

FUEL SUPPLY AGREEMENT

BETWEEN

Maharashtra State

Mining Corporation Ltd.

AND

M/s _____

(Consumer unit/ purchasers in Small, Medium and
Other Sector)

PREAMBLE:

This Agreement is made on this ____day of ____ (Month) 2017, between Maharashtra State Mining Corporation Limited, a company registered under the Companies Act, 1956 and having its registered office at Khanikarm Bhavan, Plot No 7, Ajni Chowk, Wardha Road, Nagpur, 440015 hereinafter called the “**Corporation**” (which expression shall unless excluded by or repugnant to the subject or context, include its legal representatives, successors and permitted assigns) of the one part,

AND

M/s _____ having its registered office at _____ hereinafter called the “**Purchaser**” (which term shall unless excluded or repugnant to the subject or context include its legal representatives, successors and permitted assigns) of the other part.

WHEREAS, as per the New Coal Distribution Policy (“NCDP”) issued by Ministry of Coal vide Office Memorandum no 23011/4/2007-CPD dated 18.10.07 & no 23011/90/2013-CPD dated 27.09.2016, consumers in small, medium and other sector having annual requirement upto 10,000 tonne and having no Fuel Supply Agreement with a Subsidiary Company of CIL or CIL, can source their coal requirement from Agencies nominated by State Governments.

WHEREAS, the Govt. of Maharashtra has nominated the Corporation as agency for supplying coal to consumers of Small and medium sector having no source of for their coal requirement from the Coal India Limited or its subsidiary companies vide its letter No. Coal 2016/(C.R-25-I)/Ind-7 dated 25.05. 2016.

WHEREAS the Corporation being the agency nominated by Govt. of Maharashtra for supply of coal has published advertisement in daily news paper on 29.06.2016, 21.07.2016 & 3.9.2016 inviting applications from eligible consumer unit/ purchasers in small and medium sector/consumer unit/ purchasers and in response to the said advertisement the consumer unit/ purchaser M/s _____ has submitted application in the prescribe format to the Corporation along with the requisite documents registering its annual demand for coal .

And WHEREAS the consumer unit/ purchaser agreed to purchase coal from the Corporation for its own consumption and the Corporation agreed to supply to the consumer unit/ purchaser, coal as per availability. Therefore in consideration of agreement and covenant hereafter set forth and intending to be legally enforceable, the Corporation and consumer unit/ purchaser (each individually a party hereto and collectively the parties) hereby covenant and agree as follows.

1. DEFINITIONS:

- a) Agreement shall mean this Agreement along with all Schedules and Annexures.
- b) “**Annual Contracted Quantity**” or “**ACQ**” shall have the meaning as ascribed to it in Clause 4.1
- c) “**Applicable Laws**” means all laws, brought into force and effect by the Government of India (“GoI”) or the State Government including rules, regulations and notifications made

thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to either Corporation or the consumer unit/ purchasers, their obligations or this Fuel Supply Agreement from time to time.

- d) **“Business Day”** shall mean each Monday, Tuesday, Wednesday, Thursday, Friday Saturday that is not declared a holiday in the State of Maharashtra under the Negotiable Instruments Act, 1981.
- e) **“Coal”** means non-coking as well as washery grade coal not linked to coking coal washeries, falling within the different classes, grades, and sizes into which Coal is categorized, from time to time, in the notification/order issued for such purpose by the Government of India, Coal Company or by Corporation, as the case may be.
- f) **“Coal Company”** Shall mean Western Coalfield Limited or any subsidiary of Coal India Limited supplying coal to the Corporation.
- g) **“Delivery Point”** shall mean any of the colliery loading points, as the case may be, from where Coal shall be delivered by the Coal Company or any other place as may be instructed by the Corporation.
- h) **“End User”** shall mean, for the purposes of this Agreement, consumer unit/ purchaser who requires upto 10000 tonne of Coal for his/its/their own use on an annual basis, and who does not have any arrangement/linkage for supply of Coal with CIL or its subsidiary Company.
- i) **“Level of Lifting”** shall have the meaning as ascribed to it in Clause 5.
- j) **“Interest Rate”** shall mean the repo rate of Reserve Bank of India (RBI) as applicable on the date of payment by the purchaser plus 3%.
- k) **“Quarter”** means the respective 3 monthly periods, namely April to June, July to September, October to December and January to March.
- l) **“Run of Mine” or “ROM” shall mean the coal as extracted from the colliery and which has not undergone any processing or resizing to suit the requirement of the user.**
- m) **“Signature Date”** shall mean the date on which this Agreement is signed by both parties hereto.
- n) **“State Government”** shall mean the Government of Maharashtra.
- o) **“Truncated Year”** shall mean a truncated year by virtue of the Signature Date occurring after April 1st of this Agreement, or otherwise truncated due to Force Majeure Acts etc.
- p) **“Year”** shall mean the financial year of the Corporation, commencing on April 1st and ending on the following March 31st; and shall include a Truncated Year;

2. **PERIOD OF AGREEMENT:**

2.1 This Agreement shall come into force on the **Signature Date**. This Agreement shall, unless terminated in accordance with the terms hereof, remain in force up to 31/03/2018 depending upon period for which the nomination is made by the Government of Maharashtra.

3 **SECURITY DEPOSIT**

3.1 **Amount and submission of Security Deposit**

3.1.1 The Purchaser shall deposit at the time of execution of this agreement with the Corporation, as Security Deposit amounting to Rs. _____ in the form of Demand Draft or Pay Order from Nationalized Bank, an amount expressed in Indian Rupees equivalent to the value of Quantity of Coal for a month.

3.1.2 The purchaser shall have the following option to furnish the security deposit amount of Rs.-/- (Rs in words) to the Corporation : a) Deposit 100 % of the security deposit prior to the signing of this agreement ; or b) Deposit 1/3 of the Security deposit amount referred to in 3.1.1 above prior to signing of this agreement and the balance amount in two installments after signing of this agreement.

3.1.3 In pursuance to the option b, of the clause 3.1.2 above the purchaser has deposited an initial security deposit of Rs.-/- (In words Rs) by way of D.D./RTGS.

3.2 The Security Deposit shall remain valid and operative until 3 (three) months after the expiry of the Term of Agreement.

3.3 The value of the Security Deposit shall be suitably increased / decreased to match the changes in Security Deposit made by the Coal Company or the Corporation as the case may be from time to time. In event of failure of the consumer unit/ purchaser to provide such security deposit at increased value, after intimation of paying the same the Corporation shall have the right to suspend the supplies in accordance with clause 13 without any further notice until the security deposit is fully paid.

3.4 The Security Deposit shall be refundable to the Purchaser at the end of its validity subject to successful completion of, and complete settlement of the claims of Corporation arising out of this Agreement. However no interest will be payable on the Security Deposit in any event.

3.4.1 The Corporation shall have the right to adjust or settle the amount of loss/claims caused, and any expenses incurred by the corporation due to the act of omission and commission or negligence of the consumer unit/ purchaser and such amount shall be deducted from security deposit at the time of refund.

3.4.2 In case it is found that the consumer unit/ purchaser is misusing or selling or trading the coal allotted or using it at some other place instead of the intended place then the security deposit shall be forfeited and the consumer unit/ purchaser shall be black listed and the supply of coal suspended with immediate effect without any notice. On account of this the agreement shall stand terminated without prejudice the corporation's right to take action under other conditions of this agreement and Law.

- 3.5.1 The Purchaser shall ensure that the Security Deposit stands replenished within 7 (seven) days of drawl of funds by the Corporation in accordance with the provisions of this Agreement. Failure to replenish the Security Deposit within such stipulated period shall entitle the Corporation to suspend the Coal supplies without absolving the Purchaser of its obligations under this Agreement.
- 3.5.2 In the event of termination of the Agreement by the Corporation in accordance with Clause 15, the Corporation shall be entitled to forfeit the Security Deposit of the Purchaser in addition to any other rights vested with the Corporation upon such termination.

4 QUANTITY:

4.1 Annual Contracted Quantity (ACQ):

The Corporation shall supply coal as per the coal quantity allotted and made available by coal company and the consumer unit/ purchaser shall purchase the Annual Contracted Quantity of ____ (ACQ) of ____ tonnes (_____) of Coal per annum, as fixed by Corporation subject to availability with the coal company, and lift the same from the delivery point as fixed by the Corporation. In the event of truncated year, the ACQ shall be prorated accordingly.

- 4.2 Corporation shall have right to reduce the supply of ACQ to the purchaser in the event the allocation from the coal company to the Corporation is reduced or can supply on prorata basis as per the allocation receive from the coal company. In such event the purchaser shall not claim any compensation or damages from the Corporation for such short supply.
- 4.3 If any complaint is received against the purchaser/ consumer unit/ purchaser during the period of this contract, the corporation will itself or through a Committee formed for the purpose, verify the facts, documents and carry out physical verification of the unit and if the complaint is found true, Corporation can reduce the ACQ or cancel the FSA, forfeit the security deposit and black list the party and the decision of the Corporation shall be binding upon the purchaser.
- 4.4 The ACQ shall be revised by the Corporation on yearly basis after taking in to account the coal quantity lifted by the purchaser in the immediately preceding year and the decision of the Corporation in this regard shall be final and binding of the purchaser.
- 4.5 Coal sold and purchased under this Agreement shall only be utilized/ by the Purchaser as defined herein. Further, the Corporation will sell coal to the purchaser at the “As declared price of Coal” by Coal Company plus 5% margin over Base Price as service charges. The Corporation shall be entitled to charge to the end uses all taxes, levies and any other statutory dues as may be applicable from time to time and any other charges that the Corporation has to bear for delivering the coal to the consumer unit/ purchaser. The purchaser shall indemnify the Corporation by executing a separate bond that the coal shall be for end use only and will not be sold, traded or misutilized. Consumer unit/ purchaser shall have no right to any grade or specific quantity of the coal and the coal and grade allotted shall be final and the same shall not be converted into any other grade by any process by the consumer unit/ purchaser.
- 4.6 The Purchaser shall regularly submit to the Corporation, monthly and Quarterly Utilisation Report in the prescribe format (Annexure _____) provided by Corporation. The purchaser shall also provide the Corporation all the necessary information as and

when demanded so as to enable the Corporation to submit to the State Government the necessary reports as required from time to time. Failure in submission of such reports and information will result in automatic termination of the agreement.

4.7 The Purchaser has to submit an Affidavit as enclosed with this Agreement at Schedule III Under the Affidavit, the Purchaser has to undertake that Coal will utilized as per the stipulations under Clause 4.5 of this Agreement. In the event of any breach or any complaint from any quarter received by the Corporation, Coal Company or Government, the same shall be subject to examination and suitable action, if any shall be taken against the Purchaser. The purchaser is liable for any act of their Authorized Signatory, Power of Attorney Holders, assignee, agents or anyone acting on their behalf. The Corporation shall be entitled to take appropriate action against the Purchaser including termination of this Agreement. Such termination, however, shall not absolve the Purchaser from its obligations and liabilities under the Agreement.

4.8 Deleted

4.9 **Monthly Quantity**

4.9.1 **Monthly Scheduled Quantity (MSQ)**

The Monthly Scheduled Quantity (MSQ) shall be 1/12TH of the ACQ.

4.9.2 **Make-up Entitlement & Make-up Quantities carry forward.**

- i. The quantity of Coal remains un lifted within the validity period of 45 days from the date of sale order for supply through Road mode against value paid orders will not lapse and will be carried forward with the allocation of next month and so on till the end of the contract.
- ii. However, such quantity will lapse at the end of the contract if the residual quantity is less than a truck load. The quantity for which the purchaser did not book by making full payment shall stand lapsed at the end of the month.
- iii. In case any quantity remains unlifted after the expiry of 45 days validity period of respective Delivery orders, the purchaser will have the option to take refund against uplifted quantity or to carries forward till the end of the period of this agreement.
- iv. In no case annual booking of coal by road under above process shall exceed the ACQ.

4.10 **Compensation for short lifting**

If for a year the Level of Lifting by the Purchaser falls below 100% of ACQ with respect to that Year, the Purchaser shall be liable to pay compensation (“Delivery Compensation”) to the Corporation for the shortfall quantity in terms of the following:

S.No.	Level of Lifting of Coal in a Year	Rate of compensation for the Shortfall Quantity (at the rate of Base Price of Grade G8 ROM Coal of the Coal Company as prevailing on the last day of the Year)
1	Less than 100% but up to 60% of ACQ	NIL
2	Below 60% of ACQ	5%

4.11 The Delivery Compensation for short delivery/lifting shall be payable by the Purchaser to the Corporation within a period of 15 days from the date of receipt of claim. In the event of non-payment within the due date, the defaulting Party shall be liable to pay interest in accordance with Clause 13. However, in the event of non payment of Delivery Compensation by the Purchaser beyond 30 days of such claim, the Corporation shall be entitled to take any or all remedies including but not limited to encashment of Security Deposit, adjustment against the Coal value lying with Corporation and/or termination of Coal supply.

5. LEVEL OF LIFTING:

5.1 Level of Lifting:

Level of Lifting with respect to a Year shall be calculated in the form of percentage as per the following formula:

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

Where:

LL = Level of Lifting of Coal by the Purchaser during the Year (in %)

ACQ & DDQ shall have the same meaning as given in Clause 4.1 & 6 respectively.

6. DEEMED DELIVERED QUANTITY (DDQ):

For the purpose of this Agreement, the aggregate of the following items shall constitute the Deemed Delivered Quantity (DDQ) with respect to a Year.

- 6.1** The quantity of Coal not supplied by the Corporation owing to omission or failure on the part of Purchaser to provide the Security Deposit or any part thereof in accordance with this clause 3.1.1 or 3.1.2, as the case may be
- 6.2** The quantity of Coal not supplied by the Corporation owing to omission or failure on the part of Purchaser to book value paid orders for the Monthly Scheduled Quantities as per Clause 4.9 and within the period mandated under clause 8.1.1.
- 6.3** Deemed Delivered Quantity in terms of Clauses 6.1 and 6.2 shall be calculated on cumulated monthly basis during a year.

7. WEIGHMENT OF COAL:

- 7.1** In relation to transport of Coal by rail, the weight as recorded by the Indian Railways in the Railway Receipt(R/R) shall be final and binding for all commercial purposes on both the Parties. In relation to Coal being dispatched by road, the weight recorded at the Collieries' weighbridge at the Delivery Point and as mentioned in the dispatch document, shall be final and binding on both the Parties for all commercial purposes under this Agreement.

8. METHOD OF ORDER BOOKING AND DELIVERY OF COAL:

- 8.1.1** In terms of the notice by the Corporation issued for monthly Coal allocation / bookings stipulating the time schedule for order booking and advance payment, the Purchaser shall deposit 100% advance payment in the manner provided in Clause 11, for the Monthly Scheduled Quantity determined in terms of Clause 4.9.

The Corporation shall arrange to issue sale order(s)/delivery order(s) separately for each colliery and issue necessary loading programme / schedule to the Purchaser as informed by Coal Company. The Purchaser shall arrange to place the required number / type of trucks to lift the Coal as per such loading programme / schedule at its/their own cost.

8.1.2 Deleted.

8.1.3 In the event of any quantity remaining undelivered / unlifted, the Purchaser shall be entitled to the refund of the value of such quantity.

8.1.4 In the event the Purchaser fails to book any quantity of Coal for any month, such Coal quantity shall lapse and shall be treated as failed quantity or DDQ as per clause 6. It is clarified that in no case shall the Purchaser be allowed to book/lift such lapsed/ failed quantity in any subsequent period.

9. TRANSFER OF TITLE OF GOODS:

Once supplies of Coal have been effected at the Delivery Point / Loading Point in the Purchaser's container by the Corporation, the property / title and risk of loss of Coal shall stand transferred to the Purchaser. The Corporation shall in no way be responsible or liable for the security or safeguard of the Coal so transferred. The Corporation shall have no liability, including towards increased freight or transportation costs, as regards any diversion of wagons / rakes /road transport en-route, for whatever causes, by Indian Railways; or road transporter or any other agency.

10. PRICE OF COAL:

10.1 The price of Coal delivered hereunder shall be the sum of Base Price, sizing charges, transportation charges up to the Delivery Point, rapid loading charges, statutory charges, levies and other charges, as applicable (“**As Delivered Price of Coal**”). The components of As Delivered Price of Coal shall be determined on the basis of notifications issued by Coal Company / statutory authority from time to time. Accordingly, in case of revision of any component of the As Delivered Price of Coal by Coal Company /statutory authority, the Purchaser shall be liable to pay the revised component of As Delivered Price of Coal as and from the date the revised rates/criteria becomes or has become effective. In addition to above, Corporation will charge 5% on the basic price declared by Coal Company.

10.2 Royalties, Taxes, Duties, Cess, and such statutory levies payable to the State Government/ Central Government or to any other statutory authority shall be borne by the Purchaser on the basis of grade of Coal as declared by the Coal Company, as applicable at the time of delivery.

10.3 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.

11. FINANCIAL COVERAGE:

- a. For road dispatches, advance payment as required under Clause 8.1.1 shall be drawn in favor of Corporation by the Purchaser by means of DD and payable on any

scheduled bank acceptable to the Corporation at Nagpur, alternatively the same can be deposited through RTGS in the specified bank account of the Corporation.

- b. The Corporation by way of a notice, to be put up on the Corporation's notice board and website, shall inform the Purchaser the Coal value to be paid through DD / RTGS. The Purchaser shall accordingly be required to deposit the amount through DD / RTGS within 3 days of publish of notice. The quantity in any single offer within a month shall not exceed the quantity as per financial coverage in terms of Clause 11.
- c. Monthly bills shall be prepared by the Corporation on the basis of quantity delivered at colliery.

12. SUSPENSION OF COAL SUPPLY:

- 12.1 Notwithstanding other provisions of this Agreement, when payment with respect to an invoice raised by the Corporation is not made by the Purchaser or the Bank Guarantee or Security Deposit is not submitted or replenished, as the case may be, within the stipulated period including the period allowed for making payment with interest in accordance with this Agreement the Corporation shall have the right to:
 - a) Adjust the outstanding dues against the interest-free Security Deposit as described in Clause 3.
 - b) Suspend supplies of Coal after giving a written notice to the Purchaser providing a cure-period of not less than seven (7) Business Days.
- 12.2 During the period of suspension of supplies in terms of Clause 12.1, the Corporation shall be relieved of his obligations to supply Coal. However, the obligations of the Purchaser under this Agreement shall fully remain in force.
- 12.3 In the event of suspension of supplies of Coal pursuant to this Clause, the Corporation shall have the right to continue the suspension as long as the interest-free Security Deposit in terms of Clause 3 has not been fully replenished as may be required.
- 12.4 The Corporation shall resume the Coal supplies within 3(three) days of receipt of payment of the outstanding dues together with interest in the manner provided in Clause 13, along with full replenishment of the Security Deposit in terms of Clause 3.

13 INTEREST:

With respect to default in making any payment due in terms of this Agreement by the Purchaser, the defaulting Party shall be liable to pay interest @ Repo rate of Reserve Bank of India (RBI) as the due date of payment by the purchaser plus 3 % (Three) on the total sum outstanding and for the period the payment has remained over due after adjustment of advance. For removal of doubts, it is clarified that the Corporation shall have the right to adjust or recover the interest due in terms of this Clause from the interest-free Security Deposit referred to in Clause 3.

14 Resolution of Disputes:

In the event of any dispute or differences between the Purchaser and the Corporation, such dispute or differences shall be resolved amicably by mutual consultation. If such

resolution is not possible, then, the unresolved dispute or difference shall be referred to the sole arbitrator for arbitration as per the Arbitration & Conciliation Act, 1996 and rules made thereunder from time to time. The sole Arbitrator shall be nominated by Managing Director of Corporation. In the event of such an arbitrator to whom the matter is originally referred, being transferred or vacating his office or being unable to act for any reason whatsoever, the Managing Director of Corporation shall appoint another person to act as an arbitrator in accordance with terms of the agreement and the person so appointed shall be entitled to proceed from the stage at which it was left out by his predecessors. The decision of the Arbitrator so appointed shall be binding on both the parties.

The venue of the arbitration proceeding shall be Nagpur or such other places as the arbitrator may decide.

15. TERMINATION OF AGREEMENT:

15.1 This Agreement may be terminated in the manner and subject to the conditions detailed herein below:

(a) Automatically, in the event the nomination of the Corporation is withdrawn or cancelled by the Government of Maharashtra in such event the Corporation shall not in any way liable to pay any compensation or damages or any amount whatsoever to the Purchaser. However, the Purchaser shall be liable for any default

(b) Deleted

(c) By the Corporation in the event of non payment of compensation by the Purchaser within 60 days the claim for compensation being made by the Corporation in accordance with clause 4.10 herein above.

(d) By the Corporation in accordance with clause 4.7 herein above.

(e) If quarterly utilization report is not filed in the prescribed format and utilization certificate is not filed within 15 date of issue of order.

(f) If at the time of inspection of authorized person/committee it is found that the allocated coal is utilized for other than own consumption, traded or sold by the Purchaser.

(g) If the Corporation finds any misconduct or misbehavior by Purchaser or their representative at any time.

(h) By either party by providing prior written notice for a period of 90 days, where any Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Act, as described in Clause 16 below; and such inability to perform lasts for not less than a total of 90 days in any continuous period of 180 days, In such event, the termination shall take effect on expiry of the notice period of 90 days, 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.

15.2 Termination of this Agreement shall be without prejudice to the accrued rights and obligations of either Party as at immediately prior to the termination. On termination of the Agreement, State Government shall be duly informed by the Party terminating the Agreement, of such termination.

15.3 Notwithstanding the provisions of Clause 15.1 and 15.2 above, in the event of any material change in the coal distribution system of Corporation due to a Government directive/ notification, at any time after the execution of this Agreement, the same shall be notified by the Corporation to the Purchaser in writing. In the event the Corporation decides to terminate this Agreement, arising out of any such change, it shall notify the Purchaser at least 30 days in advance of such termination coming into effect and the Corporation shall stand relieved of any obligation under the Agreement. For the avoidance of any doubt, Corporation shall bear no liability on account of such termination.

16. **FORCE MAJEURE:**

16.1 As used in this Agreement, the expression “**Force Majeure**” or “**Force Majeure Act**” means any act, circumstance or event or a combination of acts, circumstances and events which wholly or partially prevents or delays the performance of obligations of either party arising under this Agreement (“Non-Performing Party”) when such act, circumstance or event is not reasonably within the control of and not caused by the fault or negligence of the Non-Performing Party, and provided that such act, circumstance or event is relatable to one or more of the following categories:

- a) Flood, inundation of mine, drought, lightening, cyclone, storm, earthquake or geological disturbances, eruption of gases and such like natural occurrences;
- b) 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;
- c) The enactment, promulgation, amendment, suspension or repeal of any Applicable Laws after the date hereof;
- d) Any delay or direction or order on the part of the Government of India or relevant State Government on denial or refusal to grant or renew, or any revocation, or modification of any required permit or mining lease or governmental approvals provided that such delay, modification, denial, refusal or revocation was not due to a cause attributable to the non-performing Party;
- e) Mine fires and inundation where either is caused due to natural causes despite normal precautions in accordance with extant mining practices in India, subsidence, eruption of gases and unforeseen geological disturbances;
- f) war, riot, civil war, blockade, insurrection, acts of public enemies or civil disturbance;

Provided that a Force Majeure act, circumstance or event shall not include economic hardship, equipment failure or breakdown other than as specifically set forth above.

16.2 **Burden of Proof:**

In the event the Parties are unable to agree in good faith that a Force Majeure Act has occurred; the Parties shall resolve the dispute in accordance with the provisions of this Agreement. 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.

16.3 **Effect of Force Majeure:**

If either Party is wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Act, then that the Non-Performing Party shall be

excused from whatever performance is affected by the Force Majeure Act to the extent so affected, provided that :

- a) Within 5 (five) Business Days after the occurrence of the inability to perform due to a Force Majeure Act, the Non-Performing 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 7 (seven) days, during the period of Force Majeure.
- b) The Non-Performing Party shall use all reasonable efforts to continue to perform its obligations hereunder and to correct or cure as soon as possible the said Force Majeure Act.
- c) The suspension of performance shall be of no greater scope and no longer duration than is reasonably necessitated by the said Force Majeure Act.
- d) The Non-Performing Party shall provide the other Party with prompt notice of the cessation of the said Force Majeure Act giving rise to the excuse from performance and shall thereupon resume normal performance of obligations under this Agreement with utmost promptitude.
- e) 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.
- f) 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 the Force Majeure Act or for partial performance hereunder during periods of Force Majeure.
- g) The Force Majeure Act shall not relieve either Party from its obligation to comply with Applicable Laws. The Non-Performing Party shall exercise all reasonable efforts to mitigate or limit damages to the other Party.
- h) Quantity of Coal not delivered by the Corporation, or not accepted by the Purchaser due to the Force Majeure Act shall reduce the ACQ by the same amount.

17. **SCHEDULES / ANNEXURES:**

The Schedules detailed below shall form part of this Agreement.

Schedule - I - Letter of nomination of State Government.(Preamble)

Schedule - II - Annual Contracted Quantity (Clause 4.1)

Schedule- III- Affidavit as per Clause 4.7 of this agreement

Schedule - IV– Bankers Verification

Schedule – V- Authorization Letter

Schedule –VI- General Power of attorney if applicable

18. **MISCELLANEOUS:**

- 18.1 The purchaser will submit all the reports/certificates/affidavits and/or information as required by the Corporation from time to time. Corporation may require the purchaser to provide reports/certificates/affidavits and/or information either in physical form or through websites. Non-submission of same within prescribed time may result in suspension of supply or termination of Agreement.
- 18.2 Amendment: This Agreement cannot be amended or modified except by prior written consent of the Parties.
- 18.3 Severability and Renegotiation: 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, and in such eventuality the Parties agree to negotiate with a view to amend or modify this Agreement for achieving the original intent of the Parties.

- 18.4 Governing Law: This Agreement, and the rights and obligations hereunder shall be interpreted, construed and governed by the laws, regulations and rules in force in India.
- 18.5 Entirety: This Agreement and the Schedules, and such documents attached or referred hereto are intended by the Parties as the final expression of their Agreement and are intended also as a complete and exclusive statement of the terms of their Agreement. All prior written or oral understandings, offers or other communications of every kind pertaining to the matters contained in this Agreement are hereby abrogated and withdrawn.
- 18.6 Counterpart: This Agreement may be executed in any number of counterparts and each counterpart shall have the same force and effect as the original instrument.
- 18.7 The MANAGING DIRECTOR of the Corporation or his representative/s nominated for the purpose shall be authorized to act for and on behalf of the Corporation.
- 18.8 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 Business Days of such change.
- 18.9 All notices under this Agreement shall be made in writing and shall be either in Marathi, Hindi or in English.
- 18.10 Unless otherwise specified, the notices to be sent by the Corporation to Purchaser or by Purchaser to the Corporation shall be at the following addresses:

MAHARASHTRA STATE MINING CORPORATION LTD. PURCHASER

- | | |
|--|--------------------|
| a) Postal Address: Plot No 7 Ajni Square, Wardha Road, Nagpur | 1. Postal Address: |
| b) Phone No. : 0712-2253204-06 | 2. Phone No. : |
| c) Fax : 0712-2253203 | 3. Fax : |
| d) e mail : sales@msmc.gov.in | 4. e mail : |

Signed in presence of the witness / witnesses under mentioned on _____ day of_____.

for Maharashtra State Mining Corp. Ltd. Name of the Purchaser
(Seller)

Name

Name

Designation

Designation

Witnesses (with Name and Designation)

1

1

2

2

Schedule-I

NOMINATION LETTER OF STATE GOVERNMENT

Schedule-II

**Annual Contracted Quantity
(Refer Clause 4.1)**

Annual Contract Quantity

Sl. No.	Annual Contracted Quantity	Mode of Transport	Coalfield of the WCL
		By Road	Wardha/ Nagpur/ Kamptee/ Umred/ Pench/ Kanhan/ Patharkheda