



TALWANDI SABO POWER LIMITED

Tender Specification No:

TN/5/CM/TSPL/2022-23/R0

Bidding Document and Technical Specifications for Lifting and

Transportation of Coal through

Road-cum-Rail (RCR) mode

from

Bharat Coking Coal Limited (BCCL)

To

Talwandi Sabo Power Limited, Mansa, Punjab

18th July 2022

*This document may be amended at the discretion of TSPL (if needed).

Contents

VOLUME I: INSTRUCTIONS TO BIDDERS	7
1. INTRODUCTION.....	7
2. ABBREVIATIONS	7
3. GENERAL INFORMATION.....	7
4. BID SUBMISSION AND OPENING PROCEDURE.....	8
4.1 BID OPENING AND EVALUATION METHODOLOGY:	9
4.2. Reverse Bidding:.....	10
4.3 Evaluation for Technical Qualification:	10
4.4 Evaluation of the Price Bid	11
5. TIME SCHEDULE FOR BIDDING PROCESS:	12
6. BID LANGUAGE.....	13
7. BID CURRENCY	13
8. EARNEST MONEY	13
9. PERFORMANCE BANK GUARANTEE	14
10. NEGOTIATIONS AND AWARD OF CONTRACT	16
11. QUANTITY TO BE OFFERED & ALLOCATION OF WORK AMONGST SUCCESSFUL BIDDERS:	18
12. BID VALIDITY	18
VOLUME II: CONDITIONS OF CONTRACT	19
1. DEFINITIONS.....	19
2. NOTICES	21
3. GOVERNING LAW AND DISPUTE RESOLUTION	21
4. TAXES AND DUTIES.....	22
5. CHANGES IN LAW	22
6. COMMENCEMENT, COMPLETION AND MODIFICATION OF CONTRACT	23
7. PAYMENT TERMS	23
8. PERIOD OF CONTRACT.....	23

9.	CONTRACTOR'S OBLIGATION	24
10.	SERVICE PROVIDER'S REPRESENTATION AND WARRANTIES	24
11.	FORCE MAJEURE.....	25
12.	INDEMNITY.....	27
13.	LIMITATION OF LIABILITY	28
14.	CONFIDENTIALITY	28
15.	ENFORCEMENT OF TERMS	29
16.	SUSPENSION.....	29
17.	TERMINATION	30
18.	COMPANY'S RIGHT ON TERMINATION FOR DEFAULT	31
19.	CONSEQUENCES OF TERMINATION	32
20.	SPLITTING OF WORK.....	32
21.	POWER TO VARY OR OMIT ANY ITEM OR WORK	32
22.	BANKRUPTCY	33
23.	RISK PURCHASE	33
24.	LEGAL COMPLIANCE.....	33
25.	SAFETY, HUMAN RIGHTS AND ENVIRONMENTAL COMPLIANCE	34
26.	REPORTING	34
27.	BUSINESS ETHICS.....	34
	APPENDIX- A: SUPPLIER CODE OF CONDUCT.....	38
	LABOUR & HUMAN RIGHTS.....	38
	HEALTH, SAFETY & ENVIRONMENTAL SUSTAINABILITY	39
	BUSINESS INTEGRITY	39
	Anti-Bribery:.....	39
	Unfair Trade Practices:.....	40
	REPORTING OF UNETHICAL PRACTICES AND GRIEVANCE ADDRESSAL MECHANISM	40
	• INTELLECTUAL PROPERTY	40
	• THIRD PARTY REPRESENTATION	40

•	PROHIBITION ON INSIDER TRADING	40
•	SUPPLIER'S COMPLIANCE COMMITMENT.....	41
	VOLUME III: TECHNICAL SPECIFICATION & SCOPE OF WORK	42
1.	SCOPE OF WORK	42
2.	PRICE & PRICE BASIS & ITS EFFECTIVENES:.....	45
3.	QUANTITY	46
4.	QUALITY	47
5.	Damages for loss on account of GCV lower than [Guaranteed GCV (ARB)]	47
6.	Damages for loss on account of Excess TM% (Excess TM adjustment).....	48
7.	TRANSIT LOSS.....	49
8.	Damages for deviation/Railway Freight recovery due to High TM%.....	50
9.	Damages for loss on lapsed quantity of Coal	51
10.	Damages for loss on Under-loading and Over-loading charges imposed by Railways for Coal rake.....	51
11.	Damages for loss on Raw Coal shortfall quantity	52
12.	Damages for loss due to foreign material	52
13.	Liquidated Damages.....	53
14.	LOADING POINT DEMURRAGE	53
15.	Cap on Penalties.....	54
	ANNEXURE-I for BCCL : PRICE BID FORMAT	55
	ANNEXURE-II: COVERING LETTER	60
	ANNEXURE-III: PROFORMA OF PERFORMANCE BANK GUARANTEE.....	62
	ANNEXURE-IV: CERTIFICATE FOR SUPPLIES OF QUANTITIES	64
	ANNEXURE-V: FORMAT FOR ANNUAL TURNOVER	65
	ANNEXURE-A: Scope for Tarpaulin Covering	67
	SCOPE OF WORK	67
	PENALTY FOR NON-COVERING OF ANY RAKE AT LOADING POINT	68
	PENALTY FOR MISSING TARPAULIN AT UNLOADING POINT	68
	ANNEXURE – B (QUANTITY DETERMINATION AT TSPL).....	69

VOLUME I: INSTRUCTIONS TO BIDDERS

1. INTRODUCTION

Talwandi Sabo Power Limited ("hereinafter referred to as TSPL/Owner"), a subsidiary of Vedanta Limited in Commercial Power, has developed one of the largest green-field Thermal Power Project in Punjab with capacity of 1980 MW (3 x 660 MW).

TSPL invites bids from reputed Contractors for Lifting and Transportation of Coal through Road- cum- Rail (RCR) mode from Bharat Coking Coal Limited (BCCL) to Talwandi Sabo Power Limited, Mansa on Terms & Conditions as specified in this Tender.

2. ABBREVIATIONS

BCCL: Bharat Coking Coal Limited

3. GENERAL INFORMATION

The interested bidders are invited to submit their bid comprising of Technical Bid and Price Bid for the subject package, in line with the provision of this bidding document. The detailed procedure for submission of bids has been detailed hereunder in this document. The cost on account of preparation and submission of bid, negotiations, discussions etc. as may be incurred by the bidder(s) in the process are not reimbursable by TSPL and TSPL will in no case be responsible or liable for these costs, regardless of the outcome of the bidding process.

TSPL reserves all right to reject any or all bids, wholly or partially, extend the date of submission of bids and to annul the bidding process without assigning any reasons whatsoever, at any time prior to award of Contract, at its sole discretion, and in such case no bidder /intending bidder(s) shall raise any loss, claim or liability arising out of or in connection with such action.

While an attempt has been made to define and capture the requirements in an exhaustive manner as possible, bidders are advised and are expected to have a thorough understanding of the applicable requirements for performing services as defined in the Scope of Work. Coal quantity for lifting will depend upon the load requirements of TSPL & are subject to change as per TSPL's requirements.

4. BID SUBMISSION AND OPENING PROCEDURE

- Based on the EOI received on TSPL.Fuel@vedanta.co.in, TSPL will send a Link for bidder's registration and for online submission of Bid & reverse bidding, Bidders shall register themselves on ARIBA portal and obtain the login credentials / password for the same and keep the same valid up to completion of bidding process.
- Bidders should understand the online submission procedure thoroughly and then fill up the Bids. Bidder must register themselves/their firm on ARIBA portal well in advance to understand the process and formalities for online Technical and Price Bid submission. No excuse of insufficient knowledge regarding online submission & physical submission **shall not be acceptable to the Company**. Bidders to submit both Technical & Price bid as per mentioned timeline on ARIBA portal (refer Clause 3).
- Bidders shall fill-up/submit the Bid online in the formats provided in the ARIBA portal.
- Bidders shall submit their Bids online and follow the instructions as provided on the screen for submission of Bids. A training session on submission of Bids shall also be carried out on ARIBA portal, at least two days prior to the Bid Due Date.
- The figures mentioned in the illustrations given in the Bid Document are only for illustrative purposes. They shall not be binding on the Parties.
- All communications pertaining to this Bid Document shall be addressed to:

Chief Commercial Officer

Talwandi Sabo Power Limited

Talwandi Sabo Road, Vill - Banawala

Distt- Mansa Punjab-151302

Ph. No.: -7087026236

Email: tspl.fuel@vedanta.co.in

- The bidders, in their own interest are advised not to wait till the last moment, to submit their bids. TSPL shall not be responsible for any delay in receipt of the Bids any reason whatsoever including failure or non-availability

of Internet connectivity and/or electrical power, issues related to equipment, hardware, and software etc. Any Bid received after the expiry of the time specified for receiving the same shall not be entertained. However, TSPL at its discretion may extend the timelines for any reasonable cause.

4.1 BID OPENING AND EVALUATION METHODOLOGY:

4.1.1 Stage-1: The envelope 1 (as per clause 9) will be opened in the presence of TSPL tender committee and Punjab State Power Corporation Limited’s (PSPCL) representatives (if deputed) as per the timelines specified.

4.1.2 Evaluation of the “Responsiveness” will be done as per the following chart:

SL NO	PARTICULARS	YES	NO	REMARK	SIGNATURE
1	Has the Bidder submitted document as required for Stage-I?				
2	Is EMD deposited/ submitted?				
3	Does the EMD is of required amount and valid as per requirement?				
4	Is the EMD, if submitted through BG, as per format?				
5	Is the Bid unconditional/ non-suggestive?				
6	Is the Power of Attorney Submitted?				

4.1.3 Bids which are not complete in all aspects as stipulated above and/or without EMD are liable for rejection. TSPL may at its discretion accept any non-material/ minor deviations. TSPL and PSPCL representative(s) (if deputed) for tender process shall have the discretion to decide whether the deviation is non-material/ minor.

4.1.4 Balance requisite documents to be opened only for those Bidders who meet the responsiveness requirements. After opening balance requisite documents, Price Bid of the Qualified Bidders (who meet the qualification requirements) shall be opened online in the presence of TSPL tender committee and PSPCL representative(s) (if deputed) as per the specified timelines in clause 3. Ranking of Bidders shall be prepared on the basis of cost evaluation and in the sequence of lowest to highest (increasing order).

4.2. Reverse Bidding:

4.2.1 Selection of Bidders for reverse bidding: All the Qualified Bidders.

4.2.2 Reverse bidding start price: The lowest price in Rs./MT. discovered during close bidding shall be the opening price (Start Price for Reverse bidding). Projection of opening price on the opening price on the screen shall initiate the reverse bidding process, which shall be conducted on ARIBA Portal.

4.2.3 Decrement value: Rs 20 per MT or higher (in multiples of Rs. 20/MT).

4.2.4 All documents submitted as a part of bidding process will become the property of TSPL and are not returnable.

4.3 Evaluation for Technical Qualification:

The Bid will be evaluated as per technical qualification as per the table below (Envelope 1) .

Note: TSPL reserves the right to verify the authenticity of the documents submitted for meeting the qualification requirement and may request for any additional information and documents. TSPL reserves the right to contact the bidder's bank and third parties' references to verify the bidder's information and documents for the purpose of qualification. In such cases, bidder shall co-operate fully with TSPL at their own cost. In case TSPL desires to verify copies with originals that are not submitted, bidder is required to make them available at TSPL premises.

<p>Technical Qualification Requirements</p>	<p>a) Experience in Transportation of coal at CIL subsidiaries / Indian Ports.</p> <p style="text-align: center;">AND</p> <p>b) Experience in coordination with Railways for loading of coal in rakes & dispatch of coal.</p> <p>Interested Applicant(s) meeting requirement criteria of a & b of this table shall be considered qualified.</p>	<p>a) 3 Lakh MT per Annum during any one of the last 5 financial years i.e., FY 2021-22, 2020-21, 2019-20, 2018-19, 2017-18</p> <p style="text-align: center;">AND</p> <p>b) 3 Lakh MT per year in any one of the last 5 financial years i.e., FY 2021-22, 2020-21, 2019-20, 2018-19, 2017-18.</p>	<p>1. Certificate issued by Statutory Auditors based on PO/Work orders.</p> <p>2. Self-certified copies of POs/ CONTRACTs executed substantiating handling of 3Lakh MT in a year.</p> <p>3. Self-certified summary of POs/ CONTRACTs</p> <p>4. Performance certificate from customers of Order copies submitted in point 1 above.</p>
<p>Financial Qualification Requirements</p>	<p>A. Annual Turnover of Bidder in any one financial year during last 5 Financial Years.</p> <p>B. Net worth of Bidder as on 31.03.2021</p>	<p>A. Rs. Twenty Crores</p> <p>B. Rs. Two Crores</p>	<p>Turnover and net worth duly certified by Statutory Auditors along with Audited Financial Statements & Income Tax returns. Bidder shall submit a certificate issued by CA in this regard.</p>

Notes:

1. Bidding through a Consortium is not permitted.
2. In case the annual accounts for the financial year immediately preceding the last date of submission of Bid are not audited, the Bidder should give a certificate to this effect from its Statutory Auditors.
3. Both technical & financial parameters shall form part of the total qualification requirement.

4.4 Evaluation of the Price Bid

- The Bids shall be evaluated on the basis of lowest Landed cost mine wise (Rs/MT) at TSPL however, TSPL reserves the right to issue order to more than 1 party in the interest of supplying continuous power to PSPCL.

Price Bids of the Qualified Bidders will be opened in the presence of TSPL representative, and PSPCL representatives as per the timelines.

5. TIME SCHEDULE FOR BIDDING PROCESS:

Date	Event
19 th Jan-22	Publishing of NIT in newspapers
18 th July-22	Date of availability of Bid document at TSPL website
20 th July-22	Last date for receipt of comments/suggestions (latest by 18:00 Hrs)
21 st July-22	Pre-Bid clarifications
22 nd July-22	Commencement of submission of Bid (online – ARIBA) from 11:00 hrs onwards
26 th July-22	Closing of submission of online Bid on ARIBA (has to be on or before 10:00 Hrs)
26 th July-22	Receipt of all required physical documents for bid submission including DD for EMD (or in case of RTGS, subject to realization of amount in TSPL bank account) has to be on or before 10:00 Hrs, at TSPL.
26 th July-22	Opening Technical Bids at 11:00 Hrs at Mansa/Patiala
26 th July-22	Opening of Price Bids (depending upon number of Bidders and subject to completion of Technical Evaluation)
26 th July-22	Reverse Bidding, Time to be intimated

Note:

- TSPL reserves the right to amend the above schedules. Interested parties should monitor TSPL website for amendments/changes on a regular basis.
- Timelines mentioned above are indicative and are subject to change at the discretion of TSPL. TSPL reserves the right to amend the above schedule or modify/cancel the bid process at its own discretion. The successful bidder shall not be entitled to any loss / claim / damage arising out of or related to the amendment / modification / change in the abovementioned schedule. All expenses in relation to Bidding to be borne by the Bidder.

TSPL reserves all rights to reject any/all of the bids, wholly or partially, without assigning any reasons whatsoever, at its sole discretion. TSPL shall not be liable towards any cost for preparation and submission of bids or incidental expenses, incurred by the bidder.

TSPL reserves the right to assign the Scope to a single or multiple bidder(s) at its sole discretion. TSPL reserves the right to allow for minor deviations/accept the Bid at its own discretion for higher competition.

Note: In case of any relaxation/deviation requested in Qualification Requirement, please attach the annexure specifically highlighting the deviations requested and reasons for the same.

6. BID LANGUAGE

The bids prepared by the bidder(s) and all correspondence and documents related to the bid exchanged between the bidder(s) and TSPL shall be in English language. Any printed literature/certificate furnished by the bidder(s) in another language, shall be accompanied by certified translation in English language.

7. BID CURRENCY

The bidder shall quote the prices in INR currency as per Price Bid Submission Format.

8. EARNEST MONEY

The bidders are required to deposit the Earnest Money of INR 50 Lacs through RTGS. The validity of the EMD shall be six months from the Tender opening date. In case of tenders of unsuccessful bidders, the earnest money shall be refunded within 7 days of the award of Contract or after the expiry of validity period of the bids, whichever is earlier. In case, a successful bidder refuses to honor the Contract awarded to him, his EMD shall be forfeited. EMD of the successful bidder(s) shall be returned on submission of security deposit amount.

Beneficiary Name	: Talwandi Sabo Power Limited
Account No.	35216862121
Centre (Location)	: Mumbai
Bank	: State Bank of India

Branch : CAG Branch, Mumbai
Account Type : Cash Credit
IFSC Code : SBIN0016376

9. PERFORMANCE BANK GUARANTEE

- 9.1** The Service Provider shall furnish, within seven (7) working days of the execution of the Agreement, an irrevocable Performance Bank Guarantee (PBG) in the form of a Bank Guarantee (as per TSPL's format) from any of the Indian Nationalized Bank or Scheduled Bank (such as State Bank Of India, Bank Of Baroda, Bank Of India, Canara Bank, Indian Bank, Union Bank Of India, Axis Bank Ltd., HDFC Bank Ltd., ICICI Bank Ltd.), encashable at Mansa/Bathinda branch subject to minimum value of Security Deposit of INR 1 Crores. Further, the successful bidder needs to provide additional PBG for the remaining amount prior to issuance of DO to the bidder as intimated by TSPL such that total value of PBG is equivalent of DO (Delivery Order) value subject to maximum up to 10 Cr. However, at any point of time during execution of contract, the value of coal under custody of the bidder shall not exceed the amount of PBG available with TSPL.
- 9.2** The PBG shall remain valid in full force and effect during the period that would be taken for satisfactory performance and fulfilment in all respect of the Contract and shall be valid initially for a period of 6 months beyond the period of Agreement. The PBG amount can be decreased by the bidder corresponding to monthly DO quantity with consent of TSPL.
- 9.3** The Performance Bank Guarantee so furnished by the Service Provider shall be released upon successful completion of the obligations of the Service Provider in terms of the Agreement after the Company duly submits a certificate to the effect that there are no claims against the Company from any of its vendors, subcontractors and/or any other third party, including but not limited to the Service Provider's employees, engaged in performance of the obligations of the Service Provider under the Agreement. If requested by the Company, the Service Provider agrees to extend the validity period of the Performance Bank Guarantee or to issue a further Performance Bank Guarantee in the event that the duration of this Agreement is for any reason extended beyond such validity date.
- 9.4** The Service Provider shall renew the Performance Bank Guarantee fifteen (15) days prior to the date the Performance Bank Guarantee expires ("Expiry Date") in case of any extension to the Term. If the Service Provider does not submit to the Company a renewed Performance Bank Guarantee fifteen (15) days prior to the Expiry Date, the Company shall have the right to immediately draw

down complete Performance Bank Guarantee amount and shall reserve the right to retain such amounts till such time the Service Provider provides a replacement Performance Bank Guarantee for the equivalent amount.

9.5 The Service Provider shall renew the Performance Bank Guarantee or otherwise submit an additional Performance Bank Guarantee, as duly required by the Company, on account of change in the Agreement value pursuant to a variation or amendment to the Agreement, within fifteen (15) days of being so notified by the Company. If the Service Provider does not submit to the Company a renewed Performance Bank Guarantee or an additional performance bank guarantee, as the case may be, within the said period of ten (10) days, the Company shall have the right to immediately draw down complete Performance Bank Guarantee amount and shall reserve the right to retain such amounts till such time the Service Provider provides a replacement performance bank guarantee(/s) for the equivalent amount.

- i. In addition to the right contained in the preceding clause, the Company shall further have an unqualified right under the Agreement to draw on the Performance Bank Guarantees under the following circumstances: failure by the Service Provider to supply the Services in accordance with the Agreement resulting in termination; or
- ii. failure by the Service Provider to duly perform any of its obligations under this Agreement; or
- iii. Any valid claim made by the Company accruing due to any acts/omission of the Service Provider and the Service Provider fails to pay the Company for such a claim immediately upon such demand.

9.6 The provision and maintenance of the Performance Bank Guarantee by the Service Provider in accordance with the terms of the Agreement shall be a condition precedent to any payment by the Company to the Service Provider.

9.7 If the Service Provider fails to provide, maintain, or renew the Performance Bank Guarantee in accordance with the terms of the Agreement, then the Company may, without prejudice to any other rights and remedies to which it may be entitled to, invoke the Performance Bank Guarantee and/or terminate the Agreement forthwith by written notice.

9.8 In addition to the other circumstances specified in this Agreement, Company has the right to draw down all or part of the value of the Performance Bank Guarantee and, at Company's discretion, apply the proceeds in remedying any breach by Service Provider of this Contract. Such recourse against the Performance Bank Guarantee shall be without limitation to any other right or remedy of the Company in relation to the relevant Service Provider breach.

10. NEGOTIATIONS AND AWARD OF CONTRACT

- a) TSPL will conduct the reverse bidding. The start/opening price of the reverse bidding shall be finalized by TSPL. Projection of opening price on the screen shall initiate the reverse bidding process, which shall be conducted as per the instructions and procedure provided by the ARIBA portal service provider at the time of reverse bidding.
- b) During reverse bidding, Bidders shall submit their Bids online and follow the instructions as provided on the screen for submission of Bids. Detailed procedure for reverse bidding shall be uploaded on ARIBA portal of service provider and training session will also be conducted by the service provider. TSPL reserves the right to negotiate with the Bidders (after reverse bidding) in consultation with PSPCL. Notwithstanding any other provision of this Bid Document, the Contract between TSPL and the Successful Bidder(s) shall come into existence by the following process:

TSPL may award a Contract(s) to more than one Successful Bidder and such Contract shall incorporate the terms of this Bid Document.

- c) TSPL may at its own discretion issue a Letter of Award to the Successful Bidder(s). Such Letter of Award may include certain conditions which the Successful Bidder must satisfy before TSPL issues a Purchase Order to such Successful Bidder.
- d) TSPL may issue Purchase Order(s) to the Successful Bidder who must comply with the terms of such Purchase Order(s). TSPL shall in no circumstances be obliged to issue any Purchase Order(s) to any or all the Successful Bidder(s). However, any failure to comply with the terms of an issued Purchase Order shall be treated as a breach of the terms of the Contract and TSPL shall be entitled to exercise its remedies specified in the Contract.
- e) The complete Tender document may be downloaded from TSPL website (www.tsplindia.co/tender/). Bid submission process consists of online submission of Price Bid and requisite documents in Envelope I, Envelope II & Envelope III.
Details are as under,

Envelope I

- Superscribed as Technical Bid shall contain all the documents as elaborated in the bid for technical acceptance and qualification of the Bid (excluding Bid Price) duly filled in and signed by the Bidder in the following order. Please Note that all documents related to Envelope I shall be submitted Online.
- One copy of Bidding/Tender Document duly stamped and signed on each page as a token of acceptance of all terms and conditions contained therein.
- Complete company profile
- Documents for quantity supplied in last Five financial years. (Annexure C)
- Audited Balance sheet for last Five financial years.
- Board Resolution/POA from the Company Authorizing the person signing the Bid as authorized signatory.
- Any other documents that Bidder feels is important to establish the qualifications and fulfill the tender requirements.
- No hand-written price bids will be accepted.

Envelope II -

- It shall contain the Price Bid and other details as per Volume-III (Annexure –I of the Bidding Documents & shall be submitted through online.
- Price Bid submission form (Annexure I).

In the event of any discrepancy between “the original document” and any copy of the document submitted with the bid, interpretation by TSPL as per the original document shall prevail. In event of the any computational error, the element wise quoted price will be considered as correct bid.

- Bid must be unconditional and non-suggestive. Bids with conditions/suggestions (including any amendments to the terms & conditions of this Bid Document) being nonresponsive are liable to be summarily rejected in TSPL's sole discretion. Any Bidder specifying conditions/suggestions may be debarred from participation in the future bidding process.
- The Bidder shall quote prices for complete Scope of Work of the Bid Document, as per format of Annexure I (as applicable).
- Price bid shall be submitted online. Price Bid submitted in physical form shall be rejected.

11. QUANTITY TO BE OFFERED & ALLOCATION OF WORK AMONGST SUCCESSFUL BIDDERS:

TSPL prefers single Contractor per mine. L1 bidder from a given mine will be given 100% of the monthly allocated quantity. However, the quantity can be distributed in the ratio of 70:30 between L1 & L2 bidder. The estimated monthly requirement is approximately 0.40 Lakh MT to 2.00 Lakh MT. However, it may vary based on actual allocations from BCCL. The Contractor has to offer a minimum quantity as per format of Price bid. Please note that TSPL reserves the right to allot the quantity to a particular bidder based on the successful performance of the Contract in terms of coal delivery to TSPL as per the quality parameters of the Contract by the bidder(s) on a monthly basis. Bidder(s) are expected to keep the coal available through different DOs separately.

12. BID VALIDITY

The Bids submitted should be valid for a period of 180 days from the last date of submission of Bid.

VOLUME II: CONDITIONS OF CONTRACT

1. DEFINITIONS

- (a) **“Bidder”** means the party who submits its Bid. In case of a Consortium/ Joint Venture, either Lead Member or Consortium Member may submit the Bid Document, but Lead Member shall be referred to as the Bidder. In case of Consortium, the order will be given to Lead Partner only on behalf of consortium.
- (b) **“Bidding Document/ Bid Document”** includes all the documents listed in Clause 3 of Volume I.
- (c) **“Confidential Information”** means all information in which a party has the rights that is not generally known to the public and that under all the circumstances should reasonably be treated as confidential or proprietary, whether or not the material is specifically marked as confidential.
- (d) **“Contract or Agreement”** means the Contract entered into between the Successful Bidder and TSPL, covering the Scope of Work and Terms & Conditions of the Contract, together with all the documents referred to therein, such as this Bidding Document, or amendments made thereof.
- (e) **“Contractor/ Successful Bidder/ Supplier/ Service Provider”** shall mean Party selected to perform the Work under the Scope of Work in this Bidding Document.
- (f) **“Contract Price/ Bid Price”** means the price to be paid for the performance of the Work detailed under Scope of Work, subject to such additions and adjustments thereto or deductions there from, as may be made pursuant to the Bidding Document/Contract.
- (g) **“Government”** means the Government of India including State Government and Local Statutory Bodies.
- (h) **“Language”** implies English, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of the terms.
- (i) **“Lead Member”** of the Joint Venture/ Consortium shall be the Member authorized by other partner (s) to be the lead member.
- (j) **“Local Currency”** means Indian Rupees.
- (k) **“MT/Ton/Tonne”** means Metric Tonne which is equivalent to 1000 Kg.
- (l) **“Owner”** means TSPL or Talwandi Sabo Power Limited.
- (m) **“Party”** means TSPL or Bidder, as the case may be, and "Parties" means both of them.
- (n) **“Personnel”** means persons hired by the Contractor as employees and assigned to the

performance of the Services or any part thereof or TSPL's personnel as per the context.

- (o) **“Quarter”** implies a continuous period of 90 days reckoned from the day one shall be treated as one Quarter and subsequent period of 90 days after completion of previous Quarter shall be treated as following Quarter.
- (p) **“Responsiveness”** shall mean broad compliance to the requirements as ascertained during Technical Bid opening.
- (q) **“Services/Works”** means the work to be performed by the Contractor pursuant to the Contract, as detailed in the Agreement or Contract.
- (r) **“TPA”** means any Third-party sampling agency as appointed by TSPL for sampling, preparation & analysis of coal lifted through RCR mode.

2. NOTICES

2.1 Any notice or other communication required or given under this Agreement shall be delivered in writing either by hand or by courier, registered mail with acknowledgment due, e-mail (e-mail shall be considered as delivered once received by the receiving party) or fax to the address of the relevant Party set out in the Agreement (or such other address as may be notified by the relevant Party from time to time).

2.2 If a notice is delivered by hand or courier during normal business hours of the intended recipient, it shall be deemed to have been received at the time of delivery otherwise on the next business day of the recipient. A notice sent by facsimile shall be deemed to have been received at the time when the sender's facsimile machine acknowledges transmission provided however that if the time of acknowledgement of transmission is after 5.00pm on a business day of the recipient it shall be deemed to have been received on the next business day of the recipient.

2.3 All notices or other communications between the Parties shall be in the English language.

3. GOVERNING LAW AND DISPUTE RESOLUTION

3.1 This Agreement shall be governed by, construed and enforced in accordance with the laws of Punjab, India. Subject to clause 2.2 below the parties submit to the exclusive jurisdiction of the courts of Mansa, Punjab, India and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Contract.

3.2 Any dispute or difference whatsoever arising anticipated breach thereof or determination and enforcement of respective rights, obligations and liabilities of the parties thereto shall be amicably settled by way of mediation by meeting(s) between senior management representatives of each Party. If the dispute is not conclusively settled within a period of twenty-one (21) days from the date of commencement of mediation or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration and Conciliation Act, 1996 (as amended from time to time), which are deemed to be incorporated by reference into this clause. The arbitration shall be conducted as follows:

(i) A sole arbitrator shall be appointed in case the value of claim under dispute is less than ₹ 50,00,000 (Rupees Five Million Only) and in any other event by a forum of three arbitrators with one

arbitrator nominated by each Party and the presiding arbitrator selected by the nominated arbitrators.

(ii) The language of the mediation and arbitration proceedings shall be English. The seat and venue of arbitration shall be Mansa, Punjab.

(iii) The award made in pursuance thereof shall be final and binding on the parties. The right to arbitrate Disputes under this Agreement shall survive the expiry or termination of the Agreement.

3.3 It is clarified that the services under the Agreement shall be continued by the Service Provider during the arbitration proceedings unless otherwise directed in writing by the Company.

4. TAXES AND DUTIES

The Contractor shall pay such taxes, duties, levies, fees and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Bid Price.

Bid Price is inclusive of all Taxes and Duties except GST (on the Invoice value as applicable on the Date of Invoice). Any future tax introduced and made payable by TSPL under its Statutory provisions in respect of the Contract shall be payable by TSPL. TDS shall be deducted as per applicable provisions of Income Tax Act, 1961 or its amendments or replacement statute. The Bidder would provide necessary documents and records to TSPL to enable TSPL to claim GST credit. All other changes in duties and taxes applicable on Contractor will be on Contractor's account.

5. CHANGES IN LAW

If, after the date of execution of this Agreement, there is any change in law, excluding any change(s) as result of interpretation by competent authority, tribunal & Court, which results in a change in the rate of any Tax included in the Service Provider's prices or rates or the introduction of a new Tax and such change results in an increase or decrease in the cost to the Service Provider of performing this Agreement then the Parties shall agree to a revision in pricing to reflect such change provided that:

- (a) the Party requesting such revision shall promptly (and in any case prior to submission of the Service Provider's final invoice under this Agreement) but not later than 07 (seven) business days notify the other Party that such change in law has arisen; and
- (b) the Party requesting such revision shall provide the other Party with documentary proof of such change in cost to the reasonable satisfaction of the other Party; and
- (c) the provisions of this Clause shall not apply to changes in Personal Income tax or Corporate Income tax or to changes in non- Indian Taxes.

6. COMMENCEMENT, COMPLETION AND MODIFICATION OF CONTRACT

Effectiveness of Contract: The Contract/Agreement shall come into force with effect from the date of signing of the same or as detailed in the Contract.

Modification: Modification of the terms and conditions of the Contract, including any modification of the scope of work or of the Contract Price may only be made by written agreement between the Parties.

7. PAYMENT TERMS

Bills shall be submitted on monthly basis on rakes receipt at TSPL, for the raw coal transported, handling and coal loaded in rakes. The payment shall be released as per the procedure as follows:

TSPL will release payment of 100% of the Bill for each period as admissible, within 30 days from the date of receipt of bills along with TPA results (including available referee results). In case, TPA results not available, 80% payment shall be made & remaining shall be released after receipt of TPA results (including available referee results). The Company shall account for necessary deductions at the time of payment of 100% of the bill that may be on account of penalties, which shall be verified by TSPL based on supporting details/reports to be provided by the Contractor and internal documents.

Note: Invoices and all other supporting and statutory documents to be submitted in original to TSPL.

These bills will be accompanied by statement showing R/R No. Invoice No. and the net weight GCV, etc. as the case may be. The proof of monthly GST paid by the bidder shall be submitted along with bills.

The payments shall be made directly to the Contractor by TSPL. The Contractor shall abide by all the statutory requirements like PAN registration, TIN No registration, GST Registration & procedures, etc. Further, Bidder shall be required to comply with the requirements as laid down by the Reserve Bank of India/Government of India from time to time.

8. PERIOD OF CONTRACT

The Contract shall be for a period of 12 months effective from the date of issuance of order. Further, if the performance is found satisfactory, the Contract period may be further extended up to three years if mutually agreed by Contractor and TSPL.

9. CONTRACTOR'S OBLIGATION

The Contractor shall conduct all activities mentioned in the Scope of Work as defined in Volume III of this Tender document with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of services, and in accordance with best industry practices. The Contractor shall be responsible for timely provision of all resources, information and decision making under its control that are necessary for execution of the Contract. The Contractor shall indemnify and hold TSPL and its employees harmless from and against any and all liabilities, damages, claims, fines, penalties and expenses of whatever nature arising or resulting from the violation of such laws by the Contractor or his Personnel and from any illegal use of any resources by the Contractor. In particular, the Contractor shall provide and employ only such Personnel who are skilled and experienced in their respective areas and supervisory staff who are competent to adequately supervise the work at hand. The Contractor assumes primary responsibility for all the jobs for the execution of the Contract in accordance with the relevant provisions of this Bidding Document.

10. SERVICE PROVIDER'S REPRESENTATION AND WARRANTIES

10.1. The Service Provider represents and warrants that:

- (i) It is a duly organized company/business entity validly existing under the laws where it is incorporated/established, and has experience, expertise, ability and skills as required to perform the Services as detailed in this Agreement and as may be necessary to perform its obligations hereunder in a professional manner.
- (ii) It has all the requisite power, authority and approvals required to enter into this Agreement and will have all the requisite power, authority to perform fully each and every obligation under this Agreement.
- (iii) This Agreement has been duly executed and delivered by its duly authorized representatives and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.
- (iv) The execution, delivery and performance of this Agreement and all instruments or addenda required hereunder by it does not contravene, violate or constitute a default of or require any consent under the provisions of any other agreement or instrument to which it is bound, including the constitutional documents thereof, or any order, judgment, decree or injunction of any court of law.
- (v) No legal proceedings are pending or threatened against it before any court, tribunal or authority which do or may restrain or enjoin its performance or observance of the terms and conditions of this Agreement or which do or may in any other manner question the validity, binding effect or

enforceability of this Agreement.

(vi) No order has been made or petition presented for the bankruptcy protection, winding up or dissolution thereof against it.

(vii) It shall maintain high professional standards to ensure performance of this Agreement as per best business practices and in full compliance with statutory obligations.

(viii) It has all necessary statutory and regulatory permissions, approvals and permits for the running and operation of its establishment for the conduct of its business;

(ix) It has full right, title and interest in and to all trade names, trademarks, service marks, logos symbols and other proprietary marks (IPR) (including limited right of use of those owned by any of its vendors, affiliates or subcontractors) which it provides to the Company, for use related to the Services, and that any IPR provided by the Service Provider shall not infringe the IPR of any third party;

(x) The Service Provider represents that there is no inquiry/ investigation pending by the police against the Service Provider or its employees. The Service Provider undertakes that it will confirm at his own cost and expense and shall comply in all respect with the provisions of Government Authority applicable to the Service Provider and/or to the Service Provider's employees;

(xi) The Service Provider shall be liable for all fines, penalties, and the like of parking, traffic and other criminal offences arising out of or concerning the use of any vehicle for performing the Agreement and any toll charges or entry Taxes payable locally and the Service Provider accordingly indemnifies Company against all such liability.

(xii) The Service Provider has sufficient resources available to respond to emergencies/ incidents, which may occur along established transportation routes. In case of any accident resulting in loss or damage to property of life, the sole responsibility for any legal or financial implication would vest with the Service Provider. Company shall have no liability whatsoever.

10.2 Each Party hereby warrants that it has not entered into this Agreement relying on any warranty, representation or undertaking except for any warranty, representation or undertaking expressly set out in this Agreement.

11. FORCE MAJEURE

11.1 For the purposes of this Agreement, "Force Majeure" means the occurrence of any event or circumstance or combination of events or circumstances that is beyond the reasonable control of a Party, has a material and adverse effect on the performance by that Party of its obligations under or pursuant to this Agreement, and that demonstrably could not have been foreseen by the Parties;

provided, however, that such material and adverse effect could not have been prevented, overcome or remedied by the affected Party through the exercise of diligence and reasonable care; but provided, further, that the exercise of diligence and reasonable care will not include the obtaining or maintaining of insurance beyond the requirements of this Agreement.

Subject to clause 11.1 hereinabove, Force Majeure includes without limitation, the following events and circumstances, but only to the extent that each satisfies the above requirements as provided under Clause 11.1; (a) Act of God, (b) fire, flood, earthquake, epidemic, pandemic, natural disaster or extreme natural event (c) war, riot, insurrection, civil commotion, mobilization or military, call up of a comparable scope, which has been notified in accordance with this Clause 9 any direction, judgement, decree or any other order passed by any judicial/ quasijudicial/ administrative authority and/or any direction passed by the government authority/(ies) restraining the performance of obligations, whether in part or in full, of the affected party provided that such orders or directions must not emanate out of actions directly attributable to the affected party or (e) any event owing to any restrictions, directives/directions imposed or passed by the government, judicial, quasi-judicial authorities if they impede or delay the performance of the Agreement (Force Majeure Events).

11.2.1 FORCE MAJEURE EXCLUSIONS:

Force Majeure will expressly not include the following conditions, except and to the extent that they result from an event or circumstance otherwise constituting Force Majeure:

- (i) unavailability, late delivery or changes in cost of machinery, equipment, materials, spare parts or consumables;
- (ii) prevailing weather conditions at the place of performance of the services/works, including during monsoon periods;
- (iii) failure or delay in performance by any Subcontractor;
- (iv) normal wear and tear or flaws in materials and equipment or breakdowns in equipment;
- (v) any labour unrest/ strikes or any other event of the like nature caused by the Service Provider (which includes its subcontractors) shall not be considered as a force majeure occurrence;

11.3 In the event of a Force Majeure occurrence, the party that is or may be delayed in performing the Agreement shall notify in writing to the other party without delay but not later than fifteen (15) business days on the initiation of such Force Majeure Event(s) and shall use diligent efforts to end the

failure or delay in performance to minimize effects of such Force Majeure Event. Provided, however, that the occurrence of such an event would entitle the parties to renegotiate the time frame for performance of the respective obligations, taking into consideration the nature of such event. In such a situation, the party, which is not able to perform its obligations under this Agreement on account of Force Majeure Event(s), shall not be liable to the other party for the default or breach of this Agreement for the period of failure or delay. If the said notice is not received by the other party within fifteen (15) business days, after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt.

11.4 Both Parties agree to use their respective reasonable efforts to cure any event of Force Majeure to the extent that it is reasonably possible to do so. Upon the cessation of the event of Force Majeure, the party declaring Force Majeure shall immediately but not later than three (3) business days give notice thereof to the other party.

11.5 Neither Party shall be liable in any manner whatsoever to the other party in respect of any loss, damage, costs, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereof. The costs associated with taking all steps required to mitigate the effects of the Force Majeure Event and restore its ability to perform its obligations under this Agreement as soon as reasonably practicable shall be borne by the respective parties.

12. INDEMNITY

12.1 The Service Provider shall defend, indemnify and hold the Company, its directors, officials & employees etc., harmless from and against any and all against any and all claims, liabilities, costs, damages and expenses (including court costs and legal fees) in connection with any claim made by any third party (including, but not limited to, any claim made by any governmental or statutory authority) against the Company arising out of or in connection with the performance by the Supplier of its obligations under this Agreement.

12.2 The Service Provider shall be liable for and shall defend, indemnify and hold the Company, its directors, officials & employees etc., harmless from and against and all claims in connection with any breach, infringement (whether actual or alleged) of Confidentiality, accident, bodily injury, fraud arising out of or in connection with the performance of this Agreement by the Service Provider.

12.3 This indemnity shall be without prejudice to any other rights or remedies, including injunctive or other equitable relief, which the Company may be entitled to.

12.4 Company shall have the right to retain/ withhold out of any payment, to be made to the Service Provider, an amount sufficient to indemnify it completely against any such third-party claims and all associated costs.

12.5 It is the express intention of the Parties hereto that the provisions of this Agreement / Purchase Order shall exclusively govern the allocation of risks and liabilities of the Parties, it being acknowledged that the Agreement reflected herein has been based upon such express understanding. It is acknowledged that the compensation payable to Service provider as specified in this Agreement and/or applicable Purchase Order has been based upon the express understanding that risks and liabilities shall be determined in accordance with the provisions of this Agreement and/or applicable Purchase Order.

13. LIMITATION OF LIABILITY

13.1 EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL LOSS OR DAMAGES OF ANY NATURE ARISING AT ANY TIME FROM ANY CAUSE WHATSOEVER.

13.2 The limitations of liability and exclusion of warranties as set out in the Agreement shall be to the maximum extent permitted by applicable law. Nothing in this Agreement purports to exclude or limit liability for fraud, misrepresentation, death or personal injury.

14. CONFIDENTIALITY

14. 1 The Company and the Service Provider shall keep any information which either Party learns about or receives from the other pursuant to this Agreement in strict confidence and will not disclose the same to any third party without the prior written consent of the other Party. The foregoing restriction shall not apply in respect of information which the Company requires to disclose for the

purpose of performing Services or which was in the possession of the disclosing party prior to this Agreement, or which is required to be disclosed by any law, rule or regulation of any governmental agency or court order or information which was already within the public domain or which was developed by either Party, independently of and without reference to the Confidential Information and the receiving party has evidence of such independent development. The provisions of this clause shall survive the expiry of termination of the Agreement for a period of 3 years.

14.2 The Service Provider shall not disclose such Information(s) to any potential subcontractors until such time and in manner agreed by Company in writing. The decision of the Company will be final and binding on the Service Provider in this regard. The Service Provider shall use best endeavors to prevent the authorized disclosure of all the information hereunder. Where any information is required to be disclosed under Clause 13.1, the Service Provider shall give prompt notice to the Company and shall use its best commercial endeavors to limit the extent of any such disclosure.

15. ENFORCEMENT OF TERMS

The failure of either Party to enforce at any time, any of the provisions of the Contract or any right in respect thereto or to exercise any option here in provided, shall in no way, be construed to be a waiver of such provisions, rights or options or in any way to affect the validity of the Contract.

16. SUSPENSION

16.1 Suspension without Cause

16.1.1 Notwithstanding anything contained herein to the contrary, the Company shall have the right, without cause, at any time to require the Service Provider to suspend the Services (or part thereof) under this Contract by giving a prior written notice to the Service Provider.

16.1.2 The Company shall not be liable to make any payments of whatsoever nature during the Suspension Period pursuant to Clause 16.1.1.

16.2 Suspension Due to Default

16.2.1 If the Service Provider is in breach of any of its obligations under this Contract (including, without limitation, any breach of provisions/policies relating to health safety and environment), the Company shall, subject to Clause 16.2.2, be entitled to immediately suspend the Services by written notice to the

Service Provider until such time as such breach has been remedied by the Service Provider, in which case no rates or other amounts shall be payable to the Service Provider in respect of such period of suspension.

16.2.2 Except in the case of a breach which in the reasonable opinion of the Company is likely to endanger the safety of any persons or property, the Company shall, prior to issuing any suspension notice pursuant to Clause 16.2.1, notify the Service Provider of the breach. Following receipt of such notice, if the Service Provider fails to immediately commence and thereafter continuously proceed to remedy such breach to the Company's reasonable satisfaction, the Company may issue the suspension notice pursuant to Clause 16.2.1.

17. TERMINATION

17.1 Notwithstanding anything contained herein to the contrary, the Company may immediately terminate all or part of this Agreement/Purchase Order as under:

(i) by a written notice to the Service Provider in case of any breach of the terms of this Agreement by Service Provider and has failed to remedy such breach within 30 days from receiving notice from the Company.

(ii) if Service Provider (a) ceases, or threatens to cease, to function as a going concern or conduct its operations in the normal course of business, (b) commences, or becomes the subject of, any bankruptcy, insolvency, reorganization (other than in the course of a corporate re-organization or to an affiliate), administration, liquidation or similar proceedings, (c) makes, or plans to make, a general assignment for the benefit of its creditors, or (d) creditor attaches or takes possession of all or a substantial part of said Party's assets; The foregoing shall not apply to any action or proceeding which is (a) in the reasonable opinion of the Company, frivolous or vexatious; or (b) discharged, stayed or dismissed within ninety (90) days of commencement.

(iii) if Service Provider is unable to carry out its obligations by reason of Force Majeure events and the force majeure continues for a period more than thirty (30) days, then Company may by giving notice in writing, terminate this Agreement with immediate effect. Any such termination shall be without prejudice to any of the right of the Service Provider accrued prior to the date of such termination.

17.2 Notwithstanding anything contained herein to the contrary, the Company may terminate all or part of this Agreement by one (1) month's written notice without assigning any reason whatsoever or if the Service Provider fails to obtain any approval required under the terms of this Agreement.

17.3 Upon termination of this Agreement, both Parties shall be relieved of their respective rights and obligations under this Agreement save such obligations and / or liabilities of the Parties set forth herein which (i) that the Parties have expressly agreed will survive any expiration or termination, or (b) by their nature would be intended to be applicable following any such expiration or termination, or (c) the Parties have accrued before expiration or termination, as the case may be.

17.4. Upon termination, the sole liability of the Company towards the Service Provider under the Agreement shall be to make payment of all direct and documented costs which have been incurred by the Service Provider till the date of termination.

17.5. In the event of Service Provider's breach of its obligations hereunder, no payment shall be due by the Company in respect of such services under the Agreement/Company order.

17.6 The Contractor shall stop the performance of the Contract from the date of termination and hand over all the documents as desired by TSPL. However, the Contractor shall arrange to deliver the Coal lying in his custody to TSPL within 30 days from the day of Notice of Termination. TSPL has the right to hold BG and payment till the Coal is delivered. No consequential damages shall be payable by the Owner to the Contractor in the event of such termination.

18. COMPANY'S RIGHT ON TERMINATION FOR DEFAULT

18.1 In case of a termination for default in terms of Clause 17, the Company shall have the right to have completed either by the Company Group or any other third party, the services that the Contractor would have been obliged to perform immediately prior to the termination ("Incomplete Works").

18.2 The Company shall be entitled to recover from the Contractor any additional cost incurred by the Company for procuring the services for the Incomplete Works which are in excess of the amount the Company would have paid the Contractor for the same work, had the Contract not been terminated, including all reasonable costs incurred by the Company as a result of such termination ("Additional Costs"). The Company shall have the right to recover such Additional Costs either directly from the Contractor and/or by invocation of Performance Bank Guarantee and/or by deducting such Additional Costs from any monies due to or that becomes due to the Contractor under the Contract.

18.3 In addition, if such termination occurs prior to mobilization, then no advances, payments or fees of whatsoever nature shall be payable to the Contractor, or, if already paid by the Company, then any such advances, payments or fees shall be repaid by the Contractor to the Company.

19. CONSEQUENCES OF TERMINATION

In the event of termination under any provision of this Contract, the Service Provider shall:

- a) promptly cease performance of the Services (or relevant part thereof) and, as directed by the Company, clear all unnecessary Service Provider's Equipment and Service Provider's Personnel from the Site;
- b) allow the Company all necessary rights of access to the Site to take over the Services (or relevant part thereof); and
- c) if, and to the extent, requested by the Company assign any subcontracts or other rights and titles relating to the Services (or relevant part thereof) which the Service Provider may have entered into or acquired.

20. SPLITTING OF WORK

TSPL reserves the right to split up the work in the Scope of this Contract among more than one Contractors during the progress of work due to unsatisfactory progress of work of the Contractor or other reasons at the price matching with L1 Price. TSPL will not entertain any claim from any Contractor as a result of such splitting up.

TSPL also reserves the rights to exclude/include any item of work from the Scope of Contract during the progress of work due to any reason whatsoever. The Engineer-in-charge reserves the right to inject labor, T&P & materials at the Contractor's cost at any stage of work in the interest of timely work completion, if the progress is not commensurate with the committed schedule and the Contractor will not have any right to object.

21. POWER TO VARY OR OMIT ANY ITEM OR WORK

No alterations, amendments, omissions, additions, suspensions or variations in the Scope of Work (hereinafter referred to as "variation" in the work) shall be made by the Contractor except as directed in writing by TSPL in connection with the Contract. However, TSPL shall have the full power, subject to the provisions hereinafter contained, from time to time during the execution of the Contract, by notice in writing, to instruct the Contractor to make such variations and be bound by the same conditions as far as applicable as if the said variations occurred in the specification. If any suggested variation would,

in the opinion of the Contractor, if carried out, prevent the Contractor from fulfilling any of its obligations or guarantee under the Contract, the Contractor shall notify to the Engineer In- Charge, TSPL, thereof in writing, and TSPL shall decide forthwith whether or not the same shall be modified accordingly. The difference of rates, if any, occurring by any such variations, shall be added to or deducted from the Contract rate as the case may require in accordance with the rate specified in the CONTRACT, but TSPL shall not be liable for the payment of any charges in respect of any such variations unless instructions for the performance of the same have been given in writing by TSPL.

22. BANKRUPTCY

If the Contractor commits any action of bankruptcy or becomes the subject of, any bankruptcy, insolvency, reorganization, administration, liquidation or similar proceedings, except for reconstruction purposes or carry on its business under a receiver, the executors, successors or other representatives in law of the estate on Contractor or any such receiver, liquidator or any person in whom the Contract may become vested, shall forthwith give notice thereof in writing to TSPL and shall for one month during which the Company shall take all reasonable steps to prevent a stoppage of work, have the option of carrying out the Contract subject to the Contractor providing such guarantee as may be required by the Owner but not exceeding the value of work. In the event of the stoppage of work, the period of option under this clause shall be of 15 days provided that, should the above option not be exercised, the Contract may be terminated by TSPL by notice in writing to the Contractor and the same power and provisions reserved to TSPL on the last proceeding clause, of taking the work out of the Contractor's hands, shall immediately become operative.

23. RISK PURCHASE

In the event of any failure on Supplier's part to execute the Contract as per the terms mentioned therein, Purchaser shall be at liberty to either:

- a) Continue with the Contract with due liquidated damages; or
- b) Engage any other agency, parallel to the Supplier, to complete part of the balance work at the risk and cost of the Supplier/Contractor; or
- c) Cancel the Contract and get the Material/Equipment / Goods from any other agency at the risk and cost of the Supplier/Contractor.

24. LEGAL COMPLIANCE

The bidder shall ensure that his execution of the Contract as well as the facility provided by him has been complied with all provisions of the relevant legislations, regulations and by-laws of the central / state / local authorities having jurisdiction at site and shall, unless mentioned otherwise in Technical Scope of Work, arrange for all necessary statutory approvals at his own cost.

The bidder shall give all notices required under the said acts, regulations and / or by-laws and shall indemnify TSPL towards any omission or commission in this regard. The bidder shall be responsible for observing all statutory laws in respect of Contract labor engaged by him.

25. SAFETY, HUMAN RIGHTS AND ENVIRONMENTAL COMPLIANCE

The Contractor has to comply with safety, human rights and environmental requirements during the performance of the Contract.

26. REPORTING

- a. Contractor will submit report on daily coal lifting from Mines, Rakes loaded, coal shifted to Railway Siding and other information as required on daily basis through E-mail, SMS, etc.
- b. Contractor will submit a list of 2 persons designated as Single Point Contact (SPOC) with Mobile no. and e-mail addresses for follow up with TSPL on daily basis along with Employee list, designation, qualification, etc.
- c. If any of the person designated as SPOC leaves in between the Contract period, same will be replaced immediately within a period of 30 days.

27. BUSINESS ETHICS

- The Service Provider shall declare any conflicts of interest with the Company including relationship or financial interest of any nature whatsoever with employees, managers, other suppliers, vendors or stakeholders of the Company.
- The Service Provider shall not use the services of any of the employees of the Company, directly or indirectly or enter into any sort of monetary transaction with the employees of the Company. The Service Provider undertakes that he has not given, offered or promised to give directly or indirectly any bribes, commission, gift, consideration, reward, or inducement to any of the employees of the Company or their agent or relatives for showing or agreeing to show favor or disfavor to any person in relation to this Agreement or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the aforesaid undertaking, by the Service Provider, or his partners, agent or servant or any one authorized by him or acting on his behalf.

- The Service Provider agrees to comply with the provisions of the Company's Supplier Code of Conduct which includes Antibribery and Corruption requirements (a copy of which is also available at <https://www.tsplindia.co/wp-content/uploads/2019/04/TSPL-Suppliers-Code-of-Conduct-12-10-2018-1.pdf>), the Company's Human Rights Policy (a copy of which is available at <https://www.tsplindia.co/wp-content/uploads/2019/04/06-TSPL-Human-Rights-Policy-27-Jan-20.pdf>), including the Modern Slavery Act 2015 as may be amended from time to time and in case of breach thereof, the same shall be treated as a breach of this Agreement.
- The Service Provider shall maintain records and provide to the Company upon request such records and evidences, as the Company may reasonably require, confirming the Service Provider's compliance with the obligations under this clause.
- The Company shall have a right to initiate "audit proceedings" against the Service Provider to verify compliance with the requirements under this clause. Such audit may be carried out by Company or by a reputed agency to be appointed by Company at the sole discretion of Company. The Service Provider shall extend full cooperation for smooth completion of the audit mentioned herein.
- Notwithstanding anything in this agreement, Company shall have right to terminate the Agreement forthwith and recover from the Service Provider, the amount of any loss arising from such termination in case, it is found that the Service Provider has failed to comply with requirements under this clause including any corrupt practices. A decision of the Company or his nominee to this effect that a breach of the undertaking had been committed shall be final and binding on the Service Provider.
- If at any time during execution or performance of this Agreement the Service Provider becomes aware of any unethical practices or is faced with any undue demand, request for gratification or favor from any employee of the Company or a person connection with such employee, the Service Provider must report the same immediately to the Group Head- Management Assurance at the following address:

Group Head – Management Assurance, Vedanta, 75 Nehru Road Vile Parle (E), Mumbai 400099

'Complaints' can also be sent to the designated e-mail id: tspl.whistleblower@vedanta.co.in

28. GENERAL LEGAL PROVISIONS

28.1 The Company shall be entitled to assign this Agreement to an affiliate/subsidiary or on giving written notice to the Service Provider. Save as aforesaid, the Service Provider shall not be entitled to assign this Agreement or any part or any benefit or interest in or under it without the prior written approval of the Company which the Company may at its sole discretion accept or refuse.

28.2 This Agreement shall not be amended or modified except by mutual agreement in writing between the Parties.

28.3 This Agreement and the all Schedules and Attachments annexed hereto contains the whole agreement between the Parties relating to the subject matter of this Agreement, and supersedes any previous understandings, commitments, agreements, correspondences or representations in respect of the subject matter. No terms or conditions endorsed upon, delivered or contained in Service Provider's quotation, acknowledgement or acceptance of the Agreement, specification or similar document will form part of the Agreement and Service Provider waives any right it otherwise might have to rely on such terms and conditions. No variation to any terms or conditions of this Agreement shall be valid unless expressly agreed in writing by both parties.

28.4 No delay or failure on the part of either Party to enforce from time to time all or any part of the terms and conditions of this Agreement shall be interpreted as a waiver of such terms and conditions.

28.5 Nothing in this Agreement shall, or shall be deemed to, create an agency, a partnership, a joint venture, an association or a relationship of employer and employee, principal and agent or master and servant between the Parties. For the avoidance of doubt, nothing in this Agreement shall prevent or restrict the Company from entering into parallel Agreements with other parties for services similar or related to the Services.

28.6 Unless otherwise specifically stated, both the Company and the Service Provider shall retain all rights and remedies, both under the Agreement and at law, which either may have against the other.

28.7 The Service Provider shall comply with all safety instructions of the Company consistent with the provisions of the Agreement including, without limitation, the safety instructions of any of the Company's other Service Providers. Such instructions shall, if the Service Provider so requires, be confirmed in writing by the Company's Representative, so far as practicable.

28.8 The Service Provider shall not be entitled, without the written consent of Company, to make any news release or public announcement concerning the subject matter of the Agreement or to refer to the Company, use its name or logo, in print or electronic forms for marketing or reference purposes.]

28.9 If any provision of this Agreement is prohibited, invalid or unenforceable in any jurisdiction, that

provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction, unless it materially alters the nature or material terms of this Agreement.

28.10 The provisions of this Agreement are solely for the benefit of the Parties. No other person are intended to have, nor will have, any rights whatsoever, under this Agreement, whether for injury, loss or damage to person(s) or property or for economic loss.

28.11 The terms and conditions mentioned in the whole agreement shall be read in conjunction with the standard terms and agreements mentioned in **Annexure C Standard Terms and Conditions.**

APPENDIX- A: SUPPLIER CODE OF CONDUCT

This Supplier Code of Conduct is applicable to all 'Suppliers' globally. 'Supplier' here refers to suppliers/ service providers/ vendors/ traders / agents/ consultants/ Contractors/ joint venture partners/ third parties including their employees, agents and other representatives, who have a business relationship with and provide, sell, seek to sell, any kinds of goods or services to Vedanta Resources Plc or any of its subsidiaries, affiliates, divisions ("Vedanta").

This Code sets forth the basic requirements that we ask our Suppliers to respect and adhere to when conducting business with Vedanta. This Code embodies Vedanta's commitment to internationally recognized standards, including the Core Conventions of the International Labour Organization, United Nations' Universal Declaration of Human Rights as well as prevalent industry standards, and all other relevant and applicable statutory requirements concerning Environment Protection, Minimum Wages, Child Labour, Anti-Bribery, Anti-Corruption, Health and Safety, whichever requirements impose the highest standards of conduct.

LABOUR & HUMAN RIGHTS

Adhering to all Labour Laws and Human Rights Laws, Suppliers shall:

- Comply with all applicable local, state and national laws regarding human rights.
- Comply with the Company's Human Rights Policy.
- Ensure that all their employees are hired on their own free will and guarantee that all their operations are free from forced, bonded, compulsory, indentured, prison labour or any other form of compulsory labour and child labour.
- Ensure that all its employees are provided equal employment opportunities, an environment conducive to their growth, free from any form of discrimination and harassment.
- Ensure compliance with minimum working hours and minimum wages prescribed by applicable laws and regulations.
- Comply with all slavery and human trafficking laws. Suppliers must ensure they have taken steps to ensure their business operations are free from slavery and human trafficking practices both internally and within their supply chains and other external business relationships.
- Ensure that employees are not be charged any fees or costs for recruitment, directly or indirectly;
- Not confiscating or withholding worker identity documents or other valuable items, including

work permits and travel documentation of any of its workers/ employees.

HEALTH, SAFETY & ENVIRONMENTAL SUSTAINABILITY

- The Supplier shall provide its employees with a safe and healthy working environment and comply with all applicable laws and regulations regarding working conditions.
- Supplier shall follow all Environmental, Health and Safety and other operational policies of the Company while executing any work or Contract at the company site.
- Supplier shall follow all laws of the land including laws on Environment sustainability and protection while executing any work for the Company.

BUSINESS INTEGRITY

Anti-Bribery:

- The Supplier shall not, directly or through intermediaries, take any recourse to any unethical behaviour (implicit or explicit), or offer or promise any personal or improper advantage in order to obtain or retain a business or other advantage from a third party, whether public or private, including with any employee of Vedanta. More specifically:
 - Shall not offer or accept bribe or use other means of obtaining undue or improper advantage, offer or accept any kickbacks, and shall not take any actions to violate or cause its business partners to violate any applicable anti-bribery laws and regulations including the Foreign Corrupt Practices Act of USA (FCPA), Bribery Act of United Kingdom and Prevention of Corruption Act of India.
 - Shall not take any advantage of any family/ social/ political connections to obtain favorable treatment or for the advancement of business or obtaining any favours. Merit shall be the sole attribute of association with Vedanta.
 - Shall not enter into a financial or any other relationship with a Vedanta employee that creates any actual or potential conflict of interest for Vedanta. The Supplier is expected to report to Vedanta any situation where an employee or professional under Contract with Vedanta may have an interest of any kind in the Supplier's business or any kind of economic ties with the Supplier.
 - Shall not offer any gift, hospitality or entertainment for the purpose of obtaining any advantage, order or undue favor.

Unfair Trade Practices:

Supplier shall desist from any unfair or anti-competitive trade practices.

REPORTING OF UNETHICAL PRACTICES AND GRIEVANCE ADDRESSAL MECHANISM

The Supplier shall ensure that an effective grievance procedure has been established to ensure that any worker/ employee, acting individually or with other workers, can submit a grievance without suffering any prejudice or retaliation of any kind.

Suppliers shall also forthwith report any unethical activity or discrimination if practiced by any Vedanta employee/other Suppliers as per Vedanta whistle-blower policy (uploaded on the companywebsite).

- **INTELLECTUAL PROPERTY**

The Supplier shall take appropriate steps to safeguard and not infringe any Vedanta confidential and proprietary information/intellectual property/ technology which come to its knowledge during the course of its business relationship/ dealings with Vedanta. In case of sub-Contracting, sharing of confidential information should be made with the consent of Vedanta.

- **THIRD PARTY REPRESENTATION**

The Suppliers shall not be authorized to represent Vedanta or to use Vedanta's brands without the written permission of Vedanta. Third parties and their employees who are authorized to represent Vedanta are expected to abide by the Vedanta's Code of Conduct & Business Ethics Policy in their interaction with, and on behalf of Vedanta including the confidentiality of information shared with them and to sign a non-disclosure agreement to support confidentiality of information.

- **PROHIBITION ON INSIDER TRADING**

If the Supplier becomes aware of material, non-public information relating to Vedanta or its business, it may not buy or sell Vedanta securities or engage in any other action to take advantage of that information, including passing that information on to others. In addition, if the Supplier becomes aware of material, non-public information about any other company, including Vedanta customers, suppliers, vendors or other business partners, that is obtained by virtue of the supplier's interaction with Vedanta, then the Supplier shall not buy or sell that company's securities or engage in any other action to take advantage of that information, including passing that information on to others.

- **SUPPLIER'S COMPLIANCE COMMITMENT**

Vedanta expects the Supplier to adhere to all applicable laws and regulations and in particular comply with this Code in letter and spirit. It is the Supplier's responsibility to read and understand the contents of this Code and Vedanta's Code of Conduct & Business Ethics Policy. As a condition of doing business with Vedanta, the Supplier must comply with this Code and agree to uphold such values during its business association with Vedanta.

The Supplier shall maintain adequate documentation to demonstrate compliance with the principles of this Code and allow access to Vedanta to check compliance upon request with reasonable notice.

The Supplier shall notify Vedanta regarding any known or suspected improper behavior by the Supplier relating to its dealings with Vedanta, or any known or suspected improper behavior by Vedanta employees.

Please contact the concerned Chief Commercial officer / Company Secretary if you have any questions about this Code.

VOLUME III: TECHNICAL SPECIFICATION & SCOPE OF WORK

1. SCOPE OF WORK

The Scope of Work under this Tender specification covers the job from lifting & transportation of coal from colliery to Siding, indenting, loading into Rakes, Monitoring of Rakes and transportation of the coal to Talwandi Sabo Power Limited, District-Mansa, Punjab by Rail. Coal being the vital input, ensuring uninterrupted supplies as per Quantity and Quality requirements is the essence of services to be rendered by the Contractor. BCCL may allocate Coal in future from any coal mines based on availability by Road mode for which this Tender is released. Details of works & responsibilities of the Contractor are as under:

The Contractor to ensure release of Delivery Order and obtain Delivery schedule for placement of trucks, on behalf of TSPL at Colliery loading point to receive and transport the Coal.

1. Billed quantity by BCCL as mentioned in the Coal Bill will be deemed as delivered quantity to Contractor. The Contractor shall check the Quantity of Coal received from BCCL at his Site and shall be responsible for the Quantity measurement, i.e. weighment of Raw Coal supplied by BCCL to the Contractor and will authenticate/sign the Weighment sheets in token of Quantity received.
2. Contractor to get the right quality of Raw Coal from BCCL as the Notified/Declared Grade of colliery. In case raw coal sampling and analysis is carried out by TPA, then the TPA declared Grade of raw coal & afterwards Referee analysis (if done) will be considered as the Grade of raw coal delivered by BCCL to the Bidder.
3. The Contractor will ensure boulders, stones & shales are not loaded into rakes and trucks.
4. Coal as lifted from the Collieries shall be transported/shifted to the Siding by the Contractor as per Delivery Order released by BCCL.
5. The Contractor will adhere to the Guaranteed GCV ARB & other terms.
6. The Contractor to ensure lifting of coal as per Coal size mentioned in the DO of the Coal supply company and shall transport the same size coal to the Railway Siding & dispatch to TSPL Power Plant. Wherever not indicated in the DO coal size delivered to the TSPL plant should not be >250mm.

7. The Contractor to ensure timely permission / clearances for transportation of raw coal from State Mining Department.
8. The Contractor to ensure allotment of rakes/ wagons for transportation of Coal to TSPL.
9. The Contractor shall submit the E-Demand and Indent charges. It will be the responsibility of Contractor to place Indent.
10. The Contractor shall ensure that Wagons loaded are not in damaged condition.
11. The Contractor shall ensure issue of RRs from the railways authorities and shall deliver the same to the TSPL Power plant authorities by fax, soft copy through Scan and original through courier at the earliest possible in such a way that all RRs for previous month are available with TSPL by 15th of next month.
12. The Contractor may deploy his staff / representative to witness jointly the weighment, sampling and analysis of raw coal at TSPL Power plant. Copy of weighment sheets of each rake shall be provided to the representative of Contractor after weighment. Analysis results of each rakes shall be provided to the Contractor representative after the analysis is complete. Quality analysis results shall be provided by 7th of next month. In case of dispute, bidder can intimate to TSPL within 3 working days from the date of test report notified and referee part can be taken out & will be tested in any reputed NABL accredited Independent Inspection Agency in the presence of bidder. The referee part will be discarded within 30 days from the date of referee sample preserved. The un-loading end weighment sheet and joint analysis results/referee results for the rakes received at TSPL in a particulars month shall be the basis for raising invoices by the bidder for payment purpose.
13. The Contractor shall take all measures to avoid diversion of rakes/wagons en-route. The Contractor shall ensure that matched delivery to be made by Railways within 6 months for such diverted rakes. If it is not done in 6 months' time then the equivalent amount of Cost of Coal will be withheld from running bills till the issue is settled.
14. The cost of Raw Coal including taxes and duties and Railway Freight including all taxes, duties and other charges as per RR in full shall be deposited by TSPL. Any changes in Railway Freight/ Policies related to Railway freight at any point of time imposed by Indian Railways during tenure of the said tender/Contract shall also be paid by TSPL at actuals as per RR.
15. Rake shall be loaded on Train load basis. In case of Wagon load basis, the extra financial implication will be passed on to Contractor's account.
16. The Contractor shall ensure that, all activities are to be completed as per relevant Terms & Conditions of FSA like Sampling, Lifting by Road, Rail, etc.

17. It shall be the responsibility of the Contractor to ensure safe transportation and custody of coal lifted from Colliery till delivery at TSPL, Mansa.
18. In order to have up to date information about lifting, loading, dispatch, movement of coal rake and expected placement, Contractor shall provide update to TSPL:
 - Quantity of Coal lifted from Mines on daily basis.
 - Rakes loaded and details of RRs on each rake basis.
 - Expected loading of Rake on daily basis.
19. Safekeeping & responsibility to store, move the material prudently as per best utility practice is the sole responsibility of the Bidder. Bidder shall be solely responsible for all the Quantity lifted till the same is delivered to TSPL Plant site and Bidder to take all necessary steps and precautions as per prudent industry practice for the same.
20. The Contractor shall at his own expense supply tools, plants & equipment (hereinafter referred to as T&P) required for the execution of the Contract other than those listed in the Contract.
21. TSPL personnel will have the access to Storage and loading premise at all time. TSPL can conduct Physical verification (PV) of TSPL coal stock lying in Contractor's custody. Contractor to follow up for the same & provide demarcation of TSPL's Coal.
22. Contractor to ensure that no oversized coal is loaded while loading of the rakes.
23. TSPL can depute own Sampling agency at Siding for its own satisfaction. TSPL is not bound to share results of the same with Contractor & results will have no Commercial impact.
24. Service provider will ensure that by doing all the necessary & relevant activities as required to be done for completion of Scope of Work, TSPL gets its coal from any of the Railway Siding of BCCL till the validity of the Contract. In this regard, signing of any Tripartite Agreement, issuance of Indemnity Bond as required by Coal Company shall be done by TSPL. However, the necessary charges w.r.t. Siding agreement (on actuals), handling & loading of coal through this siding, any other statutory or Govt. authority requirement to be borne & complied by the Service Provider.
25. Any permission requirement from Pollution Control Board (PCB) of the respective State or Rules & Regulations as stipulated by the Government for handling/transportation/storage or any other activity shall be in Scope of the Bidder.
26. The selected bidder to ensure covering of rakes/trucks with tarpaulin as per instruction of TSPL time to time to ensure compliance of Ministry of Environment Forest & Climate Change (MoEF&CC) vide Gazette notification no. CG-DL-E-21052020-219495 dated 21.05.2020. Detailed scope is attached as Annexure-A. Supply of Tarpaulin shall be on returnable basis. Price bid by bidders to be given considering return of tarpaulin.

The Scope of Work has been detailed as above but in case any items are omitted from the Scope of Work but otherwise required to complete the work then such items shall be deemed as included in the Scope of Work without any additional financial liability to TSPL.

2. PRICE & PRICE BASIS & ITS EFFECTIVENES:

2.1 The Bidder shall quote its most competitive prices for the Scope of work in the price bid format (Annexure -I A to F). Any quantity which is allocated during the contract period but not delivered during the contract period will be executed at the price applicable for the specific contract period along with the same terms & conditions under the contract.

2.2 Price variation

The prices shall remain fixed and binding on the Bidder and shall not be subject to any increase for any reason whatsoever during the term of the Contract until the entire allocated Coal quantity is received at the TSPL Power Plant, except for the following:

i) Diesel Price Variation:

No adjustment will be made to the road transportation charges for the diesel price hike or reduction up to +/- Rs 2.00 per liter from the base diesel price i.e., diesel price at respective district of allocated mine as on the date of opening of the financial bid. In case of diesel price variation (calculated based on price as on 1st of the respective month) in a month is more than +/- Rs.2.00 per liter, then adjustment to the road transportation charges shall be made as under:

$$P1 = P0 \times (0.60 + 0.40 \times (D1/D0))$$

P1 = Revised Road transportation rate in Rs/MT applicable for the respective month

P0 = Road transportation rate in Rs/MT discovered through bidding process

D1 = Diesel rate per liter applicable on 1st day of the respective month

D0 = Diesel rate per liter applicable on the date of Bid Submission

Note: District wise Diesel Price for every 1st day of the month to be considered as per prices updated in given link (<https://www.mypetrolprice.com>)

Diesel price variation shall be applicable on monthly basis. The revised road transportation charges shall remain firm & binding for the respective month.

Example-1:

Let us say, P0 = Rs 540 per MT, D0 = Rs 94.12 per liter,

D1 = Diesel price on 1st day of the respective month of respective district = Rs 96.14 per liter

$$D1-D0 = 96.14 - 94.12 = 2.02 > 2.00$$

The revised road transportation rate in Rs/MT for the respective month shall be:

$$P1 = P0 \times (0.60 + 0.40 \times (D1/D0))$$

$$= 540 \times (0.60 + 0.40 \times (96.14/94.12)) = 544.64 \text{ per MT}$$

Example-2:

Let us say, P0 = Rs 540 per MT, D0 = Rs 94.12 per liter,

D1 = Diesel price on 1st day of the respective month of respective district = Rs 94.62 per liter

$$D1-D0 = 94.62 - 94.12 = 0.50 < 2.00$$

No change in road transportation change for the respective month.

ii) Statutory variations (increase or decrease) on account of the change in statutory taxes & duties, introduction of any new tax, withdrawal, or modification of any tax shall be passed through during the period of Contract. Documentary evidence shall be required from the Bidder for the same.

2.3 The rates quoted by the Bidder in the Price Bid be deemed to cover the cost of all the relevant operations/works mentioned in this Bid Document. No claim for any increase in cost shall be entertained on any account except in terms of clause 2.2 above.

3. QUANTITY

The weighment of Coal will be done on In-motion Weigh Bridge installed at TSPL. Quantity received at TSPL weighbridge (after TM correction and Transit loss) will be considered as final quantity delivered for payment and other calculation purpose. The Contractor shall have the right to witness the weighment. However, in case In-motion Weigh Bridge of TSPL goes defective, or not working, then the methodology for quantity to be considered as final for payment purpose mentioned in Annexure-B (Quantity Determination). Please note that Transit loss data of prevailing rake or most recent rake shall be taken for computation of quantity for the non-weighment rakes at TSPL IMWB.

As such the Contractor is to take care and to make necessary arrangement, so that diversion of Coal doesn't take place.

The Coal will be dispatched generally as per the sequence of DO lifting. The Composition of quantity in a rake against a DO will be communicated by the contractor at the time of rake loading for

establishing a relationship between input & output quantity & Quality in FIFO (First In First Out Method). Bidder(s) are expected to keep the coal available through different DOs separately.

Reconciliation will be done on quarterly basis based on available TPA/Referee results at that time.

4. QUALITY

A. TPA shall do Joint Sampling, Analysis and Testing of Raw Coal loaded from Mines.

Sample collection (TM sample & final sample) & preparation at the loading end as per relevant standard will be done by TPA as per Tripartite Agreement signed between CIL subsidiary, TSPL & TPA. Sample Collection & Preparation Process to be witnessed by the bidder's representative.

In case, any TPA doesn't undertake the work of sampling & analysis at the loading end, then the grade analyzed through joint sampling & analysis by BCCL/BCCL Representative agency & TSPL/TSPL representative agency (Or Contractor, if TSPL Directs the contractor for the same) will be considered as Quality delivered by BCCL to the Bidder. (Subject to approval by PSPCL)

In case TPA sampling not done for any day, from a source for any reason, the weighted average of the most recent results available in any preceding/Succeeding month against respective Source and Grade shall be adopted for such dispatches for which samples were not collected. TSPL/BCCL reserves the right to protest/ referee challenge the results declared by TPA for raw coal lifted by the Contractor under this Contract without any reference to the contractor. The referee results thus received shall be considered as final for all commercial purposes.

5. Damages for loss on account of GCV lower than [Guaranteed GCV (ARB)]

GCV Damages for loss shall be calculated on monthly basis. Guaranteed GCV (ARB) will be the GCV (ARB) calculated based on CIMFR/TPA results.

$$\text{GCV (ARB)} = \{(100 - \text{TM}) / (100 - \text{Eq. Moisture})\} \times \text{Eq. GCV}$$

Where,

Eq. Moisture is Equilibrated as per CIMFR/TPA results

Eq. GCV is Equilibrated GCV as per CIMFR/TPA results

In case the Monthly Weighted average GCV (ARB) received at TSPL is lower than [Guaranteed GCV (ARB)] beyond 70 kcal/kg, then damages shall be applicable as follows:

- If GCV (ARB) received at TSPL is lower by 70 kcal/kg till 200 kcal/kg than [Guaranteed GCV (ARB)]:
For every 1 Kcal/Kg decrease in GCV (ARB) below [Guaranteed GCV (ARB)], Damages for loss of INR 0.50 PMT.
- If GCV (ARB) received at TSPL is lower by 200 kcal/kg till 300 kcal/kg than [Guaranteed GCV (ARB)]:
For every 1 Kcal/Kg decrease in GCV (ARB) below [Guaranteed GCV (ARB)], Damages for loss of INR 1.00 PMT.
- If GCV (ARB) received at TSPL is lower by 300 kcal/kg and beyond than [Guaranteed GCV (ARB)]:
For every 1 Kcal/Kg decrease in GCV (ARB) below [Guaranteed GCV (ARB)], Damages for loss of INR 1.25 PMT.

The above penalty will be applied as per the methodology of income tax slab.

TSPL monthly receipt quantity as per net weight of In-motion weighbridge after TM Correction & Transit loss correction will be considered as quantity for billing purpose of this clause.

For Example:

Quantity Delivered: 1000 MT

TPA Reported GCV (ARB) : 4000 Kcal/Kg

TSPL Received GCV (ARB) : 3670 Kcal/Kg

Conditions	Diff. in GCV ARB	Penalty Rate	Penalty Amount
			Nil
For first 70 Kcal/Kg	70	Nil	
From 71 Kcal/kg to 200 Kcal/kg	130	0.50	65,000
From 201 Kcal/kg to 300 Kcal/kg	100	1.00	100000
More than 301Kcal/kg	30	1.25	37,500
Total			2,02,500

6. Damages for loss on account of Excess TM% (Excess TM adjustment)

Guaranteed TM for Coal received in a month: Monthly weighted average TM% of raw coal as per

CIMFR/TPA .

In case the weighted average of Total Moisture (ARB) of Coal received in a month exceeds the Guaranteed TM, then the adjustment in weight shall be done on pro-rata basis, i.e. the weight of coal received shall be reduced by the same percentage by which the total moisture in coal received at TSPL exceeds Guaranteed TM (ARB).

In Case of Weighted average of Total Moisture (ARB) of coal received in a month is less than the Guaranteed TM, Then TM Adjusted weight shall be equal to TSPL received weight of the coal.

The Weight correction for higher Total Moisture (ARB) of Coal received at TSPL shall be worked out as under:

Weight Correction (MT) Quantity=

$(\text{TM (ARB) of Coal received} - \text{Guaranteed TM ARB of Coal received}) \times \text{Coal received in month} / 100$

For Example:

TM (ARB) % of coal received in July month is 17

Guaranteed TM in % (ARB) of Coal received = CIMFR TM i.e. 14,

Coal received in the month as per TSPL in-motion weighbridge = 3000 MT

Weight correction (MT) quantity = $(17-14)/100 \times 3000$

= 90 MT

The coal quantity of the month for which payment shall be made shall be worked out from the coal quantity received less the weight correction. Railway freight for the corrected quantity shall be recovered from the Contractor.

Where, Railway freight is (Total freight /RR Quantity) as mentioned in Railway Receipt.

7. **TRANSIT LOSS**

Transit loss shall be applicable in the following manner on per rake basis:

Case 1: In case TSPL receipt quantity (after TM correction) is less than RR quantity, then tolerance upto 0.8% of TSPL receipt quantity (after TM correction) shall be applicable as transit loss.

Example 1(A):

RR Quantity: 4000 MT

TSPL receipt quantity: 4000 MT

TSPL receipt quantity after TM Correction: 3980 MT

0.8% of TSPL receipt quantity after TM Correction = $3980 \times 0.8\% = 31.84$ MT

Please note that since loss difference between RR & TSPL receipt quantity (after TM Correction) is = $4000 - 3980 = 20$ MT which is less than 31.84 MT, maximum transit loss of 20 MT shall be allowed.
Example 1(B):

RR Quantity: 4000 MT

TSPL receipt quantity: 3900 MT

TSPL receipt quantity after TM Correction: 3800 MT

0.8% of TSPL receipt quantity after TM Correction = $3800 \times 0.8\% = 30.4$ MT

Please note that since loss difference between RR & TSPL receipt quantity (after TM Correction) is = $4000 - 3800 = 200$ MT which is more than 30.4 MT, maximum transit loss of 30.4 MT shall be allowed.

Case 2: In case TSPL receipt quantity (after TM correction) is more than RR quantity, then no transit loss shall be applicable.

Example 2(A):

RR Quantity: 4000 MT

TSPL receipt quantity: 4200 MT

TSPL receipt quantity after TM Correction: 4100 MT

No transit loss shall be applicable

8. Damages for deviation/Railway Freight recovery due to High TM%

Railway freight recovery will be done on High TM received on Monthly weighted average basis. For Example:

A: Total TSPL received weight = 100 MT

B: A after Excess TM adjustment: 98 MT

C. Freight PMT = Railway notified freight + applicable taxes including GST = INR 100 PMT

D: Incremental Railway freight incurred by TSPL & to be recovered: $(A-B) \times C$

In case $D \leq 0$, there will be no obligation of either of Party on account of this Clause.

i.e. $(100-98) \times 100 = 2 \times 100 = \text{INR } 200/-$

9. Damages for loss on lapsed quantity of Coal

The Contractor will materialize 100% quantity of the Delivery Order within the stipulated time and in case if the said quantity is lapsed, then Damages for loss for the lapsed quantity will be 15% of the Notified Price of Coal including taxes, royalties, cess, etc. on Raw Coal of that DO.

Further in case, DO quantity gets lapsed/not lifted by the bidder due to reasons beyond the control of the bidder, then the Damages on deviation shall not be loaded on the bidder on submission of documentary proof towards the same to the satisfaction of TSPL.

No penalty on Contractor on account of lapse if lifting & delivery is stopped by TSPL due to any reason.

Example:

Total quantity allotted in a month: 100 MT

Actual quantity lifted: 80 MT

Quantity lapsed: 20 MT

Notified Price of Coal including taxes, royalties, cess, etc. on Raw Coal: INR 40 PMT

Damages due to lapsed quantity: $(40 \times 15\%) \times 20 = \text{INR } 120/-$

10. Damages for loss on Under-loading and Over-loading charges imposed by Railways for Coal rake

Penal freight on account of overloading of the wagons/rakes if charged by the Railways at any time then 50% penal freight (i.e. PCLA, ENHC, POL1, POL2, SD, DS,PCS,ST& FAUC etc as mentioned in RR) shall be borne by the Contractor. For Example:

Overload quantity in a rake is 10 MT

POL 1 charged in RR is 30,000 INR

POL2 charged in RR is 20,000 INR

PCLA charged in RR is 10,000 INR

ENHC charged in RR is 10,000 INR

ST,DS,PCS,SD etc charged in RR is 10,000 INR

Total Overloading Penalty is 80,000 INR

GST charges@5% on overloading penalty is 4,000 INR Total overloading penalty including GST is 84,000

INR 50% of overloading charges is 42,000 INR.

It is clarified that sometimes the overloading charges are mentioned as Miscellaneous charges in the RR.

The Contractor shall endeavor to minimize under loading charges/dead freight.

Case 1. In case difference between Chargeable weight & RR Net weight is less than 30 MT, then no damages on account of underloading shall be applicable

Case 2. In case difference between Chargeable weight & RR Net weight is more than 30 MT then the penalty shall be imposed for incremental quantity & the same will be borne by Contractor.

Under-loading charges for the Rake: Freight per Tonne x((Chargeable Weight – RR Weight+ Overloading qty)-30).

Where Freight per tonne is Total Freight at actual/ Actual/Sender Weight as mentioned in RR

For Example:

Chargeable weight: 4000 MT

RR Weight: 3950 MT

Overloading Quantity: 10 MT

Freight per tonne as per RR (i.e. Total freight /RR Quantity): INR 100/-

The Damages for Underloading is : $100 \times ((4000 - 3950 + 10) - 30) = 100 \times (60 - 30) = 100 \times 30$ i.e. INR 3,000/-

11. Damages for loss on Raw Coal shortfall quantity

In case the shortfall quantity is less than One rake quantity (4000 MT) of the quantity to be delivered by Contractor, then damages at the rate of 1 x (Notified Base Price of Coal including taxes, royalties, cess, etc. on Raw Coal) x Shortfall quantity.

In case the shortfall quantity is more than One rake quantity (4000 MT) of the quantity to be delivered by Contractor, then damages at the rate of 1.5 x (Notified Base Price of Coal including taxes, royalties, cess, etc. on Raw Coal) x Shortfall quantity.

TSPL will not be responsible for coal lying on which Coal value has been deducted as part of Contract.

12. Damages for loss due to foreign material

Foreign material like plastic tarpaulin, sand, stones, bajri, tramp iron pieces, concrete block, etc. are not to be loaded into the wagons failing which Damages for loss of INR 10 PMT on the particular rake shall be deducted from the Contractor. Assessment of foreign material shall be done by visual inspection.

For Example:

Foreign material received in no. of rakes in a month is 3

1 rake quantity assumed =4000 MT (will be taken actuals based on TSPL in motion weighbridge quantity)

Damages for loss due to foreign material is $10 \times 3 \times 4000 = 1,20,000$ INR

13. Liquidated Damages

The Contractor should place the indent for rakes not later than 48 hrs after lifting of quantity equivalent to one rake (approximately 4000 MT). Indents may also be placed in advance, if feasible.

Time period for dispatches	Penalty
a. Zero date	48 hours after lifting of the quantity of Coal equivalent to one rake
b. First 2 weeks	Nil penalty
c. > 2 and <= 4 weeks from Zero date.	1% of basic (notified) price of Coal per week delay (on pro-rata basis).
d. > 4 weeks from Zero dates.	2% of the base price of Coal per week delay (on pro-rata basis) capped at 15% of the basic (notified) price of Coal.

Notes:

a. In case railway rakes are not made available by the railway authorities then the date of placing the indent for railway rakes will be considered as deemed date for dispatch of Coal subject to the Contractor producing documentary proof of the same from the railway authorities.

b. The Contractor will ensure that there is no discrimination against TSPL in dispatch of rakes.

c. This clause is not applicable in the case dispatches are regulated (delayed dispatch) by TSPL due to any reason.

d. The above LD shall be computed with a nominal rake quantity of 4000 MT/rake.

e. No LD for delayed dispatch shall be applicable for retaining part rake quantity.

14. LOADING POINT DEMURRAGE

Any Demurrage charges levied by Railways at rake loading end shall be borne by the Contractor. In case the same is imposed by Railways in TSPL's RR, the same shall be recovered from Contractor's Bills.

i.e., '100% of demurrage charges in RR (i.e. TC charges mentioned in RR) will be recovered from

contractor.

15. Cap on Penalties

The Monthly Cap on Penalties shall be 50% of monthly Transportation Charges with taxes (GST) for respective month for Damages for loss on lapsed quantity, Liquidated Damages, Damage for loss on account of GCV lower than Guaranteed GCV, Damages for loss due to foreign material & Underloading, Overloading for Coal Rakes.

Damages on account of excess TM % (As per volume III clause no 6) & Raw coal Shortfall quantity (As per Volume III Clause no 11) are excluded from Cap on Penalties.

<< To be submitted on the letter head of the company submitting the bid>>

ANNEXURE-I for BCCL : PRICE BID FORMAT

Bidder is required to give his firm parameters in the format as given below:

Line Item No.	Name of Mines	Grade of coal Available	Rail ways Loading siding with siding code	Indicative distance from Mines to Siding	Rail Distance from Railway siding to TSPL	Road Transportation charge (INR PMT)	Road Transportation Charges inclusive of GST (INR PMT)	Tarpaulin Charges for Rakes (INR PMT)	Tarpaulin Charges for Rakes inclusive of GST (INR PMT)	Coordination Charges (INR PMT)	Coordination Charges inclusive of GST (INR PMT)	Rail way Freight as per FOIS for TSP L with GST (INR PM T)	Landed Cost at TSPL
						A	B	C	D	E	F	G	F = B+D+F +G
1	New Akashkinaree, Maheshpur, Kharkharee, Jogidih												
2	Salanpur												
3	AKWM OCP West Mudidih, AGKCC Katras Chaitudih												
4	Sendra Bansjora												
5	Nichitpur												

6	Tetulma ri, Kankan ee, Bansde opur												
7	Dhansa r												
8	Gondud ih, ENA OCP												
9	East Bassuri a												
10	Amal, North Tisra, South Tisra, Jeenago ra												
11	Dahibar i												
12	Block-IV OCP (Katapa hari)												
13	Kusund a / Godhar												
14	Dobari / Bastako lla, ROCP/s Jharia, Bera												
15	Damag oria												
16	Jamuni a												
17	Muridih , Damod a Old Ghutwa y,												
18	Shatabd i												
19	Phularit and												

20	Kuiya / Kujama												
21	Zeenagori / Barari, Amalgated NTST Jeenagora												
22	Chandan / Bhowrah												
23	Sudamdih Washery												
24	Tetulmuri												
25	Block II												
26	Gopalihuck Phase III, Gopalihuck 2 Pit												
27	Moonidih												

Invoice shall be raised by the bidder by applying applicable GST at the time of billing.

Note: TSPL reserves the right to allocate the monthly quantity to be lifted by the Contractor(s) at its own discretion in the interest of maximum materialization at TSPL site.

Party can bid for minimum 60,000 MT of raw coal per month.

Note:

The Bids will be evaluated on the landed price of mine wise Coal Rs. /MT basis received at the TSPL.

Bidder shall submit one rate from each mine which will comprise Surface Transportation Charge (including GST), Base Railway Freight (Including GST & OTC, if applicable)

Bidder will have to quote only one siding for each mine(s). Bidder shall quote the railway freight as per FOIS up to TSPL power plant for the quoted railway siding. Permission to change the loading siding may be granted solely at discretion of TSPL, subjected to condition that the payment to the contractor shall not exceed the landed cost discovered through the bidding process.

In case of change in loading siding, railway freight for the new proposed siding shall be paid as per FOIS up to TSPL Power Plant. The difference in the landed cost shall be adjusted against the road transportation charges.

In case of multiple collieries or multiple grades from same mines, please specify rates separately for all mines.

Taxes and Duties as per as per Clause No. 4 of Volume II.

The cost of Raw Coal including taxes and duties and Railway Freight including all taxes and other charges as per RR in Full shall be deposited by TSPL.

We have thoroughly examined and understood the instructions, scope of work and the terms and conditions etc. covered in the Bidding Documents issued by TSPL, being fully aware of nature and scope of work required.

We hereby confirm our acceptance and compliance to all the provisions of the Bidding Documents. We declare that the work will be executed strictly in accordance with the requirement and Bidding Documents provisions.

We further confirm the following:

- We have quoted the prices as per provisions of the Bid Documents.
- We further declare that we have not taken any deviation to provisions of Bidding Documents other than those related to Qualification requirement (if any) specified in the Deviation Sheet Annexure.

We further confirm the following:

While quoting, we have taken into account all the acts, laws, rules, regulations & notifications of Government of India, currently in vogue, relating to applicability and rates of all duties as applicable.

We agree to abide by this Bid for a period of 180 days from the last date of Bid submission as stipulated in the Bidding Documents and it shall remain binding upon us and may be accepted by TSPL at any time before the expiration of that period.

Until a formal Contract is prepared and executed between us, this Bidding Document, together with TSPL's written acceptance thereof in the form of TSPL's Letter of Award shall constitute a binding Contract between us.

We understand that TSPL is not bound to accept the lowest or any other Bid. If our Bid is accepted, we undertake to provide Contract Performance Guarantee in the formats and amounts and within the times as specified in the Bidding Documents.

We undertake, if our Bid is accepted, to commence work for supply of Coal immediately upon your Letter of Award to us and to achieve completion of our obligations within the time specified in the Bidding Documents.

We, hereby, declare that only the persons or firm interested in this proposal as principals are named here and that no other persons or firms other than mentioned herein have any interest in this proposal or in the Contract to be entered into. We further declare that this proposal is made without any connection with any other person, firm or party and is in all respect for and in good faith, without collusion or fraud.

Signature:____Name:_____Designation:___Seal:

ANNEXURE-II: COVERING LETTER

Ref No. and Date :

Bidder's Name and Address:

To,

The Chief Commercial Officer Talwandi Sabo Power Limited Talwandi Sabo – Mansa Road Village-
Banawala, Distt- Mansa Punjab-151302

Dear Sirs,

Sub: Bidding Document No. TN/5/CM/TSPL/2022-23/R0 for Lifting and Transportation of Coal through
Road-cum-Rail (RCR) mode from (BCCL) to TSPL.

1. We hereby submit Bids for ' Lifting and Transportation of Coal through Road-cum-Rail (RCR) mode from (BCCL) to TSPL' as outlined in the Bidding Documents.

We have thoroughly examined and understood the instructions, Scope of Work and the terms and conditions covered in the Bidding Documents issued by Talwandi Sabo Power Limited, being fully aware of nature and scope of work required.

We hereby confirm our acceptance and compliance to the entire provisions of Technical Specifications, Scope of Work and Terms and Conditions covered in the Bidding Documents. We declare that work will be executed strictly in accordance with requirement and Bidding Document provisions.

2. We hereby confirm that we have submitted the following as per the provisions of the Bidding Document:

- i. Signed copy of Bid Document as token of acceptance of the terms.
- ii. Power of Attorney/Board Resolution in favor of Authorized Signatory for signing the Bid.
- iii. Bank Guarantee No: Dated _____ issued by _____ (Name &Address of issuing Bank) for Rs. _____ valid up to _____ towards Earnest Money Deposit (EMD). *(If EMD submitted through Bank Guarantee)*

- iv. Certificates / documents mentioned in Qualification requirements.
- v. Price Bid Submission form in Envelope Part-II.
- vi. In the event of Joint Venture/ Consortium, legally binding MOU/ Agreement amongst all the Partners.
- vii. Certificate of Annual Turnover of Bidder in preceding 5 Financial Years.
- viii. Certificate of Net Worth of Bidder in preceding 5 Financial Years

3. We further confirm the following

- i. We undertake, if our Bid is accepted, to provide Bank Guarantee for Contract Performance Security, as per stipulated formats and amounts and within the time specified in the Bidding Documents.
- ii. Issuance of Letter of Intent (if required), along with signing of Agreement with the Successful Bidder subsequently only will constitute the formation of the Contract.
- iii. Further, we also confirm that we have no history of abandoning projects/contracts/work orders and acknowledge and agree that TSPL may reject our Bid if this were to be the case.
- iv. We confirm that we have not been debarred/ blacklisted by any Gencos/ Individual TPP's and acknowledge and agree that TSPL may reject our Bid if this were to be the case and may take appropriate actions as per the provisions of the Bid Document.

4. We hereby submit our Bid and undertake to keep our Bid valid for a period of 180 days from the last date of submission of Bid. We hereby further undertake that during the said period we shall not vary/alter or revoke our Bid.

5. We understand that TSPL is not bound to accept the lowest or any other Bid, TSPL may receive.

6. We, hereby declare that only the persons or firms interested in this proposal as principals are named here and that no other person or firms other than those mentioned herein have any interest in this proposal or in the Contract to be entered into. We further declare that this proposal is made without any connection with any other person, firm or party and is in all respect for and in good faith, without collusion or fraud.

Signature____Name__ Designation____Seal

ANNEXURE-III: PROFORMA OF PERFORMANCE BANK GUARANTEE

Date :

Guarantee No. :

To

Talwandi Sabo Power Limited
Village Banwala,
Mansa-Talwandi Sabo Road,
Distt. Mansa, Punjab-151302
India

Dear Sir,

WHEREAS, _____, a company incorporated under the laws of _____ and having its registered / principal office at _____ (hereinafter referred to as the "Party" which expressions shall include its successors and assigns) has in terms of LOI No/ Contract No. _____ dated _____ (hereinafter referred as the "Contract") entered between you and the said Party, Contracted to supply the good or perform the works and services as stated in the Contract.

AND WHEREAS, as per provision of the said Contract, the Party is required to furnish to you a Bank Guarantee for _____ (Rupees _____ only) towards due and faithful performance of the Party's obligations under the Contract.

Now, we _____ (name of the bank, branch) at _____ (address) (which include our successors and assigns) hereby irrevocably and unconditionally agree and undertake as follows :

1. We hereby irrevocably and unconditionally guarantee to pay to you the sum in aggregate not exceeding _____ (Rupees _____ only), without demur, merely on the first written demand signed by your representative stating that the amount claimed is due by reasons of breach by the said Party of any of the terms or conditions contained in the said Contract or by reasons of the Party's failure in performance of the Contract and / or any other agreement, if any. Any such demand made on us shall be conclusive as regards the amount due and payable to you by us under this guarantee.

2. Notwithstanding anything to the contrary, your decision as to whether the Party has made any such default or defaults under the aforesaid Contract and / or any other agreement, if any and the amount or amounts to which you are entitled by reason thereof, will be binding on us and we shall not be entitled to ask you to establish your claim or claims under this guarantee and / or be concerned with any dispute, if any between you and the Party and / or refer to the Party and / or rely upon any communication of the Party, but will pay forthwith the sum demanded by you on first written demand without any protest or demur.

3. This guarantee shall come into force from the date of issue of this guarantee and shall remain in full force and effect up to and including _____. Should it be necessary to extend the validity of this guarantee beyond the said date, we undertake to extend the period of the guarantee on your request till such time as may be mutually agreed between you and the Party.

4. We further agree that you shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract and all other written agreement, if any relating to the Contract and/or to extend the time for performance by the Party from time to time.

5. Notwithstanding anything contained hereinabove our liability under this guarantee is restricted to ___ (Rupees _____ only). Unless a claim in writing is lodged with us within a period of 6 (six) months from the date of expiry of the guarantee i.e. up to and including _____ or up to an extended date as per clause 3 hereinabove, unless otherwise extended, all your rights under this guarantee shall stand forfeited and we shall be released and discharged from all liabilities under this guarantee whether or not this document shall have been returned to us.

THIS GUARANTEE SHALL BE SUBJECT TO THE LAWS OF INDIA AND THE JURISDICTION OF THE COURTS IN MANSA, PUNJAB, INDIA

SIGNED AND DELIVERED this _____ day of _____, 20_.

For and on behalf of

Bank :

(Authorized Signatory Of Bank)

Address:

<< To be submitted on the letter head of the company issuing this certificate>>

ANNEXURE-IV: CERTIFICATE FOR SUPPLIES OF QUANTITIES

(To whomsoever it may concern)

REF NO:

DATED:

To,

The Chief Commercial Officer Talwandi Sabo Power Limited Talwandi Sabo – Mansa Road Village-
Banawala, Distt- Mansa Punjab-151302

Sub:

Dear Sir,

This is to certify that, M/s___(Name of Bidder) have transported and / or handled coal (Please stroke out whichever is not applicable) to us as per details given below:

S. No	Period of Supply (From-To)	Quantity (MTPA)

This certificate is issued at the request of M/s

_____(Bidder) for the purpose of participating in the tender.

(Signature of Authorized Person With Name, Designation & Complete Address)

PLACE:_____DATE: _

Note:

1. *Strike off whichever is not applicable

ANNEXURE-V: FORMAT FOR ANNUAL TURNOVER

Ref No.:

Date:

To,

The Chief Commercial officer Talwandi Sabo Power Limited Talwandi Sabo – Mansa Road Village-
Banawala, Distt- Mansa Punjab-151302

Dear Sir,

In order to meet the Qualification requirement as mentioned in *Clause 4.3 of Volume I* of Bidding Document, we hereby furnish the following details:

We, (Name of Bidder/ Name of Lead Member) confirm that our Annual Turnover on stand- alone basis during the preceding Five financial years as on the last date of Bid submission is not less than INR 20 Crores (Indian Rupees Twenty Crores only) or in equivalent foreign currency. In support of the above, we are enclosing Annual Reports, Balance Sheets and Profit & Loss Account duly certified by a Chartered Accountant.

Average Annual Turnover for preceding three years:

Sr. No,	Financial Year	Average Annual Turnover in INR Crores
1.	2017– 18	
2.	2018-19	
3.	2019-20	
2.	2020 – 21	
3.	2021 - 22	

In case 2021-22 figures not available, 5 years may be taken as 16-17, 17-18, 18-19, 19-20 & 20-21

Date:Signature:

Place:

Name:

Designation:

Seal of Firm

Note:

1. In case the Bid is submitted by a Joint Venture, information as above shall be furnished by the Lead Member.
2. Documentary evidence like Annual Reports, Audited Financial Statements for preceding three financial years from the last date of Bid submission to be enclosed.
3. This certificate should either be countersigned by Auditors or may be issued by Auditors on their Letter head.

ANNEXURE-A: Scope for Tarpaulin Covering

SCOPE OF WORK

The scope of work includes but is not limited to

1. Covering of loaded wagons of TSPL coal rakes with good quality tarpaulin & ropes for covering after completion of loading as per Railway standards/TSPL requirements. Tarpaulin of GSM greater than 80 need to be used/quoted by the parties as the distance between coal mines & TSPL Plant is more than 1000 Kms.
2. Damaged/torn tarpaulins & ropes shall not be used.
3. The Contractor shall ensure tarpaulins are securely tied with rail wagons so that tarpaulin does not blow away or tear off during transit.
4. The Contractor shall provide adequate size of tarpaulin for full covering of wagons on top side.
5. Supply of Tarpaulin shall be on returnable basis. Price bid by bidders to be given considering return of tarpaulins.
6. Service provider to follow and fulfil safety compliances to ensure safety of resources and workers deployed for covering tarpaulin at coal rakes. Service provider to issue all necessary equipment and PPEs to ensuring safety. If service provider fail in following safety compliance and avoiding any harm/accidents at loading point during the practice, TSPL will not be responsible and TSPL may terminate the Contract at the same instance.
7. Service provider to comply all necessary requirements by any Statutory bodies including Pollution Control Board, Government authority, BCCL Indian Railway or any other agency as required & Gazette notification no. CG-DL-E-21052020- 219495 dated 21.05.2020
8. Cost of mobilization & de-mobilization of tarpaulins, manpower etc shall be in the Contractor's Scope.
9. Lodging, boarding and conveyance of workmen shall be in the Contractor's scope.
10. Service provider to ensure covering all rakes without fail at any point of time during the duration of the agreement.
11. The Owner shall not be responsible for any damage, loss or pilferage of tarpaulin during handling at the loading/unloading point or during transit.
12. The Contractor shall ensure removal of used/unused/excess tarpaulins from the loading / unloading point.
13. Service provider to start service within 5 days of signing of the Contract and issue of valid Purchase Order & NTP (Notice to Proceed) whichever is later. In case, Railway / BCCL doesn't allow for start of Tarpaulin covering after clearance from TSPL, Service Provider to inform the

same within 24 hours & no penalty shall be applicable.

14. Any penalty levied by BCCL or any other agency for non- covering of the rakes shall be borne by the service provider to the extent to Contract value of the charge of tarpaulin covering from this Contract.
15. Bidder to provide self- certification on the GSM of tarpaulin used at the time of billing. Further, TSPL can cross check the GSM of tarpaulin any time. In case any discrepancy found in GSM then no payment against Tarpaulin covering of that particular rake will be paid by TSPL.

PENALTY FOR NON-COVERING OF ANY RAKE AT LOADING POINT

In case Bidders fails to cover Tarpaulin on any Rake, Penalty equivalent to 1.5 times of Tarpaulin covering for the rake shall be recovered.

PENALTY FOR MISSING TARPAULIN AT UNLOADING POINT

Prorated Penalty equivalent to value of tarpaulin covering per wagon (Considering Per Wagon load of 60 MT) to be levied on the Contractor for the rakes having uncovered wagons.

Example:

Quoted Tarpaulin covering price: INR 15/MT

Wagon Load: 60 MT

No. of wagon uncovered: 5

Penalty for missing tarpaulin at unloading point: $15 \times 60 \times 5 = \text{INR } 4500$

*****Note: Contractor shall well in advance intimate TSPL before start of covering of wagons with Tarpaulin for transportation of coal to TSPL Power Plant.**

ANNEXURE – B (QUANTITY DETERMINATION AT TSPL)

1. Weighment of rakes will be carried out on in-motion weighbridges (for tare and gross) at TSPL. Net Weight of TSPL IMWB shall be considered as delivered weight & final for billing purpose. Netweight =Gross weight less the Tare weight as measured at TSPL at In-motion weighbridge.

2. When TSPL in-motion weighbridge is not operational for short duration, then TSPL received weight will be computed by applying transit loss on the basis of average transit loss of previous most recent rakes (minimum 5, maximum 10) dispatched for TSPL from the same loading point of the Bidder.

For Example:

Transit Loss should be available for min 5 rakes previously dispatched from the same loading point.

In case TSPL IMWB is not operational and transit loss for the previously dispatched rakes to TSPL from the same loading point is available for 7 rakes is as under: No. of rakes	Transit Loss in (%)
1st Rake	2%
2nd Rake	3%
3rd Rake	2.5%
4th Rake	2.8%
5th Rake	3%
6th Rake	3.5%
7th Rake	3%
Then the transit loss for the rake for which weighment has not been done at TSPL IMWB will be computed as:	Average of (2+3+2.5+2.8+3+3.5+3)/7 = 2.8%
Transit Loss of Particular non-weighted rake	2.8%

3. In case there is no previous benchmark available for rakes dispatched for TSPL by the Bidder from same loading point and supplies are expected after the in-motion weighbridge is rectified, then average transit loss of most recent rakes (minimum 5 , maximum 10) received post rectification of TSPL in-motion weighbridge will be considered for arriving at TSPL received weight for the rakes received during the non-availability of in-motion weighbridge.

For Example: Transit Loss available for min 5 rakes previously dispatched from the same loading point post rectification of TSPL IMWB.

Transit loss for the rakes for which weighment could not be done due to non-functional IMWB and a min of 5 rakes have not been dispatched to TSPL from the same loading point earlier, Transit Loss will be computed by taking into account the transit loss for minimum 5 rakes supplied from the same loading point post rectification of TSPL IMWB as under:

No. of rakes	Transit Loss in (%)
1st Rake	2%
2nd Rake	3%
3rd Rake	2.5%
4th Rake	2.8%
5th Rake	3%
Then the transit loss for the rake for which weighment has not been done at TSPL IMWB will be computed as:	Average of (2+3+2.5+2.8+3)/5 = 2.66%
Transit Loss of Particular non-weighted rake	2.66%

4. While considering the most recent rakes (minimum 5, maximum 10) as per point no. 2 & 3 above, preference will be given for considering the rakes within the same Lot.

5. In case there is a case of over speeding of wagons of a rake while passing through in- motion weighbridges at TSPL, resulting in non-registration of weight of entire rakes (Manual weighment of rakes shall not be considered) then TSPL received weight would be arrived at by the similar methodology as in point no.2 & 3 as mentioned above.

6. In case of Excess quantity of Coal received upon Average of prevailing 5 rakes or Post rectification 5 rakes data (mentioned in point no:- 2 & 3). Then excess quantity shall not be applicable. Average of TSPL Weight shall be considered.

7. In case of highly erratic weighment recorded at IMWB, the case may be jointly discussed and based on severity and reoccurrence of such incidences more than 10% of rakes received in a Lot, TSPL will endeavor for action as appropriate post comparing such abnormality with rakes received from other contractors and suppliers during that period.

8. TSPL will provide copy of calibration certificates if requested by the Bidder. TSPL will undertake

the calibration of IMWB in line with the schedule/practice as recommended by Legal Metrology.

9. Any other contingency may be mutually discussed and settled.

Note: Net adjusted quantity of Coal received at the Plant i.e., quantity worked out by TSPL after carrying out adjustment due to quality variations/TM Adjustment with respect to the Base Parameters, if any, will be applicable for the purpose of payment.

-

STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

1.1. In the Agreement, the following words and expressions shall, unless the context otherwise requires, have the following meanings:

"Affiliate" shall mean with respect to any person, any other person that, directly or indirectly, controls, is controlled by or is under common control of such specified person. For the purposes of this definition, "control" means the direct or indirect beneficial ownership of more than fifty percent (50%) of the issued share capital, stock or other participating interest or the legal power to direct or cause the direction of the general management of the company, partnership or other person in question, and "controlled" shall be construed accordingly;

"Agreement" shall mean the Agreement between the Company and the Service Provider to which this Schedule is attached.

"Contractor's Personnel" or "Personnel" shall mean all personnel provided by the Contractor Group in connection with the performance of this Contract, including, without limitation, those referred to in the Scope of Work;

"Data" means all reports, studies, designs, data and other information and materials as may be prepared, created or developed by the Service Provider Group in the course of provision of Services and/or as a result of the Services or in accordance with this Agreement;

"Fees" shall mean the prices and/or rates payable by the Company in respect of the Services and/or as specified in the relevant Purchase Order.

"Purchase Order" shall mean the document recording the specific Services to be carried out under this Agreement, from time to time.

"Site" shall mean the operating site or any other place where the Contractor/Service Provider is performing the Services and/or any supporting activity in respect thereof;

1.2. Unless otherwise stated, any and all references in the Agreement to Clauses are references to the Clauses of the Agreement.

1.3. The headings in the Agreement are used for convenience only and shall not govern or affect the interpretation of the Agreement.

1.4. Words denoting the singular shall include the plural and vice versa, where the context requires.

1.5. Except as expressly identified, any reference to statute, statutory provision or statutory instrument shall include any reenactment or amendment thereof for the time being in force.

1.6. Unless expressly stated otherwise, all references to days, weeks, months and years shall mean calendar days, weeks, months and years.

2. SCOPE OF CONTRACT

2.1. The terms and conditions of the Agreement shall apply from the Effective Date and shall remain valid for the Term unless this Agreement is terminated earlier by the Company in accordance with Clause 19 (Termination) below.

2.2. Subject to the provisions of this Agreement, the Parties agree that upon request of the Company in terms hereof, the Service Provider shall perform the Services at such locations and for such periods as may be agreed with the Company.

2.3. From time to time, the Company may issue a Purchase Order to the Service Provider. In such case, the terms and conditions of this Agreement shall apply to each such Purchase Order as if repeated in total.

2.4. The Service Provider shall commence the Services on the scheduled commencement date stated under this Agreement or in the relevant Purchase Order and shall continue

such Services for the Term or the duration of the Purchase Order as applicable unless terminated earlier in accordance with terms and conditions hereunder. Each Purchase Order is subject to agreement on a case by case basis.

3. SERVICES

3.1. The Service Provider shall perform the Services with all due skill, care and diligence in a safe, competent and timely manner and in accordance with the requirements of the Agreement and/or the relevant Purchase Order. If Company notifies the Service Provider of any defect in the performance of the Services, the Service Provider shall rectify such defect at its own expense.

3.2. Except to the extent that it may be legally or physically impossible, the Service Provider shall comply with the Company's instructions and directions in all matters relating to the Services consistent with the provisions hereunder.

3.3. The Service Provider shall agree with the Company in the relevant Purchase Order from time to time as regards the personnel who will perform the Services and shall:

- (a) only provide such Personnel who possess appropriate experience, skills and qualifications necessary for the Services to be performed in accordance with this Agreement;
- (b) not remove or replace such Personnel without the prior written consent of the Company (not to be unreasonably withheld); and
- (c) nominate a senior manager or director of the Service Provider to have overall responsibility for the provision of the Services in terms stated under this Agreement and/or the relevant Purchase Order, which person shall attend any meetings with the Company on reasonable prior notice.

3.4. Without prejudice to any other rights of the Company under the Agreement or at law, if the Service Provider fails to perform the

Services in accordance with the provisions of this Agreement, the Company may use alternative means to perform the Services, by giving a prior written notice of 30 (thirty days) to the Service Provider and the Service Provider shall be liable for any additional cost incurred by the Company in using such alternate means.

4. SERVICE PROVIDER'S REPRESENTATIONS AND WARRANTIES

4.1. The Service Provider represents and warrants that:

- (i) It is a duly organized company/business entity validly existing under the laws where it is incorporated/established, and has experience, expertise, ability and skills as required to perform the Services as detailed in this Agreement and as may be necessary to perform its obligations hereunder in a professional manner.
- (ii) It has all the requisite power, authority and approvals required to enter into this Agreement and will have all the requisite power, authority to perform fully each and every obligation under this Agreement.
- (iii) This Agreement has been duly executed and delivered by its duly authorized representatives and constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.
- (iv) The execution, delivery and performance of this Agreement and all instruments or addenda required hereunder by it does not contravene, violate or constitute a default of or require any consent under the provisions of any other agreement or instrument to which it is bound, including the constitutional documents thereof, or any order, judgment, decree or injunction of any court of law.
- (v) No legal proceedings are pending or threatened against it before any court, tribunal or authority which do or may restrain or enjoin its performance or observance of the terms and conditions of this Agreement or which do or may in any other manner

question the validity, binding effect or enforceability of this Agreement.

- (vi) No order has been made or petition presented for the bankruptcy protection, winding up or dissolution thereof against it.
- (vii) It shall maintain high professional standards to ensure performance of this Agreement as per best business practices and in full compliance with statutory obligations.
- (viii) It has all necessary statutory and regulatory permissions, approvals and permits for the running and operation of its establishment for the conduct of its business;
- (ix) It has full right, title and interest in and to all trade names, trademarks, service marks, logos symbols and other proprietary marks (IPR) (including limited right of use of those owned by any of its vendors, affiliates or subcontractors) which it provides to the Company, for use related to the Services, and that any IPR provided by the Service Provider shall not infringe the IPR of any third party;
- (x) The Service Provider represents that there is no inquiry/ investigation pending by the police against the Service Provider or its employees. The Service Provider undertakes that it will confirm at his own cost and expense and shall comply in all respect with the provisions of Government Authority applicable to the Service Provider and /or to the Service Provider's employees;
- (xi) The Service Provider shall be liable for all fines, penalties, and the like of parking, traffic and other criminal offences arising out of or concerning the use of any vehicle for performing the Agreement and any toll charges or entry Taxes payable locally and the Service Provider accordingly indemnifies Company against all such liability.
- (xii) The Service Provider has sufficient resources available to respond to emergencies/ incidents, which may occur along established transportation routes. In case of any accident resulting in loss or damage to

property of life, the sole responsibility for any legal or financial implication would vest with the Service Provider. Company shall have no liability whatsoever.

4.2 Each Party hereby warrants that it has not entered into this Agreement relying on any warranty, representation or undertaking except for any warranty, representation or undertaking expressly set out in this Agreement.

5. SERVICE PROVIDER'S PERSONNEL

5.1. Service Provider's Personnel – General

- 5.1.1. The Service Provider shall, at its expense, provide and keep available for the Services, the Service Provider's Personnel.
- 5.1.2. The Service Provider shall ensure that the Service Provider's Personnel shall be sufficient in number and quality to carry out the Services in accordance with the terms and conditions of the Contract and will be suitably qualified and medically fit and certified, if necessary, to perform the tasks required to complete the Services.
- 5.1.3. Without prejudice to the generality of Clause 5.1.2, the Service Provider shall ensure that the Service Provider's Personnel are experienced and qualified for the Services they are required to carry out hereunder, to a standard not less than that required by the Contract and that which may from time to time be required by the relevant Government authorities and in accordance with good industry practice.
- 5.1.4. In relation to any member of the Service Provider's Personnel expected to make, in the Company's sole opinion, significant technical contribution to the Services, the Service Provider shall submit full particulars, in the form of a resume, of the qualifications and experience of such member to the Company prior to that member of the Service Provider's Personnel starting any part of the Services. No such member may start any part of the

Services unless the Company's written approval has been given. The Service Provider shall submit resumes of any other member of the Service Provider's Personnel assigned to the Services on written request by the Company.

- 5.1.5. The Company reserves the right to reject any member of the Service Provider's Personnel, prior to that member commencing any part of the Services.

5.2. **Removal of Personnel**

The Company may, at any time after the commencement of the Services and at its sole discretion, direct the Service Provider in writing to remove any member of the Service Provider's Personnel from the Site. The Service Provider shall immediately comply with such direction and shall, as soon as reasonably practicable, replace, or procure the replacement of, such person with another person suitably qualified and acceptable to Company. The Service Provider shall bear the costs of any such removal and replacement.

5.3. **Adjustment to the Service Provider's Personnel**

The Service Provider shall not at any time without the Company's prior approval increase or decrease the number of the Service Provider's Personnel.

5.4. **Passports and Visas**

- 5.4.1. The Service Provider, if applicable, shall be responsible and bear the cost of obtaining all visas and entry or other permits (including clearance from the Ministry of Home Affairs and immigration authorities, if applicable) required to enable the Service Provider's Personnel to proceed to and work at the Site. The Company may, at the Company's sole discretion, endeavour to assist the Service Provider to obtain such visas and permits.

- 5.4.2. The Service Provider's Personnel shall have such documents on their person when rendering services and shall make the same

available for inspection by any Government Authority, if required.

5.5. **Drugs and Alcohol**

Neither the Service Provider nor any of the Service Provider's Personnel (including sub-contractors) shall, except for bona fide medical purposes, keep, sell, barter, give, dispense or otherwise dispose of any drugs or alcoholic liquors to any person at the Site or permit the same to be done by any person. Alcohol shall not be permitted at the Site save in a form generally used in medicine and forming a bona fide constituent of a medical kit. The Company's Representative reserves the right to search the property and person of any member of the Service Provider's Personnel to ensure compliance with the provisions of this Clause 5.5 (Drugs and Alcohol). The Company's Representative may at his absolute discretion prohibit any member of the Service Provider's Personnel to go on to the Site or other facility in the control of Company, or may require such person to leave the Site where he has reasonable grounds to suspect non-compliance with the provisions of this Clause 5.5 (Drugs and Alcohol).

6. **FEES**

- 6.1. The Company shall pay for the Services performed in accordance with the prices as per Attachment 2 to Schedule I and/or rates specified in the relevant Purchase Order.

- 6.2. In case of contingency assignments, the agreed fees for such onetime Services shall be payable on completion of the relevant assignment as per the terms agreed under this Agreement and/or the relevant Purchase Order.

7. **SERVICE PROVIDER'S GENERAL OBLIGATIONS**

- 7.1. The Service Provider shall, and the Service Provider shall ensure that its employees and representatives shall, in performing its obligations under this Agreement, comply

in all respects with all relevant laws, statutes, regulations and orders for the time being in force.

7.2. Where any of the Service Provider's employees or representatives, including employees or representatives of its subcontractor/(s), if any, is/are present at any of the Company's premises for the purposes of this Agreement, the Service Provider shall at all times remain solely responsible for the conduct (including any misconduct) and safety of such employee/(s) or representative/(s).

7.3. The Service Provider shall not, in performing its obligations under this Agreement, hold itself out or permit any person to hold it out as being authorised to bind the Company in any way and will not commit any act which might reasonably create the impression that it is so authorised.

7.4. The Service Provider shall ensure that it has in place and maintains in place for the duration of this Agreement sufficient insurance to comply with all applicable laws and to cover its potential liabilities under this Agreement and shall provide evidence of such insurances to the Company on request. The Service Provider undertakes that such insurances shall contain waivers of any rights of recourse including, in particular, subrogation rights against the Company arising out of or in connection with the performance of this Contract to the extent of liabilities assumed by the Service Provider hereunder;

7.5. Notwithstanding the provision of the information by the Company, the Service Provider shall be deemed to have satisfied itself in respect of all relevant matters pertaining to the Services, including, but not limited to, the Scope of Work, the nature of the Services, access to the site, local facilities, climatic, sea, other water and weather conditions, working hygiene and working environment conditions and/or all other matters which may affect the performance of the Services. Any failure by the Service Provider to take into account any of the aforementioned

matters shall not relieve or excuse the Service Provider from any of its responsibilities, liabilities or obligations hereunder or entitle the Service Provider to any extra payment.

7.6. The Service Provider shall not subcontract any of its obligations under this Agreement without the prior written consent of the Company. The Service Provider shall not be relieved from any of its obligations or liabilities under the Agreement by virtue of any subcontract and the Service Provider shall be responsible for all Services, acts, defaults or omissions of its subcontractors (and its or their employees and consultants) as though they were the services, acts, defaults or omissions of the Service Provider.

7.7. In performing the Services, the Service Provider shall:

(a) give preference to the purchase and use of goods manufactured, produced or supplied in India provided that such goods are available on terms equal or better than imported goods with respect to the timing of delivery, quality, quantity required, price and other terms;

(b) subject to Clause 7.5, employ Indian subcontractors having the required skills or expertise to the maximum extent possible insofar as their services are available on comparable standards with those obtained elsewhere and at competitive prices and on competitive terms, provided that where no such subcontractors are available, preference shall be given to non-Indian subcontractors who utilise Indian goods to the maximum extent possible, subject to the proviso in Clause 7.7 (a) above; and

(c) subject to Clause 7.5, co-operate with and assist Indian companies as subcontractors to enable them to develop skills and technology to service the petroleum industry.

7.8 The Service Provider shall maintain proper and accurate records in relation to the Services and shall provide copies of the same to the Company on request. The Company (or its appointed representative) shall have the right to audit the relevant books and accounts of the Service Provider in relation to any reimbursable charges paid for by the Company under this Agreement. Such audit right shall survive for a period of 2 (two) years following the expiry or termination of the Agreement. Any incorrect payments identified by such audit shall be adjusted between the Parties as appropriate.

8 INTELLECTUAL PROPERTY RIGHTS

8.1 If the Services performed or provided under the Agreement and/or Purchase Order involves a patent, copyright, trademark, or proprietary information (IPR) Intellectual Property Right, the Service Provider hereby grants the Company Group a permanent, irrevocable, worldwide, non-exclusive license to use the same without additional charge.

8.2 The Company is the sole owner of IPR in anything developed and delivered under this Agreement / Purchase Order. Service Provider shall provide at the Company's reasonable request any documentation necessary to confirm Company's ownership interest in such intellectual property rights. Service Provider shall retain ownership of any intellectual property rights vested in Service Provider prior to this Agreement or created by Service Provider outside of its performance of this Agreement during the term of this Agreement.

8.3 Service Provider shall at all times be responsible for, shall release and shall defend, protect, indemnify, hold harmless and defend Company Group, from and against any Claim by a third party for infringement of any IPR which may arise out of the Services performed and/or provided by Service Provider.

8.4 For the purposes of this clause, Intellectual Property Rights includes but is not limited

to all vested, contingent and future intellectual property rights including: (i) all inventions, compounds, compositions, substances, methods, processes, techniques, know-how, technology, data, information, discoveries, and materials including ideas, concepts, formulas, assays, practices, software, devices, procedures, designs, constructs, plans, applications, research, regulatory information, manufacturing process, scale-up and other technical data, reports, documentation and samples, including chemical, physical, analytical, safety, manufacturing and quality control data and information, as well as study designs and protocols; and any Patents, trade secrets, confidential information, proprietary processes, or industrial rights directly or indirectly deriving therefrom; (ii) all trademarks, service marks, copyrights, designs, trade styles, logos, trade dress, and corporate names, including all goodwill associated therewith; and (iii) any work of authorship, regardless of copyrightability, all compilations and all copyrights and includes also includes any inventions, made, to be made, discovered, conceived or reduced to practice whether or not patentable.

9 OWNERSHIP OF DATA

9.1 All Data shall be the property of the Company from the date of its creation or development including all Intellectual Property Rights thereto and the Company shall, accordingly, have unfettered right and authority to dispose of, alienate or transfer all Data. No Data created or developed by the Service Provider under this Contract shall become the property of the Service Provider; provided that the risk and responsibility for the loss of, or damage to, any Data shall remain with the Service Provider until delivery of such Data to the Company.

9.2 All Data shall be fit for the purposes specified in the Contract.

9.3 All items created or developed by the

Service Provider outside the Contract shall remain the property of the Service Provider, provided that the Company shall have the right to use any such item where it is provided to the Company as part of the Services.

9.4 Notwithstanding anything to the contrary contained in this Contract, it is hereby agreed between the Parties that any Intellectual Property Rights arising out of, from or in relation to this Contract including those created during the course of performance of the Contract, shall belong to and vest in the Company and in this regard, the Service Provider hereby waives any right, title or interest in the same.

10 INDEMNITY

10.1 The Service Provider shall defend, indemnify and hold the Company, its directors, officials & employees etc., harmless from and against any and all claims, liabilities, costs, damages and expenses (including court costs and legal fees) in connection with any claim made by any third party (including, but not limited to, any claim made by any governmental or statutory authority) against the Company arising out of or in connection with the performance by the Supplier of its obligations under this Agreement.

10.2 The Service Provider shall be liable for and shall defend, indemnify and hold the Company its directors, officials & employees etc., harmless from and against and all claims in connection with any breach, infringement (whether actual or alleged) of Confidentiality, accident, bodily injury, fraud arising out of or in connection with the performance of this Agreement by the Service Provider.

10.3 This indemnity shall be without prejudice to any other rights or remedies, including injunctive or other equitable relief, which the Company may be entitled to.

10.4 Company shall have the right to retain/ withhold out of any payment, to be made to the Service Provider, an amount

sufficient to indemnify it completely against any such third-party claims and all associated costs.

10.5 It is the express intention of the Parties hereto that the provisions of this Agreement / Purchase Order shall exclusively govern the allocation of risks and liabilities of the Parties, it being acknowledged that the Agreement reflected herein has been based upon such express understanding. It is acknowledged that the compensation payable to Service provider upplier as specified in this Agreement and/or applicable Purchase Order has been based upon the express understanding that risks and liabilities shall be determined in accordance with the provisions of this Agreement and/or applicable Purchase Order.

11 LIMITATION OF LIABILITY

11.1 **EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL LOSS OR DAMAGES OF ANY NATURE ARISING AT ANY TIME FROM ANY CAUSE WHATSOEVER.**

11.2 The limitations of liability and exclusion of warranties as set out in the Agreement shall be to the maximum extent permitted by applicable law. Nothing in this Agreement purports to exclude or limit liability for fraud, misrepresentation, death or personal injury.

12 PAYMENT

12.1 In addition to any requirements set out in the relevant Purchase Order, if any, each invoice shall:

(a) be in duplicate; (b) bear the Contract Number stated on the cover sheet to the Agreement;

- (c) state the name, e-mail address, mobile telephone number of the Company's Representative; and
- (d) be accompanied by supporting evidence and itemised in accordance with the Company's requirements.

Invoices to the Company shall be sent to the address set out in the Agreement. Service Provider must ensure that all invoices for services performed or goods delivered are submitted to the Company within 90 days.

Specifically, the Service Provider shall submit the following information/documents to the Company unless specifically exempted by the Company representative in writing:

- (i) Latest tax residency certificate of the Service Provider as issued by the tax / revenue authorities of Service Provider's country of residence, stating specifically that the Service Provider is tax resident of country as mentioned in such tax residence certificate.
 - (ii) Copy of the Permanent Account Number ('PAN') card issued by the Indian Tax authorities,
 - (iii) Copy of registration certificates under applicable Indian tax/other laws including but not limited to GST, Excise, import export code etc., as applicable.
 - (iv) Copy of the withholding tax certificate issued by Indian tax authorities, enabling the Company to make payments to the Service Provider after deduction of such taxes as per prescribed rate in the withholding tax certificate.
- 12.2 The Company shall make payment of a correct invoice within 45 days of receipt to the Service Provider's nominated bank account. Any invoice not complying with the provisions of this Agreement will be returned by the Company and the Service Provider shall submit a rectifying invoice.

12.3. The Company may dispute any amount on an invoice and withhold the disputed amount provided that:

- (a) the Company makes payment of any undisputed portion of the invoice and notifies the Service Provider of the disputed amount within 45 days of receipt of the relevant invoice;
- (b) if the dispute is resolved in favour of the Service Provider, the Company shall pay the disputed amount within fifteen (15) days of the date of the resolution of the dispute or forty-five (45) days of receipt of the invoice, whichever is later.

If the dispute is resolved in favour of the Company, the Service Provider shall forthwith issue a credit note for the disputed amount.

12.4 The Company shall be entitled to set-off / adjust / deduct from any invoice under this Agreement, any payment due from the Service Provider to the Company or any of its Affiliates.

13 PERFORMANCE BANK GUARANTEE

13.1 The provisions of this clause shall be applicable only in those cases wherein the Service Provider is required to furnish a performance bank guarantee as per the terms and conditions of this Agreement.

13.2 The Service Provider shall furnish, within 7 days of execution of this Agreement, and irrevocable Performance Bank Guarantee of such value as may be mutually agreed between the parties. The Performance Bank Guarantee so furnished by the Service Provider shall be released upon successful completion of the obligations of the Service Provider in terms of the Agreement after the Company duly submits a certificate to the effect that there are no claims against the Company from any of its vendors, subcontractors and/or any other third party, including but not limited to the Service Provider's employees, engaged in performance of the obligations of the

Service Provider under the Agreement. If requested by the Company, the Service Provider agrees to extend the validity period of the Performance Bank Guarantee or to issue a further Performance Bank Guarantee in the event that the duration of this Agreement is for any reason extended beyond such validity date.

13.3 The Service Provider shall renew the Performance Bank Guarantee fifteen (15) days prior to the date the Performance Bank Guarantee expires ("Expiry Date") in case of any extension to the Term. If the Service Provider does not submit to the Company a renewed Performance Bank Guarantee fifteen (15) days prior to the Expiry Date, the Company shall have the right to immediately draw down complete Performance Bank Guarantee amount and shall reserve the right to retain such amounts till such time the Service Provider provides a replacement Performance Bank Guarantee for the equivalent amount.

13.4 The Service Provider shall renew the Performance Bank Guarantee or otherwise submit an additional Performance Bank Guarantee, as duly required by the Company, on account of change in the Agreement value pursuant to a variation or amendment to the Agreement, within fifteen (15) days of being so notified by the Company. If the Service Provider does not submit to the Company a renewed Performance Bank Guarantee or an additional performance bank guarantee, as the case may be, within the said period of ten (10) days, the Company shall have the right to immediately draw down complete Performance Bank Guarantee amount and shall reserve the right to retain such amounts till such time the Service Provider provides a replacement performance bank guarantee(/s) for the equivalent amount.

13.5 In addition to the right contained in the preceding clause, the Company shall further have an unqualified right under the Agreement to draw on the Performance Bank Guarantees under the following circumstances:

i) failure by the Service Provider to supply the Services in accordance

with the Agreement resulting in termination; or
ii) failure by the Service Provider to duly perform any of its obligations under this

Agreement; or iii) Any valid claim made by the Company accruing due to any acts/omission of the Service Provider and the Service Provider fails to pay the Company for such a claim immediately upon such demand.

13.6 The provision and maintenance of the Performance Bank Guarantee by the Service Provider in accordance with the terms of the Agreement shall be a condition precedent to any payment by the Company to the Service Provider.

13.7 If the Service Provider fails to provide, maintain or renew the Performance Bank Guarantee in accordance with the terms of the Agreement, then the Company may, without prejudice to any other rights and remedies to which it may be entitled to, invoke the Performance Bank Guarantee and/or terminate the Agreement forthwith by written notice.

13.8 In addition to the other circumstances specified in this Agreement, Company has the right to draw down all or part of the value of the Performance Bank Guarantee and, at Company's discretion, apply the proceeds in remedying any breach by Service Provider of this Contract. Such recourse against the Performance Bank Guarantee shall be without limitation to any other right or remedy of the Company in relation to the relevant Service Provider breach.

14 SPECIFICATION VARIATION

14.1. No adjustment to the Scope of Work, the Specification, the prices and/or rates set out in Compensation Schedule or the Completion Date (or any other date specified in the Agreement for performance by the Service Provider) shall be valid unless a variation order has been issued in writing by the Company (a "Variation Order").

14.2. The Company may at any time issue a Variation Order to the Service Provider requiring the Service Provider to alter, amend, omit, add to, accelerate, reprogramme or otherwise vary any part of the Scope of Work or Purchase Order and/or the Specification. Upon receipt of a Variation Order the Service Provider shall proceed immediately as instructed, and any necessary adjustment to prices and/or rates or dates for performance shall be subsequently made in accordance with Clause 14.3 below.

14.3. Where the Company has issued a Variation Order in accordance with Clause 14.2, the Parties shall use all reasonable endeavours to agree on fair and reasonable adjustments to the prices and/or rates and/or dates for performance, which shall, to the extent possible, be based on the existing prices and/or rates and/or dates for performance specified in the Agreement. Such adjustments shall be recorded in a further Variation Order.

14.4 Notwithstanding anything contained in this Clause 14, if the parties fail to mutually arrive at the terms of the Variation Order, then the decision of the Company shall be final and binding and the Service Provider shall be required to carry out its obligations under the Contract, including the execution of variation in works, as proposed by the Company.

15 ADVANCE BANK GUARANTEE

15.1 The provisions of this clause shall be applicable only in those cases wherein the Service Provider is required to furnish an advance bank guarantee as per the terms and conditions of this Agreement.

15.2 The Service Provider shall furnish an irrevocable, unconditional bank guarantee equivalent to 100% of the Advance Payment, from a scheduled bank acceptable to the Company (acting

reasonably) and in the form attached as Attachment 3 to Schedule I (Advance Bank Guarantee) or otherwise approved by Company and shall be valid till the expiry of the Contract to be paid by the Company to the Service Provider as per the terms and conditions of the Contract as security for the Advance Payment made by the Company to the Service Provider and to secure all other obligations of the Service Provider under this Contract (the "Advance Bank Guarantee") as a condition precedent to the release of Advance Payment.

15.3 The Service Provider shall renew the Advance Bank Guarantee ten (10) days prior to the date the Advance Bank Guarantee expires ("Expiry Date") in case of any extension to the Term. If the Service Provider does not submit a renewed Advance Bank Guarantee ten (10) days prior to the Expiry Date, with the Company, the Service Provider shall have the right to immediately draw down complete Advance Bank Guarantee amount and shall reserve the right to retain such amounts till such time the Service Provider provides a replacement Advance Bank Guarantee for the equivalent amount.

15.4 The Service Provider shall renew the Advance Bank Guarantee or otherwise submit an additional Advance Bank Guarantee, as duly required by the Company, on account of change in the Contract Value or in case of any upward revision to the Advance Payment, pursuant to a variation or amendment to the Contract, within ten (10) days of being so notified by the Company. If the Service Provider does not submit to the Company a renewed Advance Bank Guarantee or an additional advance bank guarantee, as the case may be, within the said period of ten (10) days, the Company shall have the right to immediately draw down the complete Advance Bank Guarantee amount and shall reserve the right to retain such amounts till such time the Service Provider provides a replacement advance bank guarantee(/s) for the equivalent amount.

15.5 In addition to the right contained in the preceding clause, the Company shall further have an unqualified right under the Agreement to draw on the Advance Bank Guarantees under in the following:

- i) failure by the Service Provider to perform the Services in accordance with terms and conditions of Service Provider, to the satisfaction of the Company; or
- ii) Any inadequate adjustment of the Advance Payment; or
- iii) failure by the Service Provider to duly perform any of its obligations under this Agreement; or iv) any valid claim made by the Company accruing due to any acts/omission of the Service Provider and the Service Provider fails to pay the Company for such a claim immediately upon such demand.

15.6 If the Service Provider fails to provide, maintain or renew the Advance Bank Guarantee in accordance with the terms of the Agreement, then the Company may, without prejudice to any other rights and remedies to which it may be entitled to, invoke the Advance Bank Guarantee and/or terminate the Agreement forthwith by written notice.

16 TAXES

16.1 Definitions

For the purposes of this Clause 16 (Taxation):

- (a) "Tax" or "Taxes" means taxes, levies, duties, fees, charges and contributions as amended from time to time and any interest or penalties thereon;
- (b) "Government Authority" or "Government Authorities" means any local or national government or authority of any country, competent to levy any Tax;

- (c) "Goods & Services Tax" or "GST" shall include Central Goods & Service Tax ("CGST"), State Goods & Service Tax ("SGST"), Integrated Goods & Service Tax ("IGST"), Union Territory Goods & Service Tax ("UTGST") & GST Compensation Cess.

16.2 Person Responsible for payment of Taxes

16.2.1 Taxes General

Except as may be expressly set out in this Contract, the Service Provider shall be responsible for:

- (a) the payment of all Taxes now or hereafter levied or imposed on the Service Provider or its subcontractors or on the Service Provider's Personnel or its subcontractors by any Government Authority in respect of any wages, salaries and other remuneration paid directly or indirectly to persons engaged or employed by the Service Provider or its subcontractors (hereinafter referred to as "Personal Income tax");
- (b) the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the actual/assumed profits and gains made by the Service Provider or its subcontractors (hereinafter referred to as "Corporate Income tax");
- (c) the payment of all GST now or hereafter levied or imposed by any Government Authority on the supply of goods or services, if any, provided to the Company by the Service Provider or its subcontractors;
- (d) the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the mentioned goods only, namely, petroleum crude, HSD, Petrol, Natural Gas & ATF, if any, sold to the Company by the Service Provider or its subcontractors (hereinafter referred to as "Sales tax/VAT/CST");

- (e) the payment of all Taxes now or hereafter levied or imposed by any Government Authority on the mentioned goods only, namely, petroleum crude, HSD, Petrol, Natural Gas & ATF, if any, manufactured by the Service Provider or its subcontractors for sale to the Company (hereinafter referred to as “Excise Duty”); and
- (f) the payment of any other Taxes now or hereafter levied or imposed by any Government Authority on the Service Provider or its subcontractors as a result of the performance of this Agreement.

16.2.2 Exception to General: Prior to commencing the Services, the Service Provider shall notify the Company whether or not it has Fixed Establishment in India. If the Service Provider notifies the Company that it does not have Fixed Establishment in India, then, any Indian GST chargeable on the services provided by the Service Provider under this Agreement shall be paid by the Company directly to the relevant Government Authority.

16.2.3 Reimbursement of Taxes to the Service Provider

It is acknowledged that responsibility for payment of Taxes to the Government Authority will be governed as per Clause 16.2.1 and 16.2.2, the Service Provider will be reimbursed only for such Taxes which will be agreed to be reimbursed in the Compensation Schedule or any of the Purchase Order(s) issued under the Agreement.

16.2.4 Pricing

The Parties agree that details of Taxes included in, or excluded from, the Service Provider's prices and/or rates shall be as stated in the Compensation Schedule to the Agreement and nothing in this Clause 16 shall be construed to affect or prejudice such details as stated in the Compensation Schedule.

16.3 Withholding taxes and Withholding certificates

16.3.1 The Company shall, at the time of its payments due to the Service Provider, withhold the necessary taxes at such rate as is required by any Government Authority, unless and to the extent that the Service Provider shall produce to the Company any certificate issued by a Government Authority (having authority to issue such certificate) entitling the Service Provider to receive the payments under the Agreement for a prescribed period without deduction of any tax or deduction at a lower rate.

16.3.2 The Company shall provide the necessary withholding tax certificates to the Service Provider within the time stipulated by the relevant law to enable the Service Provider to file the same with the Government Authority as a proof of payment of such taxes.

16.4 Person Responsible for filing of returns / information to Government Authorities

16.4.1 The Service Provider shall be responsible for filing all necessary Tax returns (including, without limitation, returns for Corporate Income tax, Personal Income tax, GST, Sales tax and Excise Duty) with the relevant Government Authorities in accordance with all applicable statutory requirements and shall be responsible for providing all information requested by such Government Authorities.

16.4.2 The Service Provider shall also ensure that its subcontractors file such returns as stipulated by the relevant Government Authorities and furnish such information as requested for by the relevant Government Authorities.

16.4.3 The Company, with respect to the tax withheld from the Service Provider in accordance with Clause 16.3 (Withholding Tax and Withholding Tax Certificates), shall be responsible for filing the withholding tax returns with the relevant Government Authorities in accordance with applicable statutory requirements.

16.5 Company's rights, if treated as representative assessee by Government Authorities

In certain situations, a Government Authority may treat the Company as the representative assessee of the Service Provider and/or its subcontractors and recover the Taxes due to the Government Authority by the Service Provider or its subcontractors from the Company. In such situations, the Company shall have the following rights:

- (a) The Company shall be entitled to recover from the Service Provider, the Taxes paid on behalf of the Service Provider or its subcontractors (together with any costs and expenses incurred by the Company in connection therewith) or to retain the same out of any amounts to be paid to the Service Provider or its subcontractors that may be in its possession (whether due under this Agreement or otherwise) and shall pay only the balance, if any, to the Service Provider; and
- (b) If the Company is required to furnish any details or documents in such capacity, the Company shall request the details or documents to be furnished to it by the Service Provider and the Service Provider shall immediately furnish the same to the Company. If the Service Provider fails to comply with the foregoing, any penalty/interest levied on the Company for non-filing or late filing of details or documents in this regard shall be recoverable from the Service Provider.

16.6 Indemnity The Service Provider shall defend, indemnify and hold the Company Group harmless from and against any and all claims, liabilities, costs, damages and expenses (including court costs and legal fees) in connection with any Taxes which may be levied or imposed on the Service Provider or its subcontractors by any Government Authority arising out of or in

connection with the performance of this Agreement.

16.7 CHANGES IN LAW

If, after the date of execution of this Agreement, there is any change in law, excluding any change(s) as result of interpretation by competent authority, tribunal & Court, which results in a change in the rate of any Tax included in the Service Provider's prices or rates or the introduction of a new Tax and such change results in an increase or decrease in the cost to the Service Provider of performing this Agreement then the Parties shall

agree to a revision in pricing to reflect such change provided that:

- (a) the Party requesting such revision shall promptly (and in any case prior to submission of the Service Provider's final invoice under this Agreement) but not later than 07 (seven) business days notify the other Party that such change in law has arisen; and
- (b) the Party requesting such revision shall provide the other Party with documentary proof of such change in cost to the reasonable satisfaction of the other Party; and
- (c) the provisions of this Clause 16.7 shall not apply to changes in Personal Income tax or Corporate Income tax or to changes in non-Indian Taxes.

16.8 GST Compliances by Service Provider

16.8.1 Notwithstanding anything contained hereinabove, the Service Provider shall strictly and in a timely manner, adhere to and undertake all acts, omissions and compliances required under the applicable GST laws to ensure that the Company is able to avail the Input Tax Credit/set off/rebate/refund of the GST (along with cesses and surcharges, if relevant) as applicable on the Services or any supplies if applicable made by the

Service Provider under this Agreement to the fullest extent possible under law. In this regard, without limiting the generality of the foregoing obligation in any manner whatsoever, Company reserves the right to specify to the Service Provider, particulars including but not limited to the following:

- (a) whether Service Provider should charge IGST or CGST-plus-SGST;
- (b) GST registration number of the Company;
- (c) whether the Service Provider should be responsible to generate the E-Way Bill;
- (d) the format of invoices/credit and debit notes/advance receipt vouchers;
- (e) the requirement for maintenance of a 'GST compliance rating score' above a specified threshold; etc. and
- (f) the relevant timelines for such compliances based on the applicable GST laws.

16.8.2 The Service Provider acknowledges that any failure in the foregoing obligations (including undertaking the ones specifically instructed by the Company, if any) can cause significant losses to the Company in the form of loss of GST credit, statutory interest liability on such credit loss (under applicable GST laws) and adverse impact on the 'GST compliance rating score' and thus, undertakes to carry out this foregoing obligation with sincerity, due diligence and without any delay or demur.

16.8.3 The Parties agree that the Company reserves the right to reimburse the GST component on supplies received only when the corresponding credit has become available in the electronic credit ledger of the relevant GST registration of Company.

16.8.4 Without prejudice to any other indemnification obligation under this Agreement, the Service Provider agrees to, at all times, to hold harmless and indemnify Company from and against all claims, liabilities, expenses, proceedings, costs and losses that may be suffered or incurred by Company which may arise out of or in connection with any failure by the Service Provider to adhere to its obligations including but not limited to its obligations under Clause 16.8.1 above. In this

regard, the Service Provider also hereby indemnifies Company from any costs, claim or liability arising out of any claim or action or omission by any employee or consultant or agent or outsourced staff or subcontractor of the Service Provider.



17 MOST FAVOURED CUSTOMER CLAUSE

If Company obtains a quote from a competitor of the Service Provider to provide Services or similar services on longer payment terms or for fees that are less than the Fees in effect under a Contract, taking into account discounts, rebates and any other conditions with economic value to Company, Company may notify the Service Provider of the same in writing and request that the payment terms be extended and/or the price is reduced under such Contract to meet such quote. Within 10 (ten) Business Days of receipt of such notice, the Service Provider shall advise Company in writing whether it will meet such quote. If the Service Provider elects not to meet such quote, or fails to respond in a timely manner, then Company may terminate such Contract by providing a minimum of 7 (seven) days' prior written notice to the service Provider.

18 SUSPENSION

18.1 Suspension without Cause

18.1.1 Notwithstanding anything contained herein to the contrary, the Company shall have the right, without cause, at any time to require the Service Provider to suspend the Services (or part thereof) under this Contract by giving a prior written notice to the Service Provider.

18.1.2 The Company shall not be liable to make any payments of whatsoever nature during the Suspension Period pursuant to Clause 18.1.1.

18.2 Suspension Due to Default

18.2.1 If the Service Provider is in breach of any of its obligations under this Contract (including, without limitation, any breach

of provisions/policies relating to health safety and environment), the Company shall, subject to Clause 18.2.2, be entitled to immediately suspend the Services by written notice to the Service Provider until such time as such breach has been remedied by the Service Provider, in which case no rates or other amounts shall be payable to the Service Provider in respect of such period of suspension.

18.2.2 Except in the case of a breach which in the reasonable opinion of the Company is likely to endanger the safety of any persons or property, the Company shall, prior to issuing any suspension notice pursuant to Clause 18.2.1, notify the Service Provider of the breach. Following receipt of such notice, if the Service Provider fails to immediately commence and thereafter continuously proceed to remedy such breach to the Company's reasonable satisfaction, the Company may issue the suspension notice pursuant to Clause 18.2.1.

19 TERMINATION

19.1 Notwithstanding anything contained herein to the contrary, the Company may immediately terminate all or part of this Agreement/Purchase Order as under:

(i) by a written notice to the Service Provider in case of any breach of the terms of this Agreement by Service Provider and has failed to remedy such breach within 30 days from receiving notice from the Company.

(ii) if Service Provider (a) ceases, or threatens to cease, to function as a going concern or conduct its operations in the normal course of business, (b) commences, or becomes the subject of, any bankruptcy, insolvency, reorganization (other than in the course of a corporate re-organization or to an affiliate), administration, liquidation or similar proceedings, (c) makes, or plans to make, a general assignment for the benefit of its creditors, or (d) creditor attaches or takes possession of all or a substantial part of said Party's assets;

(iii) The foregoing shall not apply to any action or proceeding which is (a) in the reasonable opinion of the Company, frivolous or vexatious; or (b) discharged, stayed or dismissed within ninety (90) days of commencement;

(iv) if Service Provider is unable to carry out its obligations by reason of Force Majeure events and the force majeure continues for a period more than thirty (30) days, then Company may by giving notice in writing, terminate this Agreement with immediate effect. Any such termination shall be without prejudice to any of the right of the Service Provider accrued prior to the date of such termination.

19.2 Notwithstanding anything contained herein to the contrary, the Company may terminate all or part of this Agreement by one (1) months' written notice without assigning any reason whatsoever or if the Service Provider fails to obtain any approval required under the terms of this Agreement.

19.3 Upon termination of this Agreement, both Parties shall be relieved of their respective rights and obligations under this Agreement save such obligations and / or liabilities of the Parties set forth herein which (i) that the Parties have expressly agreed will survive any expiration or termination, or (b) by their nature would be intended to be applicable following any such expiration or termination, or (c) the Parties have accrued before expiration or termination, as the case may be.

19.4. Upon termination, the sole liability of the Company towards the Service Provider under the Agreement shall be to make payment of all direct and documented costs which have been incurred by the Service Provider till the date of termination.

19.5. In the event of Service Provider's breach of its obligations hereunder, no payment shall be due by the Company in respect of such services under the Agreement/Company order.

20 COMPANY'S RIGHT ON TERMINATION FOR DEFAULT

20.1 In case of a termination for default in terms of Clause 19, the Company shall have the right to have completed either by the Company Group or any other third party, the services that the Contractor would have been obliged to perform immediately prior to the termination ("Incomplete Works").

20.2 The Company shall be entitled to recover from the Contractor any additional cost incurred by the Company for procuring the services for the Incomplete Works which are in excess of the amount the Company would have paid the Contractor for the same work, had the Contract not been terminated, including all reasonable costs incurred by the Company as a result of such termination ("Additional Costs"). The Company shall have the right to recover such Additional Costs either directly from the Contractor and/or by invocation of Performance Bank Guarantee and/or by deducting such Additional Costs from any monies due to or that becomes due to the Contractor under the Contract.

20.3 In addition, if such termination occurs prior to mobilization, then no advances, payments or fees of whatsoever nature shall be payable to the Contractor, or, if already paid by the Company, then any such advances, payments or fees shall be repaid by the Contractor to the Company.

21 CONSEQUENCES OF TERMINATION

In the event of termination under any provision of this Contract, the Service Provider shall:

- a) promptly cease performance of the Services (or relevant part thereof) and, as directed by the Company, clear all unnecessary Service Provider's Equipment and Service Provider's Personnel from the Site;

- b) allow the Company all necessary rights of access to the Site to take over the Services (or relevant part thereof); and

- c) if, and to the extent, requested by the Company assign any subcontracts or other rights and titles relating to the Services (or relevant part thereof) which the Service Provider may have entered into or acquired.

22. CONFIDENTIALITY

22.1 The Company and the Service Provider shall keep any information which either Party learns about or receives from the other pursuant to this Agreement in strict confidence and will not disclose the same to any third party without the prior written consent of the other Party. The foregoing restriction shall not apply in respect of information which the Company requires to disclose for the purpose of performing Services or which was in the possession of the disclosing party prior to this Agreement or which is required to be disclosed by any law, rule or regulation of any governmental agency or court order or information which was already within the public domain or which was developed by either Party, independently of and without reference to the Confidential Information and the receiving party has evidence of such independent development. The provisions of this clause shall survive the expiry of termination of the Agreement for a period of 3 years.

The Service Provider shall not disclose such Information(s) to any potential subcontractors until such time and in manner agreed by Company in writing. The decision of the Company will be final and binding on the Service Provider in this regard. The Service Provider shall use best endeavours to prevent the authorised disclosure of the all information hereunder. Where any information is required to be disclosed under Clause 22.1, the Service Provider shall give prompt notice to the Company and shall use its best commercial endeavours to limit the extent of any such disclosure.

23. Data Protection

23.1 Where necessary to enable the Service Provider to perform the Services, Company may provide the Service Provider with, or the Service provider may have access to, information relating to an identified or identifiable individual ('personal data').

23.2 In making personal data available to the Service Provider, the Service Provider and the Company confirms that both the Parties have complied with applicable data protection law ('Data Protection Law') and all other Applicable laws (including the European Union's General Data Protection Regulations and the SPDI Rules in relation to the personal data.

23.3 The Service Provider agrees that when processing personal data on Company's behalf in the performance of the Services the Service Provider will:

(a) only process personal data on Company's documented instructions save where required by law or the order of competent court or tribunal;

(b) ensure that personal data is processed in accordance with applicable Data Protection Law and any other Applicable laws, and to notify Company if an instruction infringes any law to which we are subject;

(c) take all reasonable steps to ensure that the personal data is protected against misuse and accidental loss or disclosure, and from unauthorised or unlawful processing, destruction or alteration, and in case of any personal data breach (as defined by applicable Data Protection Law) the Service Provider will notify the Company without undue delay upon becoming aware of it;

(d) not sub-contract our processing of personal data (save that the Service Provider may subcontract and, in doing so, transfer personal data, to the authorised personnel with prior written approval of the Company in other jurisdictions, or third parties who are bound by appropriate confidentiality and security obligations consistent with the terms of this clause;

(e) only disclose personal data to its authorised personnel to the extent that they have a need to know for the purpose of providing the Services and are subject to appropriate obligations of confidentiality;

(f) answer Company's reasonable enquiries to enable Company to monitor the Service Provider's compliance with this clause and provide Company with reasonable assistance to enable Company to comply with applicable Data

Protection Laws.

23.4 Where the Service Provider process personal data that originates from a jurisdiction where the applicable Data Protection Law requires additional safeguards to be put in place for the protection of that data, or the Service Provider transfer personal data from such a country, or third parties in accordance with clause 23.3 (d)) the Service Provider agree to take such steps as Company reasonably require, including entering into contractual clauses to meet the requirements of applicable Data Protection Law.

24. NOTICES

24.1 Any notice or other communication required or given under this Agreement shall be delivered in writing either by hand or by courier, registered mail with acknowledgment due, e-mail (e-mail shall be considered as delivered once received by the receiving party) or fax to the address of the relevant Party set out in the Agreement (or such other address as may be notified by the relevant Party from time to time).

24.2 If a notice is delivered by hand or courier during normal business hours of the intended recipient, it shall be deemed to have been received at the time of delivery otherwise on the next business day of the recipient. A notice sent by facsimile shall be deemed to have been received at the time when the sender's facsimile machine acknowledges transmission provided however that if the time of acknowledgement of transmission is after 5.00pm on a business day of the recipient it shall be deemed to have been

received on the next business day of the recipient.

- 24.3 All notices or other communications between the Parties shall be in the English language.



25

GENERAL LEGAL PROVISIONS

- 25.1** The Company shall be entitled to assign this Agreement to an affiliate/subsidiary or on giving written notice to the Service Provider. Save as aforesaid, the Service Provider shall not be entitled to assign this Agreement or any part or any benefit or interest in or under it without the prior written approval of the Company which the Company may at its sole discretion accept or refuse.
- 25.2** This Agreement shall not be amended or modified except by mutual agreement in writing between the Parties.
- 25.3** This Agreement and the all Schedules and Attachments annexed hereto contains the whole agreement between the Parties relating to the subject matter of this Agreement, and supersedes any previous understandings, commitments, agreements, correspondences or representations in respect of the subject matter. No terms or conditions endorsed upon, delivered or contained in Service Provider's quotation, acknowledgement or acceptance of the Agreement, specification or similar document will form part of the Agreement and Service Provider waives any right it otherwise might have to rely on such terms and conditions. No variation to any terms or conditions of this Agreement shall be valid unless expressly agreed in writing by both parties.
- 25.4** No delay or failure on the part of either Party to enforce from time to time all or any part of the terms and conditions of this Agreement shall be interpreted as a waiver of such terms and conditions.
- 25.5** Nothing in this Agreement shall, or shall be deemed to, create an agency, a partnership, a joint venture, an association or a relationship of employer and

employee, principal and agent or master and servant between the Parties. For the avoidance of doubt, nothing in this Agreement shall prevent or restrict the Company from entering into parallel Agreements with other parties for services similar or related to the Services.

- 25.6** Unless otherwise specifically stated, both the Company and the Service Provider shall retain all rights and remedies, both under the Agreement and at law, which either may have against the other.
- 25.7** The Service Provider shall comply with all safety instructions of the Company consistent with the provisions of the Agreement including, without limitation, the safety instructions of any of the Company's other Service Providers. Such instructions shall, if the Service Provider so requires, be confirmed in writing by the Company's Representative, so far as practicable.
- 25.8** The Service Provider shall not be entitled, without the written consent of Company, to make any news release or public announcement concerning the subject matter of the Agreement or to refer to the Company, use its name or logo, in print or electronic forms for marketing or reference purposes.]
- 25.9** If any provision of this Agreement is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction, unless it materially alters the nature or material terms of this Agreement.
- 25.10** The provisions of this Agreement are solely for the benefit of the Parties. No other person are intended to have, nor will have, any rights whatsoever, under this Agreement, whether for injury, loss or damage to person(s) or property or for economic loss.

25.11 This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will constitute one and the same instrument.

26.FORCE MAJEURE

26.1 For the purposes of this Agreement, "Force Majeure" means the occurrence of any event or circumstance or combination of events or circumstances that is beyond the reasonable control of a Party, has a material and adverse effect on the performance by that Party of its obligations under or pursuant to this Agreement, and that demonstrably could not have been foreseen by the Parties; provided, however, that such material and adverse effect could not have been prevented, overcome or remedied by the affected Party through the exercise of diligence and reasonable care; but provided, further, that the exercise of diligence and reasonable care will not include the obtaining or maintaining of insurance beyond the requirements of this Agreement.

26.2 Subject to clause 26.1 hereinabove, Force Majeure includes without limitation, the following events and circumstances, but only to the extent that each satisfies the above requirements as provided under Clause 26.1; (a) Act of God, (b) fire, flood, earthquake, epidemic, pandemic, natural disaster or extreme natural event (c) war, riot, insurrection, civil commotion, mobilization or military, call up of a comparable scope, which has been notified in accordance with this Clause 26 any direction, judgement, decree or any other order passed by any judicial/quasijudicial/administrative authority and/or any direction passed by the government authority/(ies) restraining the performance of obligations, whether in part or in full, of the affected party provided that such orders or directions must not emanate out of actions directly attributable to the affected party or (e) any event owing to any restrictions, directives/directions imposed or passed by

the government, judicial, quasi-judicial authorities if they impede or delay the performance of the Agreement (Force Majeure Events).

26.2.1 FORCE MAJEURE EXCLUSIONS:

Force Majeure will expressly not include the following conditions, except and to the extent that they result from an event or circumstance otherwise constituting Force Majeure:

- (i) unavailability, late delivery or changes in cost of machinery, equipment, materials, spare parts or consumables;
- (ii) prevailing weather conditions at the place of performance of the services/works, including during monsoon periods;
- (iii) failure or delay in performance by any Subcontractor;
- (iv) normal wear and tear or flaws in materials and equipment or breakdowns in equipment.
- (v) any labour unrest/strikes or any other event of the like nature caused by the Service Provider (which includes its subcontractors) shall not be considered as a force majeure occurrence

26.3 In the event of a Force Majeure occurrence, the party that is or may be delayed in performing the Agreement shall notify in writing to the other party without delay but not later than fifteen (15) business days on the initiation of such Force Majeure Event(s) and shall use diligent efforts to end the failure or delay in performance to minimize effects of such Force Majeure Event. Provided, however, that the occurrence of such an event would entitle the parties to renegotiate the time frame for performance of the respective obligations, taking into consideration the nature of such event. . In such a situation, the party, which is not able to

perform its obligations under this Agreement on account of Force Majeure Event(s), shall not be liable to the other party for the default or breach of this Agreement for the period of failure or delay. If the said notice is not received by the other party within fifteen (15) business days, after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt.

26.4 Both Parties agree to use their respective reasonable efforts to cure any event of Force Majeure to the extent that it is reasonably possible to do so. Upon the cessation of the event of Force Majeure, the party declaring Force Majeure shall immediately but not later than three (3) business days give notice thereof to the other party.

26.5 Neither Party shall be liable in any manner whatsoever to the other party in respect of any loss, damage, costs, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereof. The costs associated with taking all steps required to mitigate the effects of the Force Majeure Event and restore its ability to perform its obligations under this Agreement as soon as reasonably practicable shall be borne by the respective parties.

27. BUSINESS ETHICS

27.1 The Service Provider shall declare any conflicts of interest with the Company including relationship or financial interest of any nature whatsoever with employees, managers, other suppliers, vendors or stakeholders of the Company.

27.2 The Service Provider shall not use the services of any of the employees of the Company, directly or indirectly or enter into any sort of monetary transaction with the employees of the Company. The Service Provider undertakes that he has not given, offered or promised to give directly or indirectly any bribes, commission, gift, consideration, reward, or inducement to any of the employees of the Company or their agent or relatives for showing or agreeing to show favor or disfavor to any person in relation to this Agreement or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the aforesaid undertaking, by the Service Provider, or his partners, agent or servant or any one authorized by him or acting on his behalf.

27.3 The Service Provider agrees to comply with the provisions of the Company's Supplier Code of Conduct which includes Antibribery and Corruption requirements (a copy of which is also available at <https://www.tsplindia.co/wp-content/uploads/2019/04/TSPL-Suppliers-Code-of-Conduct-12-10-2018-1.pdf>), the Company's Human Rights Policy (a copy of which is available at <https://www.tsplindia.co/wp-content/uploads/2019/04/06-TSPL-Human-Rights-Policy-27-Jan-20.pdf>) including the Modern Slavery Act 2015 as may be amended from time to time and in case of breach thereof, the same shall be treated as a breach of this Agreement.

27.4 The Service Provider shall maintain records and provide to the Company upon request such records and evidences, as the Company may reasonably require, confirming the Service Provider's compliance with the obligations under this clause.

27.5 The Company shall have a right to initiate "audit proceedings" against the Service Provider to verify compliance with the requirements under this clause. Such audit may be carried out by Company or by a reputed agency to be appointed by Company at the sole discretion of Company. The Service Provider shall

extend full cooperation for smooth completion of the audit mentioned herein.

27.6 Notwithstanding anything in this agreement, Company shall have right to terminate the Agreement forthwith and recover from the Service Provider, the amount of any loss arising from such termination in case, it is found that the Service Provider has failed to comply with requirements under this clause including any corrupt practices. A decision of the Company or his nominee to this effect that a breach of the undertaking had been committed shall be final and binding on the Service Provider.

27.7 If at any time during execution or performance of this Agreement the Service Provider becomes aware of any unethical practices or is faced with any undue demand, request for gratification or favor from any employee of the Company or a person connection with such employee, the Service Provider must report the same immediately to the Group Head-Management Assurance at the following address:

Group Head – Management Assurance,
Vedanta, 75 Nehru Road
Vile Parle (E), Mumbai 400 099

‘Complaints’ can also be sent to the

designated e-mail id:
tspl.whistleblower@vedanta.co.in

28. GOVERNING LAW AND DISPUTE RESOLUTION

28.1 This Agreement shall be governed by, construed and enforced in accordance with

the laws of Punjab, India. Subject

to Clause 28.2 below, the parties submit to the exclusive jurisdiction of the courts of Mansa, Punjab, India and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Contract.

28.2 Any dispute or difference whatsoever arising

anticipated breach thereof or determination and enforcement of respective rights, obligations and liabilities of the parties thereto shall be amicably settled by way of mediation by meeting(s) between senior management representatives of each Party. If the dispute is not conclusively settled within a period of twenty-one (21) days from the date of commencement of mediation or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration and Conciliation Act, 1996 (as amended from time to time), which are deemed to be incorporated by reference into this clause. The arbitration shall be conducted as follows:

(i) A sole arbitrator shall be appointed in case the value of claim under dispute is less than ₹ 50,00,000 (Rupees Five Million Only) and in any other event by a forum of three arbitrators with one arbitrator nominated by each Party and the presiding arbitrator selected by the nominated arbitrators.

(ii) The language of the mediation and arbitration proceedings shall be English. The seat and venue of arbitration

shall be Mansa, Punjab, India.

(iii) The award made in pursuance thereof shall be final and binding on the parties. The right to arbitrate Disputes under this Agreement shall survive the expiry or termination of the Agreement.

28.3 It is clarified that the Services under the

Agreement shall be continued by the Service

between the parties out of or relating to the interpretation, meaning, scope, operation or effect of this Agreement or the existence, validity, breach or

Provider during the arbitration proceedings unless otherwise directed in writing by the Company.