared as the Successful Bidder for the auction of Coal linkages held for Power Producers / Independent Power Products without Power Purchase Agreements under Paragraph B(VIII)(A) of the SHAKTI Policy covering Paragraph B(III) of the SHAKTI Policy;

WHEREAS the Purchaser and the Seller shall execute a Fuel Supply Agreement (“**FSA**”) pursuant to the Purchaser completing all formalities as provided under the Scheme Document;

AND WHEREAS the Bank has agreed, upon terms and subject to conditions detailed herein, to stand as a guarantor on behalf of the Purchaser and to execute this Guarantee on behalf of the Purchaser for the satisfactory fulfilment of its payment obligations under the FSA.

NOW THEREFORE THIS DEED OF GUARANTEE WITNESSETH AS FOLLOWS:

1. In consideration of what is stated hereinabove, the Bank hereby guarantees that the Purchaser will duly comply with all its obligations in accordance with the terms and conditions of the FSA.
2. This Guarantee shall be irrevocable and remain in full force for a period of 9 (nine) months from the Execution Date of the FSA i.e. *[insert date]*.
3. Any such written demand made by the Seller stating that the Purchaser is in default of the due and faithful fulfilment and compliance with the terms and conditions contained

in the FSA shall be final, conclusive and binding on the Bank.

4. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Purchaser or any other person and irrespective of whether the claim of the Seller is disputed by the Purchaser or not, merely on the first demand from the Seller stating that the amount claimed is due to the Seller by reason of failure of the Purchaser to fulfil and comply with the terms and conditions contained in the FSA. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding INR [*insert amount*] (Indian Rupees [*insert amount*] only).
5. We, the Bank, further agree that the Seller shall be the sole judge to decide as to whether the Purchaser is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the FSA including, *inter alia*, the decision of the Seller that the Purchaser is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Seller and the Purchaser or any dispute pending before any court, tribunal, arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Purchaser or the Bank or any absorption, merger or amalgamation of the Purchaser or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Seller shall be entitled to treat the Bank as the principal debtor.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Seller to proceed against the Purchaser before proceeding against the Bank and the Guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Seller may have obtained from the Purchaser. and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Seller in writing.
12. The Guarantee shall not be determined or effected by liquidation or winding up, dissolution or change of constitution or insolvency of the Purchaser.

13. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

IN WITNESS WHEREOF the Bank has executed this Guarantee on the date mentioned hereinabove.

Witness attesting the
Signature of the executant
of this document,

- 1)
- 2)

For & on behalf of

.....

Bank's name

Manager/Officer/Agent

Schedule II**Quality of Coal**

S. No.	Name and location of the Specified End Use Plant owned by the Purchaser	Top-size of Coal (mm)	Grade	Notified Price

Schedule III
Procedure for Third Party Sampling and Analysis

1. APPOINTMENT OF THE THIRD PARTY AGENCY

The Purchaser may select a Third Party Agency (“TPA”) to conduct the sampling and analysis from the list of third parties empaneled by CIL from time to time including:

- (a) Quality Council of India (“QCI”)
- (b) Indian Institute of Technology (“**Indian School of Mines**”); or
- (c) Such other agencies as may be empaneled by CIL from time to time

The cost of sampling and analysis by TPA shall be shared on 50:50 basis by the Seller and the Purchaser.

All tools and tackles, plastic bags, sealing compounds and other items required for collection, preparation, storage and analysis of the sample shall be arranged by the TPA.

2. DETAILED MODALITIES FOR THIRD PARTY SAMPLING

Modalities for collection, handling, storage, preparation and analysis of TPA samples:

2.1 General

- a) In order to commence third party sampling, a tripartite agreement will be signed between the Seller, the Purchaser and the TPA. The format of tripartite agreement will be provided by the Seller.
- b) Samples shall be collected by TPA lot-wise as per Para 4.6.1 of Annexure C.
- c) Samples shall be collected, packed and transported by the TPA in such a manner so as to make these tamper proof to the satisfaction of Seller and Purchaser for which detailed procedure may be worked out at Delivery Point jointly by representatives of the Seller, the Purchaser and the TPA.
- d) Name of the colliery/Siding/Purchaser, date of collection and other identification details (e.g. Rake no. in case of rail supply etc.) shall be properly recorded and a code number shall be assigned for each sample for identification and reconciliation of results.
- e) Collection and preparation of samples will be witnessed by the representative of Seller and Purchaser. In case the representative of either party is not present or do not participate, the work will be done by TPA and absence or failure of participation shall not be considered as a ground for disputing the result.

- f) Proper analysis records like print out of the results from automatic Bomb Calorimeter etc. shall be maintained at the Laboratories where the samples are analyzed by the TPA. TPA shall ensure that samples are analysed in NABL accredited labs.
- g) Laboratory samples prepared shall be in the size of 12.5 mm for the Total Moisture and for ash, Equilibrated Moisture and GCV analysis, 212 μ (micron) IS sieve. Due care shall be taken to ensure that before analysis, in test laboratory, further sieving or pulverizing is not required.
- h) Samples collected at the loading end shall be analyzed as per latest BIS Standards (IS:1350 Part I – 1984 for determination of ash and moisture content and IS:1350 Part-II-1970 for determination of GCV).
- i) The TPA shall communicate the analysis result of the sample to the Seller and Purchaser within fifteen (15) days of sample collection. The Seller/the Purchaser may raise a dispute, if any, regarding the findings of the TPA within seven (7) days of the submission of the analysis result by the TPA.
- j) Monthly statements containing the details of each and every analysis result finalized during a month based on TPA/referee analysis, as the case may be, shall be prepared indicating *inter alia* the quantity of Coal covered by the respective analysis results. The finalized results shall be applied for billing/commercial purpose. Copy of the monthly statement/report shall be submitted to Seller and Purchaser by the TPA.
- k) The final pulverized sample will be divided into four parts viz. Set – I, Set – II, Set –III and Set – IV as follows:
 - (i) Set – I shall be taken by the TPA to its NABL Accredited Laboratory for analysis of ash, moisture and GCV as per latest BIS Standards (IS: 1350 Part 1-1984) or BIS Standards (IS: 1350 Part-II-1970), as applicable;
 - (ii) Set – II and Set – III of the sample shall be handed over by the TPA to the Seller and the Purchaser respectively for their own analysis; and
 - (iii) Set – IV of the sample called Referee Sample shall be sealed jointly by the TPA and representatives of Seller and Purchaser and shall be kept in the custody of TPA at the Delivery Point under lock and key arrangements. The referee sample shall be retained in sealed condition (duly signed by the representatives of Seller and Purchaser and the TPA) for minimum of thirty (30) days from the date of sample collection, after which it may be destroyed with proper records by TPA. The sample shall be packed and transported by the TPA to referee lab, in tamper proof manner to the satisfaction of Seller and Purchaser.

- l) Total Moisture determination will be done at nearest laboratory of the Seller and remaining tests/analysis (moisture, ash, GCV on Equilibrated Basis) will be done by the TPA as per BIS Standards (IS: 1350 Part 1-1984) or BIS Standards (IS: 1350 Part-II-1970), as applicable.
- m) In the event of any dispute (which shall be raised not later than seven (7) days from the date of receipt of result from the TPA), Set – IV shall be sent for referee analysis by the TPA within seventy two (72) hours of the dispute. Referee sample results shall be declared within 15 days from the date on which sample is disputed by Seller or Purchaser. For this purpose, TPA shall ensure that referee samples are transported to the mutually agreed (Seller and Purchaser) designated laboratories of the government agencies/institutions. TPA shall follow a foolproof coding and decoding system for referee analysis and also ensure distribution of referee samples amongst designated referee labs in a judicious manner considering the workload, equitable distribution, infrastructure etc. at various labs. The cost incurred for analysis of referee sample including the cost of transportation to the referee laboratory, shall be borne totally by the Party raising the dispute. The findings of such designated laboratory(ies) shall be binding on the Purchaser and the Seller for commercial purposes.
- n) If the timelines specified herein for declaration of TPA result or raising dispute are not adhered to, then, such result or dispute, as the case may be, will not be applicable for any purpose, unless the delay is jointly waived in writing by both the Seller and the Purchaser

2.2 COLLECTION OF SAMPLES FROM WAGONS (Rail and MGR)

- a) For the purpose of sampling each lot as per Para 4.6.1(ii) of Annexure C of Coal supplied from one Delivery Point shall be considered as a lot.
- b) Each day’s supply as per Para 4.6.1(iii) of Annexure C shall be considered as one lot for the purpose of sampling in case of coal supplies by MGR.
- c) Each lot shall be divided into sub-lots in a manner that the quantity of Coal/number of wagons in such sub-lots is more or less equal. The number of sub-lots shall be determined as under:

No. of wagons in the rake	Number of sub lots
Up to 30 wagons	4
>30 wagons up to 50 wagons	5
>50 wagons and above	6

- d) From each of the sub-lots, one (1) wagon each shall be selected as per random table of IS: 436 (Part I/Section I) 1964 for collection of increments.
- e) In each wagon selected for sampling, the sample will be drawn from the spot in a manner so that if in one (1) wagon the sample is collected at one end, in the next wagon the spot will be in the middle of the wagon and in the third

wagon at the other end and this sampling procedure will be repeated for subsequent wagons.

- f) Before collecting the samples, the spot will be leveled and at least 25 cm of Coal surface shall be removed/scrapped from the top and the place will be leveled for an area of 50 cm by 50 cm.
- g) About 50 kg of sample shall be collected from each selected wagon in the lot by drawing 10 increments of approx. 5 kg each with the help of shovel/scoop.
- h) Any stone/shale of size more than that indicated in Schedule II shall be removed/discarded, however all stones/shale of size in terms of Schedule II shall form part of the sample collected.
- i) Samples collected from all the selected wagons in a lot shall be mixed separately to form gross sample accordingly.
- j) Item (d) to (g) above shall be applicable for Coal supplied in box wagons as well as BOBR wagons where there is no live overhead traction line.
- k) In case of having live overhead traction line, TPA shall ensure that the power supply in the overhead traction is switched off to facilitate collection of joint samples from BOX/BOBR wagons pursuant to point 2.2d) to point 2.2g) above.

2.3 **COLLECTION OF SAMPLES OF COAL DESPATCHES BY ROAD**

- a) Sample shall be collected lot-wise as per Para 4.6.1(iii) of Annexure C on daily basis round the clock, depending upon the timings of trucks/vehicles allowed for exist by the Seller at respective dispatch point(s).
- b) The first truck for TPA sampling on a day shall be selected randomly from the first eight trucks placed for loading by the Purchaser. Every eighth (8th) truck there after shall be subjected to TPA sampling.
- c) The spot at the top of the truck, will be leveled and at least 25 cm of Coal surface shall be removed/scrapped from the top and the place will be leveled for an area of 50 cm by 50 cm for collection of sample.
- d) About 30 kg of sample shall be collected from each truck by drawing 6 increments of approx. 5 kg each with the help of shovel/scoop.
- e) All the samples collected from every eighth truck shall be mixed together to form a gross sample.
- f) Any stone/shale of size more than that indicated in Schedule II shall be removed/discarded, however all stone/shale of size as mentioned in Schedule II shall form the part of the sample collected.

2.4 COLLECTION OF SAMPLES FROM CONVEYOR BELT/ROPEWAYS/PIPELINES

- a) Samples will be taken lot-wise as per Para 4.6.1(iii) of Annexure C.
- b) The sample shall be collected in increments of full cross section and thickness of the stream in one operation in a regular interval of time as mutually decided by both Seller and Purchaser and lot shall consist of samples so collected during a day i.e. 0.00 Hr to 0.00 Hr. of the following day.
- c) Before collecting the increments, the speed of the conveyer belt/ropeways/pipelines and quantum of material passing a certain point in a given time shall be ascertained so that an appropriate spacing of time between increments may be arranged over the whole of the lot.
- d) In case of supply through conveyor belt, if it is practicable to stop the belt periodically, increment may be collected from the whole cross section of the stream by sweeping the whole of the Coal lying between the sides of a suitable frame placed across the belt. The frame should be inserted in the Coal until it is in contact with the belt across its full width. If it is not possible, then sample is to be collected from falling stream of the belt at a suitable transfer point where coal is being released from one point to other.
- e) Minimum 150 kgs of samples to be collected for daily gross sample.
- f) Any stone/shale of size more than that indicated in Schedule II shall be removed/discarded, however all stone/shale of size as mentioned in Schedule II shall form the part of the sample collected.

2.5 COLLECTION OF SAMPLES FROM STOCKPILE

- a) For the purpose of sampling, a lot shall comprise of sub-lots as set out in point 2.5b) below.
- b) The quantity of Coal in the stock pile shall be divided into a suitable manner of sub-lots as specified in the following table:

Approximate quantity of the stock pile (MT)	No. of Sub-lots
Up to 500	2
501 to 1000	3
1001 to 2000	4
2001 to 3000	5
Over 3000	6

- c) The surface of each sub-lot shall be leveled and one point for approximately every 250 MT of material in the sub-lots shall be chosen at random for taking gross sample as per the following procedure:

- (i) In case height of the stockpile is not more than 1.5 metre, the material shall be collected at every selected point by taking the whole section of Coal from top to bottom over the area of a circle of 30 cm diameter.
- (ii) In case the height of the stock pile is more than 1.5 metre, the sample shall be collected at every selected point by taking the material over an area of a circle of 30 cm diameter and up to a depth of 1.5 metre.
- d) Any stone/shale of size more than that indicated in Schedule II shall be removed/discarded, however all stone/shale of size as mentioned in Schedule II shall form the part of the sample collected.

2.6 PREPARATION OF COLLECTED SAMPLES:

- a) The gross sample collected at the loading end by the TPA will be divided into two portions. One portion (one fourth of the gross sample) called Part – 1 will be used for analysis of Total Moisture and the other portion (three fourth of the gross sample) called Part – 2 for determination of ash, moisture and GCV on Equilibrated Basis.
- b) The Part-2 Sample shall be reduced into laboratory sample either manually or mechanically or a combination of these two methods. The final laboratory samples will be divided into four parts viz. Set – I, Set – II, Set – III and Set – IV as per point 2.1k). Further preparation of sample is to be done as per latest version of IS 436 (Part I-Sec. II)-1976.

3. Analysis of sample(s)

Analysis of sample(s) is to be done as per latest version of IS 1350 (Part-I)-1984 for determination of Total Moisture, Equilibrated Moisture, Ash and Volatile Matter and GCV as per latest version of IS 1350 (Part-II), 1970.

Schedule IV
IRLC or Usance LC Stipulations

(IRLC or Usance LC Stipulations shall be separately intimated by the Seller to the Purchaser in case the Purchaser opts to submit IRLC or Usance LC as per the payment provisions of this Agreement)

Schedule V
List of Documents

1. Relevant Corporate Authorizations of the Purchaser for execution and performance of his obligations under the FSA such as:
 - (a) Notarised Power of Attorney (PoA); and
 - (b) Certified true copy of Board Resolution or Certified true copy of Shareholders Resolution etc.
2. Self-attested copy of valid Factory License No. [·] dated [·] issued by Inspector of Factories, [·] with respect to the Specified End Use Plant or application dated [·] filed for renewal of Factory License No. [·] dated [·] issued by [·] with respect to the Specified End Use Plant, in case the Factory License has recently expired.
3. Self-attested copy of Consent to Operate No. [·] dated [·] with respect to the Specified End Use Plant issued under the relevant pollution control laws or copy of application filed for renewal of the same, in case the Consent to Operate has recently expired. Alternatively, a valid no-objection certificate from the relevant State Pollution Control Board may be submitted. Wherever, the relevant State Pollution Control Board does not specify the validity of the certificate issued by them to the Specified End Use Plant, such a certificate will be considered acceptable and an intimation will be sent by relevant Subsidiary to the authority responsible for the issuance of the certificate.
4. Self-attested copy of GSTIN and PAN number of the Purchaser.
5. Certificate of Incorporation/ Certificate of Commencement of Business.
6. In-principle water allocation from state water supply authority.
7. Certificate of Date of Commercial Operation (COD) issued by CEA.
8. Certificate of commissioning in respect of the Specified End Use Plant.
9. Documentation with respect to existing coal linkages, assurance of linkages and/or allocation of mine.
10. Self-attested copy of valid boiler license(s) with respect to the Specified End Use Plant or copy of application filed for its renewal, in case the same has recently expired.
11. Balance life of each Unit of the Specified End Use Plant as certified by CEA.
12. Any other relevant information/documentation as may be requested for by the Seller.

Schedule VI
Format of Affidavit

(to be stamped in accordance with Indian / State Stamp Act, as may be applicable, and duly sworn before Notary public)

Affidavit

I, [insert], s/o [insert], aged [insert] years, resident of [insert] working as [insert] an Authorised Signatory on behalf of [insert name of Purchaser] (“**Purchaser**”) hereby state as under:

1. I am the [insert designation of the deponent] of the Purchaser. I am conversant with the facts and circumstances surrounding the subject of this Affidavit and have been authorized to depose to the same pursuant to the board resolution dated [insert].
2. I am filing this Affidavit to place on record facts and documents in connection with the Fuel Supply Agreement executed between the Purchaser and [insert name of the Seller].
3. I certify and confirm that the constitution of the Purchaser was changed pursuant to [amalgamation, merger, de-merger, takeover, court order or change in ownership/shareholding pattern etc.] on [insert effective date of the change in constitution].
4. I hereby undertake and confirm that [insert name of Purchaser] has complied with all applicable laws, rules and regulations in relation to change in the constitution of the [insert name of the Purchaser] and in accordance with the Office Memorandum dated April 7, 2015, issued by the Ministry of Coal and/or any other directive or guidelines which may be issued by the Ministry of Coal, all documents have been validly executed in this regard, and a true, correct and valid copy of such document are available with [insert name of Purchaser].
5. That an indemnity bond has been executed by [insert name of Purchaser] in favour of [insert name of the Seller] and the same is enclosed along with this affidavit.
6. I hereby undertake and confirm that [insert name of the Purchaser] will execute a novation agreement or deed of assignment with [insert name of the Seller] to extend the term of the Fuel Supply Agreement in accordance with Para 17.3 of Annexure C of the Detailed Terms and Conditions of the Fuel Supply Agreement.
7. That nothing has been concealed in the information submitted as mentioned above.

Capitalized terms used but not defined herein shall have the meaning assigned to them in the Fuel Supply Agreement for Coal Linkages for Power Producers/IPP's without PPAs under Paragraph B(viii)(a) covering Paragraph B(iii) of Policy dated [insert].

Solemnly affirmed and verified on this [insert] day of, [insert], [insert] at [insert place].

Signature of the Authorised Signatory

Name and designation of the Authorised Signatory:

Name of the Purchaser:

Stamp of the Purchaser:

Date:

Place:

VERIFICATION

I, [insert], the [insert designation of the deponent] of the Purchaser above named, having my office at [insert], do hereby solemnly declare that what is stated above in paragraphs [insert] to [insert] are on the basis of the books and records of the Purchaser, and verify that the contents of the above affidavit are true and correct, no part of it is false and nothing material has been concealed therefrom.

Verified on [insert] day of [insert], [insert] at [insert place].

Deponent
(Signature)
Name, Designation and Seal

Schedule VII
Format of the Indemnity Bond

(To be furnished in stamp paper of appropriate value in accordance with the Indian / State Stamp Act, as may be applicable)

(Stamp Paper to be purchased in the name of the New Entity)

(At present not less than Rs. 50/- stamp paper)

This indemnity bond is executed on this day *[insert]* *[insert name of the Purchaser]* having its registered corporate office at *[insert address of the Purchaser]* represented through *[insert name of authorised signatory]* s/o *[insert name]* its duly authorized representative (hereinafter referred to as '**Indemnifier**') in favour of M/s Coal India Limited/*[insert name of Seller]* (hereinafter referred to as the '**Indemnified**') having its registered office at *[insert address of the Seller]*.

Whereas the Indemnified herein has entered into a Fuel Supply Agreement dated *[insert date]* with *[insert previous name of the Purchaser]*;

And Whereas, *[insert previous name of the Purchaser]* has changed its name from *[insert previous name of the Purchaser]* to *[insert new name of the Purchaser]* on account of *[insert reason for change in name]*;

And Whereas the *[insert new name of the Purchaser]* has complied with all applicable laws, rules and regulations in relation to *[insert reason for change in name]*.

The Indemnifier irrevocably agrees to indemnify for any liability to the Indemnified accruing on account of the (Name of earlier Entity) & (Name of Present Entity) and for any false statement in the Affidavit date *[insert date]*.

The Indemnifier irrevocably agrees to indemnify for any liability to the Indemnified by virtue of non-compliance of any law, rules and regulations and any consequential liability arising out of such non-compliance in relation to the *[insert explanation for change of name event]*.

The Indemnifier hereby irrevocably agrees from time to time and all times to save and keep harmless and to indemnify Coal India Limited/*[insert name of the Seller]* from any loss or damage caused to the Indemnified due to any act/omission/misrepresentation of the Indemnifier in relation to the *[insert explanation for change of name event]*.

Station:

(Signature with Name and Designation)

Date:

Company Seal (New Entity)

Witness:

1. Signature with Name, Designation & Address
2. Signature with Name, Designation & Address

Schedule VIII
Guidelines Issued by the CEA

Kindly refer to the following website:

<https://cea.nic.in>

Schedule IX
The Office Memorandum dated August 5, 2019

Kindly refer to the following link/website:

https://powermin.gov.in/sites/default/files/Mechanism_dated_05_08_2019.pdf

<https://powermin.gov.in>

Schedule X
The Office Memorandum dated August 20, 2019

Kindly refer to the following link/website:

https://powermin.gov.in/sites/default/files/Corrigendum_dated_to_Mechanism_0.pdf

<https://powermin.gov.in>