

**DETAILED TERMS AND CONDITIONS OF THE FUEL SUPPLY AGREEMENT  
OF SHAKTI B(viii a) LINKAGE AUCTION**

- A. The MOC (as defined hereinafter) has, *vide* its letter dated May 22, 2017 provided the “*Signing of Fuel Supply Agreement (FSA) with Letter of Assurance (LoA) holders of Thermal Power Plants - Fading Away of the existing LoA-FSA Regime and Introduction of a New More Transparent Coal Allocation Policy for Power Sector, 2017 SHAKTI (Scheme for Harnessing and Allocating Koyala (Coal) Transparently in India)*” as amended *vide* letter dated March 25, 2019 (“**Policy**”). The relevant provisions of the Policy shall be applicable to the Fuel Supply Agreement.
- B. Paragraph B(viii)(a) of the Policy *inter alia* provides that all such power plants including private generators which do not have PPAs, shall be allowed Coal linkage under B(iii) of the Policy for a period of minimum 3 months up to a maximum of 1 year, provided further that the power generated through that linkage is sold in Day Ahead Market (“**DAM**”) through power exchanges or in short term through a transparent bidding process through Discovery of Efficient Energy Price (“**DEEP**”) portal and that a methodology in this regard shall be formulated by MoP (as defined hereinafter) in consultation with MOC.
- C. Subsequently, the MoP issued the methodology/amendment (namely the Methodology for allocation of coal as per provisions of Para B(viii)(a) covering Para B(iii) of the Policy of MOC amended as per Para 2.1(a) of HLEC Recommendations) time to time for auction of coal linkages under B(viii a) such that the coal linkage granted pursuant to such auction corresponds to the consumption of coal within a specific duration. . (“**MoP Methodology**”).
- D. Thereafter, CEA (as defined hereinafter) has issued the Guidelines/amendments for Auction of Coal Linkage under Para B(viii)(a) of the Policy covering Para B(iii) of the Policy time to time. (the “**Guidelines**”). Accordingly, a number of (as conducted by CIL) tranches of auction of Coal Linkage under Para B(viii)(a) of the Policy covering Para B(iii) of the Policy have been successfully concluded. For the ..... tranche of auction of Coal Linkage under Para B(viii)(a) of the Policy covering Para B(iii) of the Policy, CEA has published notice ((Refer CEA notice, as applicable with respect to particular tranche of B(viii a) auction) inviting requisition from interested bidders for the Auction (the “**Notice**”).
- E. CIL (as defined hereinafter) conducted the Auction (as defined hereinafter) under the aegis of the Scheme Document (refer Scheme document of particular tranche of B(viii a), as applicable) (“**Scheme Document**”).
- F. Pursuant to the Auction, an intimation letter dated [*insert*] (“**Intimation Letter**”) was issued to the Purchaser in its capacity as the Successful Bidder (as defined hereinafter) in respect of *inter alia* the Allocated Quantity (as defined hereinafter).
- G. The Purchaser has represented and confirmed that it has fulfilled and is in compliance with the conditions set out in the Scheme Document, the Intimation Letter and the Fuel Supply Agreement including the Detailed Terms and Conditions of the Fuel Supply

Agreement, as the case may be, as a result of which, the Seller has agreed to supply Coal (as defined hereinafter) under the Fuel Supply Agreement.

Each of the Seller and the Purchaser are individually referred to as a “**Party**” and collectively referred to as the “**Parties**”

Relying on the representations and confirmations provided by the Purchaser and in consideration of the mutual covenants, terms and conditions and understandings set forth in the Fuel Supply Agreement and other good and valuable consideration (the receipt and adequacy of which are hereby mutually acknowledged), the Parties with the intent to be legally bound, hereby agree as follows:

## **1. DEFINITIONS AND INTERPRETATIONS**

### **1.1 Definitions**

Capitalised terms in the Fuel Supply Agreement and the Detailed Terms and Conditions of the Fuel Supply Agreement and Annexure C to the Detailed Terms and Conditions of the Fuel Supply Agreement shall have the meaning assigned to such term in Annexure A to the Detailed Terms and Conditions of the Fuel Supply Agreement.

### **1.2 Rules of Interpretation**

- 1.2.1 A reference to the Fuel Supply Agreement includes reference to all recitals, Schedules and Annexures (including Details Terms and Conditions of the Fuel Supply Agreement and Standard Terms of Agreement) to the Fuel Supply Agreement. The recitals, Schedules and Annexures (including the Details Terms and Conditions of the Fuel Supply Agreement and Standard Terms of Agreement) to the Fuel Supply Agreement shall form an integral part of the Fuel Supply Agreement and shall be read along with the Fuel Supply Agreement;
- 1.2.2 A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinated legislation issued under, that legislation or legislative provision;
- 1.2.3 Headings do not affect the interpretation of the Fuel Supply Agreement;
- 1.2.4 A reference to Rs., INR or Rupees is to the lawful currency of the Republic of India unless specified otherwise;
- 1.2.5 A reference to an agreement, deed, instrument or other document include the same as amended, novated, supplemented, varied or replaced from time to time;
- 1.2.6 The expressions “including”, “includes” and “include” have the meaning as if followed by “without limitation”;
- 1.2.7 Words imparting the singular only also include plural and vice-versa where the context so requires;
- 1.2.8 The expression “writing” or “written” shall include communications by facsimile and letter;

1.2.9 If any definition in Clause 1.1 is a substantive provision conferring a right or imposing an obligation on any Party, effect shall be given to it as if it were a substantive provision in the body of the Fuel Supply Agreement; and

1.3 The words and expressions beginning with or in capital letters used in the Fuel Supply Agreement and not defined herein, but defined in the Scheme Document shall, unless repugnant to the context, have the meaning respectively assigned to them in the Scheme Document. However, in case of any conflict between the terms of the Fuel Supply Agreement and the Scheme Document, the Fuel Supply Agreement shall prevail.

## **2. REPRESENTATIONS, WARRANTIES, COVENANTS AND UNDERTAKINGS**

2.1 Each Party represents and warrants to the other Party that:

2.1.1 it has the capacity to enter into the Fuel Supply Agreement and perform its obligations, and all transactions and undertakings contemplated herein;

2.1.2 all corporate or other required action necessary for the authorisation and execution of the Fuel Supply Agreement have been duly obtained; and

2.1.3 the Fuel Supply Agreement has been duly executed by it and is valid and binding on it in accordance with its terms.

2.2 The Purchaser hereby further warrants and represents to the Seller:

2.2.1 it is duly organized and validly existing under the Applicable Laws and has all powers and authorities to own its property and to carry on its business as now conducted;

2.2.2 it has the full legal right, capacity and authority to enter into the Fuel Supply Agreement and the Fuel Supply Agreement constitutes its legal, valid and binding obligation;

2.2.3 the execution, delivery and performance by it of the Fuel Supply Agreement and the compliance by it with the terms and provisions hereof do not and will not:

(a) contravene any provision of any Applicable Law, statute or any order, writ, injunction or decree of any court or governmental instrumentality to which it is subject; or

(b) conflict with or be inconsistent with or result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under any other agreement, contract or instrument to which it is a party or by which it is bound or to which it may be subject; or

(c) violate any provision of its constitutional documents;

2.2.4 there are no claims, investigations or proceedings before any court, tribunal or governmental authority in progress or pending against or relating to it, which could reasonably be expected to prevent it from fulfilling its obligations set out in the Fuel Supply Agreement or arising from the Fuel Supply Agreement;

2.2.5 the Fuel Supply Agreement is enforceable against it in accordance with its terms; and/or

- 2.2.6 the undertakings of the Purchaser pursuant to the Scheme Document, pursuant to the Intimation Letter and undertakings in the affidavit submitted prior to the execution of the Fuel Supply Agreement are true and correct and all information provided by the Purchaser under the Scheme Document, in connection with the Intimation Letter, and the affidavit submitted prior to the execution of the Fuel Supply Agreement, as requested by CIL and/or the Seller, is not untrue, incorrect or misleading in any way.
- 2.3 The Purchaser hereby also covenants and undertakes to the Seller as follows:
- 2.3.1 it does and shall continue to satisfy all of the Eligibility Conditions and shall comply with all its obligations, covenants, undertakings and all other terms and conditions required to be complied by it under the Scheme Document and the Intimation Letter; and/or
- 2.3.2 all licenses, registrations, consents, permissions and other authorisations required by the Purchaser for or in connection with its business have been obtained and are validly held by the Purchaser and each of the licenses, registrations, consents, permissions and other authorisations as aforesaid are in full force and effect and the Purchaser shall take necessary steps to renew the Licenses from time to time in accordance with the provisions of Applicable Laws.
- 2.4 The Purchaser hereby also represents and warrants to the Seller that it has read all Annexures and Schedules to the Fuel Supply Agreement and that by executing the Fuel Supply Agreement, the Purchaser acknowledges and accepts the Standard Terms of the Agreement as provided in Annexure C to the Detailed Terms and Conditions of the Fuel Supply Agreement.

### **3. TERM OF THE FUEL SUPPLY AGREEMENT**

- 3.1 The Fuel Supply Agreement shall come into force with effect from the Execution Date.
- 3.2 Subject to Para 13 of Annexure C (*the Standard Terms of the Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement, the Fuel Supply Agreement shall remain in force and effect until 9 (nine) months from the Execution Date (“**Term**”). The obligation of the Seller to supply Coal and the obligation of the Purchaser to lift Coal, under the Fuel Supply Agreement shall only be for a period of 3 (three) months from the Execution Date (“**Supply Period**”). However, for supply through Rail mode, the Supply Period shall be considered till supply of last allotted rake as per extant Railway rules including rake revalidation rule.
- 3.3 Notwithstanding the provisions of Clause 3.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement, in the event of any change in the Grade categorisation of Coal, such change in Grade categorisation shall be binding and complied with by both the Parties and the Fuel Supply Agreement shall stand amended to that effect.
- 3.4 In the event of any material change in the Coal Distribution System due to a government directive/notification, at any time after the Execution Date, the Seller shall within fifteen (15) days of introduction of such change provide a written notice to the Purchaser. If the Parties are unable to arrive at a mutually agreed position in this regard

within a period of thirty (30) days from the date of notice, the Parties shall refer the matter to the Government of India for a decision

#### **4. QUANTITY**

##### **4.1 Contracted Quantity**

4.1.1 The Contracted Quantity of Coal agreed to be supplied by the Seller and undertaken to be purchased by the Purchaser shall be as set out in the Fuel Supply Agreement.

##### **4.2 End-use of Coal**

4.2.1 The total quantity of Coal supplied pursuant to the Fuel Supply Agreement is strictly meant to be used in accordance with Clause 4.3 of the Detailed Terms and Conditions of the Fuel Supply Agreement. The power so generated by utilizing the Coal supplied shall be sold in:-

(a) DAM through power exchanges set up as per regulations issued by Central Electricity Regulatory Commission or

(b) Short term through a transparent bidding process as per the Guidelines issued by MoP through the DEEP portal. MoP *vide* OM dated 30.03.2016 has issued guidelines for procurement of power of short term (i.e. for a period more than one day to one year) by distribution licensees through tariff based bidding process using national e-bidding portal. The same guidelines as amended from time to time shall be followed by distribution licensees for procurement of short term power.

4.2.2 The Purchaser shall not transfer and/or sell the Coal for any other purpose whatsoever. Swapping and/or rationalization of coal shall be as per the extant applicable policy/guidelines, if any. Any violation of this Clause shall be treated as a material breach of the Fuel Supply Agreement, for which the Purchaser shall be fully responsible and such act shall warrant suspension of Coal supplies by the Seller in terms of Para 12.1.2 of Annexure C (*the Standard Terms of the Agreement*).

##### **4.3 Process for Utilization of Coal**

The Guidelines including its amendments, if any, including but not limited to the following, shall be adhered to by the Purchaser:

4.3.1 Purchaser shall provide monthly signed statement to CEA, latest by 5th of the succeeding month, stating the quantity of coal drawn under the Agreement, the quantity of power generated and sold under DAM or Short Term through DEEP portal, and the balance coal remaining.

4.3.2 Purchaser shall submit the monthly statement to CEA till complete utilization of balance coal or till 15th of the 4th month from the end of the Supply Period, whichever is earlier. For supply through Rail mode, the Supply Period shall be considered till supply of last allotted rake as per extant Railway rules including rake revalidation rule. Any unutilized coal quantity beyond the 15th of the 4th month from the end of the Supply Period will be treated as remaining balance coal quantity (“**Remaining Balance Coal Quantity**”).

- 4.3.3 Purchaser shall also submit monthly financial statement to its principal debtors with a copy to CEA showing that the net surplus generated after meeting its operating expenses are being used for remitting its debt.
- 4.3.4 CEA will match the power capacity sold under DAM/DEEP portal with the power capacity equivalent to the coal quantity allocated to the Purchaser and will identify balance coal quantity at the end of the Supply Period.
- 4.3.5 Coal consumption shall be calculated as per prevailing CEA Norms based on declared heat rate of the plant or heat rate as per CEA Norms, whichever is lower. Aux. Power Consumption shall be as per prevailing CERC Norms and Coal GCV shall be as per billing by the Seller.
- 4.3.6 CEA will issue a ‘Coal Utilization Certificate’ for the given period, indicating the Remaining Balance Coal Quantity if any, to the Purchaser (with a copy to CIL & Seller), within 15 days of submission of the statement by the Purchaser indicating complete utilization of the allotted coal (“**Coal Utilization Certificate**”). Example of the above schedule is as under:

Sl. No	Period	Last Date of issuing Coal Utilization Certificate*
1	April-June	31 <sup>st</sup> October
2	July-September	31 <sup>st</sup> January
3	October-December	30 <sup>th</sup> April
4	January-March	31 <sup>st</sup> July

Note: The Period is as mentioned in Scheme document.

\*For Rail mode, the above time shall be synchronous with the Supply period as mentioned in clause 4.3.2.

- 4.3.7 The Purchaser shall submit Coal Utilization Certificate to the Seller within 4.5 months post expiry of the Supply Period. In the event, the Purchaser fails to submit the Coal Utilization Certificate within the specified timelines, the Seller shall have the right to forfeit the Performance Security. Further, the Purchaser shall be disqualified from participating in subsequent tranches of auctions.
- 4.3.8 It is clarified that, subject to the foregoing, the Purchaser shall, without the submission of Coal Utilization Certificate, be allowed to participate in the immediate two tranches succeeding the tranche pursuant to which the Fuel Supply Agreement has been executed.
- 4.3.9 If the Purchaser submits the Coal Utilization Certificate post expiry of the timeframe provided in Clause 4.3.7 of the Detailed Terms and Conditions of the Fuel Supply Agreement, Purchaser would be allowed to participate from the next tranche but in such case the Performance Security shall remain forfeited.

- 4.3.10 Maximum period of lifting of coal shall be up to the Supply Period. For supply of Coal through the Railways, the applicable Railway rules will apply.
- 4.3.11 In case it is found that the allotted Coal has been diverted, the same shall be communicated to MoP.
- 4.3.12 The Purchaser hereby acknowledges that the obligations of the Purchaser under this Clause 4.3 are as per the Guidelines issued by CEA and shall stand suitably amended and updated per any amendments to the Guidelines issued by CEA.

#### 4.4 **Source of Supply**

The Seller shall endeavor to supply the Coal in accordance with the details mentioned in Annexure B. In case the Seller is not in a position to supply the Scheduled Quantity of the Coal on account of a Force Majeure Act, the Seller shall have the option to supply the balance quantity of the Coal from the secondary source indicated in Annexure B (“**Secondary Source**”). Further, in case of supply of Coal from the Secondary Source, the Purchaser shall accept the Coal directly from such Secondary Source. Additional costs incurred due to supply of the Coal from the Secondary Source shall be borne by the Purchaser.

No flexibility shall be given to the Purchaser to take delivery of the Coal through any mode other than the mode specified in Annexure B.

### 5. **PRICE OF COAL**

- 5.1 The price to be paid by the Purchaser with respect to the Contracted Grade of Coal delivered shall be computed on the basis of the following formula:

*As Delivered Price of Coal = (aggregate of the Notified Price and the Winning Premium) multiplied by (the relevant quantity of the Contracted Grade of Coal supplied).*

- 5.2 The Winning Premium shall remain constant during the tenure of the Agreement. The Notified Price may be reviewed by CIL semi-annually, and it may make such modifications as may be deemed appropriate. The price pursuant to any such modification shall be notified by CIL and such modification shall be regarded as an indexation. The Notified Price shall be payable in the manner contemplated in Clause 5.1 of the Detailed Terms and Conditions of the Fuel Supply Agreement over the tenure of the Agreement.
- 5.3 The As Delivered Price of Coal computed pursuant to Clause 5.1 of the Detailed Terms and Conditions of the Fuel Supply Agreement shall exclude sizing charges, transportation charges up to the Delivery Point, rapid loading charges, statutory charges, levies and other charges, which shall be payable additionally by the Purchaser.
- 5.4 All royalties, taxes, duties, cesses, and such statutory levies payable to the State Government, Central Government and/or to any other statutory authority on the supply, dispatch and delivery of Contracted Grade of Coal under the Fuel Supply Agreement shall be borne by the Purchaser.

5.5 In all cases the entire freight charges, irrespective of the mode of transportation of the Coal supplied, shall be borne by and to the account of the Purchaser.

5.6 Notwithstanding anything to the contrary contained herein, the Purchaser shall be liable to make payment to the Seller in terms of the Fuel Supply Agreement, on the basis of Grade and quantity of Coal supplied, irrespective of when and in what condition the loaded wagons/rakes/road transport vehicles reach or do not reach the destination.

## 5.7 **Other Charges**

### 5.7.1 Transportation charges

Where Coal is transported by the Seller from the Pithead to the Delivery Point, the Purchaser shall pay for such transportation charges which are notified by CIL/the Seller from time to time. It is clarified that the distance of transportation on surface from the Pithead to the Colliery Loading Point shall be measured along the route of Coal transportation.

### 5.7.2 Sizing/Crushing charges

Where Coal is crushed/sized for limiting the top-size, the Purchaser shall pay sizing/crushing charges, as applicable and notified by CIL/the Seller from time to time.

### 5.7.3 Rapid loading charges

Where Coal is loaded through rapid loading system, the Purchaser shall pay rapid loading charges notified by CIL/the Seller from time to time.

### 5.7.4 Any other applicable charges

Any other applicable charges as notified by CIL/the Seller from time to time.

## 5.8 **Statutory Charges**

The Statutory Charges shall become effective and payable by the Purchaser from the date as notified by the relevant government/statutory authority.

5.9 Notwithstanding anything contained herein, in all cases, the freight charges in their entirety, irrespective of the mode of transportation of the Coal supplied, shall be solely borne by the Purchaser.

## 6. **SETTLEMENT OF DISPUTES**

6.1 In the event of any dispute, disagreement or difference arising out of or in connection with the Fuel Supply Agreement, including any question regarding its performance, existence, validity, termination and the rights and liabilities of the Parties to the Fuel Supply Agreement (“**Dispute**”), the Parties shall endeavour to amicably settle the same through negotiations carried out in good faith.

6.2 For the purpose of conducting negotiations, each Party shall designate in writing to the other Party a representative who shall be authorised to negotiate on its behalf with a view to resolving any Dispute (“**Representative**”). Each such Representative shall



remain so authorised until his replacement has been designated in writing to the other Party by the Party he represents.

- 6.3 The Representative of the Party which considers that a dispute has arisen shall give to the Representative of the other Party, a written notice setting out the material particulars of the dispute (“**Dispute Notice**”). Within thirty (30) days, or such longer period as may be mutually agreed, of the Dispute Notice having been delivered to the other Party, the Representatives of both Parties shall meet in person, to attempt in good faith and using their best endeavours at all times, to resolve the Dispute. Once the Dispute is resolved, the terms of the settlement shall be reduced in writing and signed by the Representatives of the Parties.

## 7. INDEMNIFICATION

- 7.1 In this Clause, a reference to the Seller shall include the Seller and its officers, employees, staff, advisors, representatives or agents (collectively the “**Indemnified Party**”) and the provisions of this Clause shall be for the benefit of the Indemnified Party, and shall be enforceable by each such Indemnified Party.

- 7.2 The Purchaser hereby indemnifies the Indemnified Party against all liabilities, costs, expenses, damages and losses (including but not limited to any interest, penalties and legal costs calculated on a full indemnity basis and all other professional costs and expenses) (collectively the “**Losses**”) suffered or incurred by the Indemnified Party arising out of or in connection with:

- 7.2.1 any breach of the representations, warranties, covenants and/or undertakings of the Purchaser contained herein or in the Scheme Document;

- 7.2.2 any information or documentation submitted by the Purchaser to the Seller pursuant to the Fuel Supply Agreement and/or the Scheme Document, being untrue, incorrect or false;

- 7.2.3 the Purchaser’s breach or negligent performance or non-performance of the Fuel Supply Agreement;

- 7.2.4 any claim made against the Indemnified Party for actual or alleged infringement of a third party’s rights or damage caused to a third party arising out of or in connection to the performance or non-performance of any of the Purchaser’s obligations under the Fuel Supply Agreement to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Fuel Supply Agreement, including but not limited to any claim on account of quality or quantity of Coal, by the Purchaser, its employees, agents or contractors; and/or

- 7.2.5 any Loss or damages caused on account of breach of any Applicable Law by the Purchaser, including without limitation any costs incurred by the Seller in rectifying any damages caused by the Purchaser on account of breach, negligent performance or failure or delay in performance of the Fuel Supply Agreement, or non-compliance with Applicable Law.

- 7.3 Any indemnifiable claim under the Fuel Supply Agreement must, be asserted by the Indemnified Party by delivery of written notice thereof to the Purchaser, on discovery

by the Indemnified Party of the breach of the pertinent covenant or obligation of the Fuel Supply Agreement, or of any misrepresentation or breach of any representation or warranty made by the Purchaser or of occurrence of any event specified in Clause 7.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement. However, any delay on the part of an Indemnified Party in providing or failure to provide such notice will not relieve the Purchaser of its indemnification obligations hereunder.

- 7.4 The remedies set forth in this Clause shall be without prejudice to all the rights and remedies that the Indemnified Party may have under the Applicable Law and shall not be the sole and exclusive remedies of the Indemnified Party for any breach of the Fuel Supply Agreement or any matter relating to any representation, warranty, covenant or undertaking contained in the Fuel Supply Agreement.

## 8. GOVERNING LAW AND JURISDICTION

- 8.1 The Fuel Supply Agreement and the rights and obligations hereunder shall be interpreted, construed and governed by the laws of India. The courts of [[●] *name of the state where the Seller's headquarters/registered office is located*], India shall have exclusive jurisdiction in respect of all matters arising under or in connection with the Fuel Supply Agreement.

## 9. MISCELLANEOUS

- 9.1 **Entirety:** The Fuel Supply Agreement, together with the Scheme Document and any documents referred to therein, (i) supersedes any and all oral and written agreements, drafts, undertakings, representations, warranties and understandings heretofore made in relation to the subject matter hereof; and (ii) constitutes the entire agreement and understanding of the Parties relating to the subject matter hereof. It is expressly agreed that the Fuel Supply Agreement, together with the Scheme Document and any documents referred to therein, shall supersede all previous discussions and meetings held and correspondence exchanged between the Seller and the Purchaser in respect of the Fuel Supply Agreement and any decisions arrived at therein in the past and before coming into force of the Fuel Supply Agreement, shall have no relevance with reference to the Fuel Supply Agreement and no reference of such discussions or meetings or past correspondence shall be entertained by either Party for the purposes of interpreting or implementing the Fuel Supply Agreement. In the event of any conflict between the provisions of the Fuel Supply Agreement and the Scheme Document, the Fuel Supply Agreement shall prevail.
- 9.2 **Amendment:** The Fuel Supply Agreement shall stand amended or modified pursuant to any modifications thereof as may be issued in writing or notified by the Seller as per the provisions of the Fuel Supply Agreement, or as may be entered into in writing by the Parties.
- 9.3 **Counterpart(s):** The Fuel Supply Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.
- 9.4 **Survivability:** The provisions of Clause 6 (*Settlement of Disputes*) and Clause 7 (*Indemnification*) of the Detailed Terms and Conditions of the Fuel Supply Agreement and Para 2 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms

and Conditions of the Fuel Supply Agreement shall survive any termination of the Fuel Supply Agreement.

9.5 **Annexures:** The Annexures detailed below shall form part of the Detailed Terms and Conditions of the Fuel Supply Agreement:

Annexure A: Definitions;

Annexure B: Contracted Quantity

Annexure C: Standard Terms of the Agreement.

## Annexure A

### Definitions

- 1.1.1 “**Acceptable Bank**” shall mean a Scheduled Bank as listed in the Second Schedule of the Reserve Bank of India Act, 1934 excluding those listed under the headings of Gramin Banks, Urban Co-operative Banks and State Co-operative Banks.
- 1.1.2 “**Affected Party**” shall have the meaning ascribed to it in Para 13.1.1 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.3 “**Allocated Quantity**” shall mean the quantity allocated to the Purchaser pursuant to the Auction and as set out in the Intimation Letter.
- 1.1.4 “**Applicable Law(s)**” shall mean all applicable statutes, laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directives of any governmental authority or court or other rules or regulations, approvals from the relevant governmental authority, government resolution, directive, or other government restriction or any similar form of decision, or determination, or any interpretation or adjudication having the force of law in India.
- 1.1.5 “**As Delivered Price of Coal**” shall mean the price of coal computed in accordance with Clause 5.1 of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.6 “**Auction**” shall mean the auction for allocation of Coal linkages to power producers/independent power producers without PPA(s), conducted in accordance with the Scheme Document.
- 1.1.7 “**Bid Security**” shall mean the bid security in the form of an earnest money deposit, at the rate of Rs. 100 (Indian Rupees One Hundred only) per tonne furnished by the Purchaser as per Clause 5.2 of the Scheme Document.
- 1.1.8 “**Business Day**” shall mean each Monday, Tuesday, Wednesday, Thursday, Friday and Saturday that is not declared a holiday in the State of ([●] *to be stated by the Seller*).
- 1.1.9 “**CEA**” shall mean the Central Electricity Authority.
- 1.1.10 “**CIL**” shall mean Coal India Limited, the holding company of the Seller, having its registered office at Coal Bhawan, Premise No - 04 MAR, Plot-no-AF-III, Action Area-1A, Newtown, Rajarhat, Kolkata - 700156, and having the authority to enter into any agreement/side agreements, supplementary to the Fuel Supply Agreement.
- 1.1.11 “**Coal**” shall mean non-coking as well as coking coal, produced by the Seller and categorized into different classes, GCV bands, Grade(s) and sizes, as per the notification/order issued for such purpose by Government of India/CIL/Seller and it is clarified that Coal shall also include the middlings arising out of washing of coking coal and non-coking coal, as the case may be.

- 1.1.12 “**Coal Distribution System**” shall mean the coal distribution system of the Seller including any distribution system in force and shall include directions issued thereon by the Government from time to time.
- 1.1.13 “**Coal Utilization Certificate**” shall have the meaning ascribed to it in Clause 4.3.6 of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.14 “**Colliery Loading Point**” shall mean:
- (a) Silo, or
  - (b) Mid-point for wharf wall loading at the colliery, or
  - (c) Truck loading point, or
  - (d) Ropeways loading point, or
  - (e) Transfer point to the customer’s belt conveyor etc., as the case may be, or
  - (f) Any other point at which the Coal is transferred to the Purchaser’s Container.
- 1.1.15 “**Contracted Quantity**” or “**CQ**” shall have the meaning as ascribed to it in Clause 4.1.1 of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.16 “**Completion of the Auction Process**” shall have the meaning ascribed to it in the Scheme Document.
- 1.1.17 “**DAM**” shall have the meaning ascribed to it in Recital B of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.18 “**Declared Grade**” shall mean the particular Grade(s) under different categories of Coal mined from any seam or section of a seam in the Seller’s collieries from which Coal is produced and supplied under the Fuel Supply Agreement, as declared by CIL or the Seller.
- 1.1.19 “**Deemed Delivered Quantity**” or “**DDQ**” shall have the meaning ascribed to it in Para 3.7 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.20 “**DEEP**” shall have the meaning ascribed to in Recital B of the Agreement.
- 1.1.21 “**Defaulting Party**” shall have the meaning ascribed to it in Para 13.2.4 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.22 “**Delivery Point**” shall mean any of the colliery sidings or Colliery Loading Points, as the case may be, of the Seller, and/or the location(s) identified by the Seller.
- 1.1.23 “**DISCOM**” shall mean the distribution licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in its area of supply.

- 1.1.24 “**Dispute**” shall have the meaning ascribed to it in Clause 6.1 of the Detailed Terms and Conditions of the Fuel Supply Agreement “**Dispute Notice**” shall have the meaning ascribed to it in Clause 6.3 of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.25 “**Eligibility Conditions**” shall have the meaning ascribed to it in the Scheme Document.
- 1.1.26 “**Equilibrated Basis**” shall mean determination/computation of various quality parameters such as but not limited to ash, volatile matter, fixed carbon, Gross Calorific Value etc. determined at equilibrated level i.e. 60% relative humidity (RH) and 40 degree Celsius (°C).
- 1.1.27 “**Equilibrated Moisture**” shall mean moisture content, as determined at equilibrating level i.e. sixty percent (60%) relative humidity (RH) and 40 degree Celsius (°C) as per the relevant provisions of BIS 1350 of 1959 or amendment thereof.
- 1.1.28 “**Execution Date**” shall be the date of execution of the Fuel Supply Agreement.
- 1.1.29 “**Failed Quantity**” shall have the meaning ascribed to it in Para 3.3.1 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.30 “**Force Majeure Act**” shall have the meaning ascribed to it in Para 14.1 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.31 “**Grade**” shall mean the grade/class in which the coking coal and non-coking coal is categorised and/or to be categorised in terms of and in accordance with the relevant notification issued by the Seller and/or by the Government of India and published in the public domain and/or the Gazette of India, as applicable. The basis of grading for different categories of Coal are as under:
- (g) Non-coking coal : based on GCV bands
  - (h) Coking coal : based on ash percentage
  - (i) Semi-coking coal : based on (ash + moisture) percentage
- 1.1.32 “**Gross Calorific Value**” or “**GCV**” shall mean the heat value determined in any calibrated combustion Bomb Calorimeter, in accordance with the procedure laid down in IS: 1350 (Part-II) 1970 dated April 1971 or any subsequent revision thereof, and such results shall be reported on Equilibrated Basis (sample equilibrated at 40 degree Celsius and sixty percent (60%) relative humidity (RH)).
- 1.1.33 “**Guidelines**” shall have the meaning ascribed to it in Recital D of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.34 “**Indemnified Party**” shall have the meaning ascribed to it in Clause 7.1 of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.35 Deleted.

- 1.1.36 “**Interest Rate**” shall mean the repo rate of the Reserve Bank of India as applicable on the due date of payment/adjustment plus three percent (3%).
- 1.1.37 “**Intimation Letter**” shall have the meaning ascribed to it in Recital F of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.38 “**IPP**” shall mean an independent power producer, which is a generating company not owned/controlled by the Central/State Government.
- 1.1.39 “**IRLC**” shall have the meaning ascribed to it in Para 10.1.2(ii) of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.40 “**IS**” shall mean the standard specifications issued by the Bureau of Indian Standards.
- 1.1.41 “**Kilo Calorie**” or “**Kcal**” shall mean the amount of heat required to raise the temperature of one kilogram (1 Kg.) of pure water at fifteen degrees Celsius (15°C), by one degree Celsius (1°C).
- 1.1.42 “**Level of Delivery**” shall have the meaning ascribed to it in Para 3.4 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.43 “**Level of Lifting**” shall have the meaning ascribed to it in Para 3.5 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.44 “**Losses**” shall have the meaning ascribed to it in Clause 7.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.45 “**Merry Go Round**” or “**MGR**” shall mean the Purchaser’s captive rail transportation system for transportation of Coal.
- 1.1.46 “**MOC**” shall mean the Ministry of Coal.
- 1.1.47 “**Month**” shall mean a calendar month and “**Monthly**” shall mean accordingly.
- 1.1.48 “**MoP**” shall mean the Ministry of Power.
- 1.1.49 “**MoP Methodology**” shall have the meaning ascribed to it in Recital C of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.50 “**Non-Affected Party**” shall have the meaning ascribed to it in Para 13.1.1 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.51 “**Non-Defaulting Party**” shall have the meaning ascribed to it in Para 13.2.4 of Annexure C (*the Standard Terms of Agreement*) to the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.52 “**Notice**” shall have the meaning ascribed to it in Recital D of Detailed Terms and Conditions of the Fuel Supply Agreement.

- 1.1.53 “**Notified Price**” shall mean the price of the relevant grade(s) of Coal notified by CIL and/or its Subsidiaries, as the case may be, from time to time.
- 1.1.54 “**Parties**” shall mean the Seller and the Purchaser referred to collectively and “**Party**” shall mean either the Seller or the Purchaser.
- 1.1.55 “**Pithead**” shall mean any of the following as the context may admit:
- In case of an underground coal mine, Pithead shall mean the point of entry into the mine on the surface of coal mine at the ground level and would be a place or point distinct from Delivery Point.
- In case of an open-cast coal mine, Pithead shall mean the exit point of Coal on surface (mouth/entry of the main access trench or an auxiliary access trench). In case of open-cast mines with more than one exit points of Coal, there will be as many ‘Pitheads’ and will apply respectively to the amount of Coal egressing from a particular exit point.
- 1.1.56 “**Policy**” shall have the meaning ascribed to it in Recital A of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.57 “**PTC**” shall mean a power trading company, which is an electricity trader who has been granted a license to undertake trading in electricity under Section 12 of the Electricity Act, 2003.
- 1.1.58 “**Power Producer**” shall mean a power producer which is a generating company owned/controlled by the Central/State Government.
- 1.1.59 “**PPA**” shall mean the medium term (exceeding 1 year but up to 7 years) and/or long term (7 years and above) power purchase agreement between the power generating source and the power procurer(s), i.e. DISCOM(s)/SDA either directly or through PTC(s) who has/have signed back to back PPA(s) with DISCOMs/SDA. However, the same shall not be applicable for the portion which is sold under market driven price.
- 1.1.60 “**Purchaser**” shall mean [*insert name*].
- 1.1.61 “**Purchaser’s Container**” shall mean the railway wagon, truck, receiving hopper, belt conveyor, bunker etc. owned by and/or placed on behalf of the Purchaser for movement of Coal by the Purchaser to its Specified End Use Plant.
- 1.1.62 “**Period**” shall mean the respective auction months, as specified in Scheme document of particular tranche of B(viii a) auction .
- 1.1.63 “**Remaining Balance Coal Quantity**” shall have the meaning ascribed to it in Clause 4.3.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.64 “**Representative**” shall have the meaning ascribed to it in Clause 6.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement
- 1.1.65 “**Scheduled Quantity**” or “**SQ**” shall have the meaning ascribed to it in Para 3.1.1 of Annexure C (*the Standard Terms of Agreement*) to Detailed Terms and Conditions of the Fuel Supply Agreement.



- 1.1.66 “**Scheme Document**” shall mean the Scheme Document dated ,( refer scheme document of particular tranche of B(viii a) as applicable) issued by CIL, including its annexures, appendices, schedules, amendment(s), addenda or corrigendum to the Scheme Document and/or any other document issued pursuant thereto.
- 1.1.67 “**SDA**” shall mean any agency appointed / designated by a State for the purpose of power procurement.
- 1.1.68 “**Secondary Source**” shall have the meaning ascribed to it in Clause 4.4 of Detailed Terms and Conditions of the Fuel Supply Agreement. “**Seller**” shall mean [*insert name*].
- 1.1.69 “**Specified End Use Plant**” shall have the meaning ascribed to it in the Scheme Document, in respect of which the Purchaser has been issued the Intimation Letter.
- 1.1.70 “**Statutory Charges**” shall mean and include royalties, cesses, duties, taxes, levies etc., if any, payable as per and in accordance with Applicable Laws.
- 1.1.71 “**Subsidiary**” shall mean a subsidiary of CIL as also set out in Annexure VI of the Scheme Document.
- 1.1.72 “**Supply Period**” shall have the meaning ascribed to in Clause 3.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.73 “**Surface Moisture**” shall mean the moisture content present in Coal that is derived as the difference between Total Moisture and Equilibrated Moisture, and expressed in percentage terms.
- 1.1.74 “**Term**” shall have the meaning ascribed to it in Clause 3.2 of the Detailed Terms and Conditions of the Fuel Supply Agreement.
- 1.1.75 “**Third Party**” shall mean an agency selected by the Purchaser in accordance with the Fuel Supply Agreement, from the agencies empaneled by the Seller from time to time, for collection, preparation of Coal samples at loading points, analysis and relevant documentation and with whom relevant agreement(s) are executed in this regard.
- 1.1.76 “**Total Moisture**” shall mean the total moisture content (including Surface Moisture) expressed as percentage present in Coal and determined on “as delivered basis” in pursuance to IS: 1350 (Part – I) - 1984.
- 1.1.77 “**Unloading Point**” shall mean the place/point at the Purchaser’s Specified End Use Plant end at which the Coal is received/unloaded.
- 1.1.78 “**Usance LC**” shall have the meaning ascribed to it in Para 10.1.2(ii) of Annexure C (*the Standard Terms of Agreement*).
- 1.1.79 “**Validity Period**” shall mean 3 (three) months from the Execution Date.
- 1.1.80 “**Weights and Measures Standards**” shall mean the standards, as prescribed under Applicable Laws.

- 1.1.81 “**Winning Premium**” shall mean premium (as mentioned in the Fuel Supply Agreement) expressed as a percentage of the Notified Price.
- 1.1.82 “**Year**” shall mean the financial year of the Seller, commencing on April 1<sup>st</sup> and ending on the following March 31<sup>st</sup>.

**Annexure B**

**Contracted Quantity**

*(As per point 2 of the Fuel Supply Agreement)*

**ANNEXURE C**  
**STANDARD TERMS OF THE AGREEMENT**