

**MODEL FUEL SUPPLY AGREEMENT**  
**BETWEEN**  
**SUBSIDIARY COMPANIES**  
**AND**  
**STATE NOMINATED AGENCIES**

|

## PREAMBLE:

This Agreement is made on this \_\_\_\_ day of \_\_\_\_\_ (Month) 2008, between \_\_\_\_\_ [ Insert Coal India Limited “CIL” or Name of the Company nominated by CIL], a company registered under the Companies Act, 1956 and having its registered office at \_\_\_\_\_ [Insert address of CIL/ the nominated Company] hereinafter called the “**Seller**” (which expression shall unless excluded by or repugnant to the subject or context, include its legal representatives, successors and permitted assigns) of the one part,

### AND

M/s. \_\_\_\_\_ (Name of the State nominated agency), an Agency having its registered office at \_\_\_\_\_ (Address of the State nominated agency), nominated by the Government of \_\_\_\_\_ (name of state), hereinafter called the “**Purchaser**” (which term shall unless excluded or repugnant to the subject or context include its legal representatives, successors and permitted assigns) of the other part.

Whereas, as per the New Coal Distribution Policy (“NCDP”) issued by Ministry of Coal vide Office Memorandum no 23011/4/2007-CPD dated 18.10.07, consumers in small and medium sector having annual requirement upto 4200 tonne and having no Fuel Supply Agreement with a Subsidiary Company of CIL or CIL, can source their coal requirement from Agencies nominated by State Governments. The Agency/ Association so nominated by the State Government is required to enter into a Fuel Supply Agreement with the coal company designated by CIL.

Whereas, in response to letter No. \_\_\_\_\_ dated \_\_\_\_\_ from the Office of \_\_\_\_\_ (the competent authority of the State Government concerned) of \_\_\_\_\_ State (name of the State) (**Schedule - I**) nominating M/s. \_\_\_\_\_ (name of the nominated State Agency) , CIL vide letter No. \_\_\_\_\_ dated \_\_\_\_\_ has agreed to allow M/s. \_\_\_\_\_ (name of the State nominated agency) to purchase coal through a Fuel Supply Agreement from the coal companies, decided by CIL.

Whereas the Purchaser has agreed to purchase Coal from the Seller for distribution to units /consumers in small and medium sector located in the State of \_\_\_\_\_ ( name of the state) and the Seller has agreed to make such supplies on the terms and conditions set out hereafter.

Now, therefore, in consideration of the Agreement and covenants hereafter set forth and intending to be legally enforceable, the Seller and the Purchaser (each individually a Party hereto and collectively the Parties) hereby covenant and agree as follows:

### 1. DEFINITIONS:

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

thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to either Seller/CIL or the Purchaser, their obligations or this Fuel Supply Agreement from time to time.

- d) **“Base Price”** shall mean in relation to Coal produced by Seller, the price at the pithead notified by the Seller, from time to time; and in relation to imported Coal, the price fixed and declared from time to time by the Seller for such imported Coal.
- e) **“Business Day”** shall mean each Monday, Tuesday, Wednesday, Thursday, Friday and Saturday that is not declared a holiday in the State of (to be stated by the Seller) under the Negotiable Instruments Act, 1981.
- f) **“Coal”** means non-coking as well as washery grade coal not linked to coking coal washeries, falling within the different classes, grades, and sizes into which Coal is categorized, from time to time, in the notification/order issued for such purpose by the Government of India or by CIL or Seller, as the case may be.
- g) **“Declared Grade”** means grade of the Coal to be supplied under this Agreement, as declared by CIL or the Seller.
- h) **“Delivery Point”** shall mean any of the colliery sidings or colliery loading points, as the case may be, from where Coal shall be delivered by the Seller in the Purchaser’s container. However, in case of imported Coal, the Delivery Point shall mean the port at which the Seller shall unload the Coal.
- i) **“End User”** shall mean, for the purposes of this Agreement, any person who requires upto 4200 tonne of Coal for his own use on an annual basis, and who does not have any arrangement for supply of Coal with CIL or its subsidiary Company.
- j) **“Level of Delivery”** shall have the meaning as ascribed to it in Clause 5.1
- k) **“Level of Lifting”** shall have the meaning as ascribed to it in Clause 5.2.
- l) **“Prime Lending Rate”** or **“PLR”**: shall mean the prime lending rate of State Bank of India as applicable on the due date of payment by the Purchaser.
- m) **“Quarter”** means the respective three-monthly periods, namely April to June, July to September, and so on.
- n) **“Run of Mine”** or **“ROM”** shall mean the coal as extracted from the colliery and which has not undergone any processing or resizing to suit the requirement of the user.
- o) **“Signature Date”** shall mean the date on which this Agreement is signed by both parties hereto.
- p) **“State Government”** shall mean the Government of \_\_\_\_\_ (name of the State) which includes but not limited to \_\_\_\_\_ (name of the concerned department / office) which has nominated the Purchaser for entering into this Agreement with the Seller.

- q) **“Truncated Year”** shall mean a truncated year by virtue of the Signature Date occurring after April 1<sup>st</sup> in the case of first year of this Agreement, or otherwise truncated due to Force Majeure Acts etc.
- r) **“Year”** shall mean the financial year of the Seller, commencing on April 1<sup>st</sup> and ending on the following March 31<sup>st</sup>; and shall include a Truncated Year;

## 2. **PERIOD OF AGREEMENT:**

- 2.1 This Agreement shall come into force on the **Signature Date**. This Agreement shall, unless terminated in accordance with the terms hereof, remain in force for a period of 24 (twenty four) months from the Signature Date (**“Term of Agreement”**).
- 2.2 The Term of Agreement may be extended for a period not exceeding 12 months upon mutual agreement in writing by both the Parties.

## 3 **SECURITY DEPOSIT**

### 3.1 **Amount and submission of Security Deposit**

- 3.1.1 The Purchaser shall deposit with the Seller as Security Deposit, in the form of cash /or bank guarantee an amount expressed in Indian Rupees equivalent to the Base Price of Grade ‘D’[‘D’/ ‘A’- *In case of North Eastern Coalfields (NEC)*] Run-of-Mine (ROM) Coal prevalent on the Signature Date multiplied by “ACQ/24” (ACQ divided by 24) i.e. Rs. \_\_\_\_\_ [insert in words],.
- 3.1.2 The Purchaser shall have the following options to furnish the Security Deposit amount of Rs. \_\_\_\_\_ to the Seller: (a) Deposit 100% of the Security Deposit prior to the signing of this Agreement; or (b) Deposit a minimum of 20% of the Security Deposit amount referred to in 3.1.1 above, prior to signing of this Agreement and the balance amount in \_\_\_\_\_ installments after signing of the Agreement. The Purchaser shall not be entitled to claim any interest on the Security Deposit. It is clarified that the Base Price of Grade [‘D’/ ‘A’- *In case of North Eastern Coalfields (NEC)*] ROM Coal of the Seller has been considered only for the purpose of calculating the amount of Security Deposit and no commitment whatsoever shall be inferred thereby to supply such grade of Coal at the said Base Price or otherwise. .
- 3.1.3 In pursuance of option (a) of clause 3.1.2 above the Purchaser has deposited a sum of Rs. \_\_\_\_\_ as Security Deposit by way of [cash/ bank guarantee].

**Or**

3.1.3 (i) In pursuance of option (b) of clause 3.1.2 above the Purchaser has deposited an initial Security Deposit of Rs. \_\_\_\_\_ (equivalent to the Base Price of Grade ‘D’[‘D’/ ‘A’- *In case of North Eastern Coalfields (NEC)*] ROM Coal of the Seller prevalent on the Signature Date multiplied by [proportion of the ACQ quantity considered, which proportion shall not be less than ACQ/120]), by way of [cash/ bank guarantee].

(ii) The balance of Security Deposit amount of Rs. \_\_\_\_\_ in terms of option (b) of clause 3.1.2, shall be deposited by the Purchaser with the Seller in the form of Bank Draft/Banker’s Cheque at the rate of 10% of the Base Price of Grade ‘D’[‘D’/ ‘A’- *In*

*case of North Eastern Coalfields (NEC)] ROM Coal of the Monthly Scheduled Quantity every month till the said balance Security Deposit amount is covered. It is agreed that any default on the part of the Purchaser to provide monthly installment of Security Deposit in any month, the booking of Coal for that month shall not be accepted by the Seller and it shall be treated as default of the Purchaser*

- 3.2 In event that the Purchaser opts to provide the Security Deposit in the form of a bank guarantee, such bank guarantee shall be as per the format provided at Schedule II hereto.
- 3.3 The Security Deposit shall remain valid and operative until 3 (three) months after the expiry of the Term of Agreement. In the event the Term of Agreement is extended in accordance with Clause 2.2, the Purchaser shall extend the validity of the Security Deposit such that it remains valid and operative until 3 (three) months after such extended period.
- 3.4 The value of the Security Deposit shall be suitably increased / decreased to match the changes in the Base Price Grade 'D'['D' / 'A' - *In case of North Eastern Coalfields (NEC)] ROM Coal, as notified by CIL / the Seller from time to time. In the event of failure of the Purchaser to provide such increased value, the Seller shall have the right to suspend the supplies in accordance with Clause 14. If additional Bank Guarantee is required to be submitted due to such increase in the said Base Price, the validity of such Bank Guarantee shall match the validity of the original Bank Guarantee. Alternatively, the amount of original Bank Guarantee may be increased by an amendment to cover the change in the said Base Price.*
- 3.5 The Security Deposit shall be refundable to the Purchaser at the end of its validity subject to successful completion of, and complete settlement of the claims of Seller arising out of this Agreement.
- 3.6 The Purchaser shall ensure that the Security Deposit stands replenished within 7 (seven) days of drawl of funds by the Seller in accordance with the provisions of this Agreement. Failure to replenish the Security Deposit within such stipulated period shall entitle the Seller to suspend its Coal supplies without absolving the Purchaser of its obligations under this Agreement.
- 3.7 In the event of termination of the Agreement by the Seller in accordance with Clause 17.1(a) to (d), the Seller shall be entitled to forfeit the Security Deposit of the Purchaser in addition to any other rights vested with the Seller upon such termination.

#### **4 QUANTITY:**

##### **4.1 Annual Contracted Quantity (ACQ):**

The Seller shall supply and the Purchaser shall purchase the Annual Contracted Quantity (ACQ) of \_\_\_\_ tonnes (\_\_\_\_\_ tonnes)[*insert in words*] of Coal per annum, as decided by CIL and within the recommendation of the State Government. Such Coal shall be supplied by the Seller either from own sources of the Seller and / or Coal imported by CIL / Seller. The mode-wise, coal field-wise break-up of ACQ is indicated in **Schedule – III** to this Agreement. In the event of a truncated Year, the ACQ shall be prorated accordingly.

- 4.2 The ACQ shall be revised and reset by CIL on yearly basis taking into account the Coal quantities lifted by the Purchaser in the immediately preceding Year.
- 4.3 Coal sold and purchased under this Agreement shall only be sold / distributed by the Purchaser to End Users as defined herein.. Further, the Purchaser shall sell Coal to such End Users at the “As declared price of Coal” plus up to 5% margin over Base Price as service charges. The Purchaser shall be also entitled to charge any taxes, levies and any other statutory dues as may be applicable to the sale to the End User in the State of \_\_\_\_\_. The Purchaser shall ensure that the Coal is sold only to an End User and shall not be re-sold or traded.
- 4.4 The Purchaser shall submit to the State Government, a Quarterly Return giving month-wise, consumer-wise, unit-wise details of Coal sold. Such details should essentially include name, address and contact no. of consumer, type & location of unit, quantity lifted during the month and the price at which Coal was supplied for evaluation of genuine consumption and monitoring of the same by the State Government.
- 4.5 The Purchaser has submitted an Affidavit as enclosed with this Agreement at **Schedule-IV**. Under the Affidavit, the Purchaser has undertaken that Coal will be sold by the Purchaser only to the end-user as per the stipulations under Clause 4.3 of this Agreement. In the event of any breach or any complaint from any quarter received by the Seller/CIL, the same shall be referred to the State Government for examination and suitable action, if any, against the Purchaser. On receipt of any advice from the State Government for action against the Purchaser, the Seller shall be entitled to take appropriate action against the Purchaser including termination of this Agreement. Such termination, however, shall not absolve the Purchaser from its obligations and liabilities under the Agreement.

4.6 **Quarterly Quantity (QQ)**

ACQ shall be sub-divided in four quarters of a Year and the quantity to be supplied within the quarter shall be Quarterly Quantity (QQ).

Quarter	Period	QQ (in% of ACQ)
I	April to June	25
II	July to September	20
III	October to December	25
IV	January to March	30

QQ will be pro-rated depending upon the date / month of commencement and termination of this Agreement.

4.7 **Monthly Quantity**

4.7.1 **Monthly Scheduled Quantity (MSQ)**

The Monthly Scheduled Quantity (MSQ) shall be 1/3<sup>rd</sup> of the QQ. In case of supply by Rail, the Parties agree that if the quantity to be lifted by the Purchaser in a month falling within the Monthly Scheduled Quantity is insufficient to form a rake, formation of rake would be allowed by clubbing with the quantity of the next month and so on within the quarter. If at the end of the quarter any residual quantity is left, being fraction of rake, it would be carried over to the next quarter and so on till the end of 4<sup>th</sup> quarter. If at the end

of 4<sup>th</sup> quarter, residual quantity is insufficient to form a full rake, the same would be treated as lapsed. In no event shall the the sum total of all the Quarterly Quantities exceed the Annual Contracted Quantity.

#### 4.7.2 Make-up Entitlement & Make-up Quantities

The quantity of Coal booked by the Purchaser but could not be delivered due to any default of the Seller (for the avoidance of any doubt, it shall not include the quantities not delivered by the Seller due to any Force Majeure Act, any default of the Purchaser and /or failure of Indian Railways), shall be entitled to be lifted as “Make-up” quantity by the Purchaser in the immediately following month Provided that at the end of any Quarter the Make- up carried over to the next Quarter (relevant Quarter), shall not exceed 10% of the total quantity booked by the Purchaser in the relevant Quarter concerned.

#### 4.8 Compensation for short supply/lifting

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

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

4.9 The Delivery Compensation for short delivery/lifting shall be payable by the defaulting Party to the other Party within a period of 90 days from the date of receipt of claim. In the event of non-payment within the due date, the defaulting Party shall be liable to pay interest in accordance with Clause 15. However, in the event of non payment of Delivery Compensation by the Purchaser beyond 180 days of such claim, the Seller shall be entitled to take any or all remedies including but not limited to encashment of Security Deposit, adjustment against the Coal value lying with Seller and/or termination of Coal supply.

### 5. LEVEL OF DELIVERY/LIFTING:

#### 5.1 Level of Delivery

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

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

Where:

LD = Level of Delivery of Coal by the Seller during the Year (in %)

ACQ shall have the same meaning as given in Clause 4.1

DQ = Delivered Quantity, which is the aggregate of actual quantities of Coal delivered by the Seller during the Year (in tonnes)

DDQ = Deemed Delivered Quantity, reckoned in the manner stated in Clause 6 (in tonnes)

FM = Proportionate quantity of Coal which could not be delivered by the Seller during the Year due to occurrence of Force Majeure event affecting the Seller and / or the Purchaser, calculated as under:

$$FM = \frac{ACQ \times \text{No of days lost under applicable Force Majeure event}}{365} \text{ (in tonnes)}$$

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

## 5.2 **Level of Lifting:**

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

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

Where:

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

ACQ & DDQ shall have the same meaning as given in Clause 4.1 & 6.0 respectively.

5.3 For the purpose of calculation of 'No. of days lost under applicable Force Majeure event', as described in Clause 5.1 and Clause 5.2 above, in case of a Force Majeure event affecting both the Parties, such number of days shall be counted only once.

5.4 For the purpose of computing Level of Lifting or Level of Delivery, the weight per wagon shall be considered as 65 (sixty five) tonnes.

## 6. **DEEMED DELIVERED QUANTITY (DDQ):**

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

### 6.1 **For supply of Coal by rail:**

- i/ The quantity of Coal not supplied by the Seller owing to omission or failure on the part of Purchaser to submit the designated rail programme (s) as per Clause 8.1 with respect to the Monthly Scheduled Quantities as per Clause 4.7.
- ii/ The quantity of Coal not supplied by the Seller owing to cancellation, withdrawal or modification of the rail programme(s) by the Purchaser after its submission whether before or after allotment of wagon(s) by Indian Railways.
- iii/ The quantity of Coal not supplied by the Seller owing to Seller exercising the right of suspension under Clause 3.1.3 and Clause 14.
- iv/ The quantity of Coal not supplied by the Seller owing to Purchaser failing or omitting to fulfill the requirements under Clause 11.2.

## 6.2 **For supply of Coal by road:**

- i/ The quantity of Coal not supplied by the Seller owing to omission or failure on the part of Purchaser to provide the Security Deposit or any part thereof in accordance with this clause 3.1.2 or 3.1.3, as the case may be
- ii/ The quantity of Coal not supplied by the Seller owing to omission or failure on the part of Purchaser to book value paid orders for the Monthly Scheduled Quantities as per Clause 4.7 and within the period mandated under clause 8.2.
- iii/ The quantity of Coal not supplied by the Seller owing to Purchaser's failure to place the requisite number / type of containers for road transport at the Delivery Point for delivery of Coal within the validity period of the delivery order.

6.3 Deemed Delivered Quantity in terms of Clauses 6.1 and 6.2 shall be calculated on cumulated monthly basis during a year.

## 7. **WEIGHTMENT OF COAL:**

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

## 8. **METHOD OF ORDER BOOKING AND DELIVERY OF COAL:**

### 8.1 **By Rail:**

8.1.1 Not less than 10 (ten) Business Days before the commencement of a month, the Purchaser shall submit a programme along with applicable financial coverage in terms of Clause 11.2 in writing to the Seller, as per the applicable Railway rules and Seller's procedures, for the supply of the Monthly Scheduled Quantity in terms of Clause 4.7. The Purchaser shall ensure compliance of the requirements under Clause 11.2.

The validity period of the monthly programme for movement by rail for seeking allotment shall be till the last day of the month concerned and the consent shall be issued by the Seller accordingly. Once the rake is allotted, it shall remain valid for supply as per prevailing Railways rules.

8.1.2 The Seller shall thereupon submit indent/offer based on the valid rail programme(s) to the Railways as per the extant Railway rules for the allotment and placement of wagons during the month concerned.

8.1.3 The wagons shall be booked by the Purchaser on "freight to pay" or "freight pre paid" basis as per Railway Rules.

8.1.4 In case of formation of rakes with wagons loaded from different loading points, the Seller shall make reasonable efforts to complete documentation formalities as per Railway rules so as to enable the Purchaser to avail of trainload freight rate.

## 8.2 **By Road:**

8.2.1 In terms of the notice by the Seller issued for monthly Coal allocation / bookings stipulating the time schedule for order booking and advance payment, the Purchaser shall deposit 100% advance payment in the manner provided in Clause 11, for the Monthly Scheduled Quantity determined in terms of Clause 4.7.

The Seller shall arrange to issue sale order(s)/delivery order(s) separately for each colliery and issue necessary loading programme / schedule. The Purchaser shall arrange to place the required number / type of trucks to lift the Coal as per such loading programme / schedule. The Seller shall endeavour to issue the sale order(s) / delivery order(s) in favour of the Purchaser within 4 (four) Business Days after encashment of the Purchaser's financial instrument as per Clause 11.1.

8.2.2 The Seller shall ensure delivery and the Purchaser shall ensure lifting of Coal against sale order(s) / delivery order(s) of any month during the validity period of 45 (forty-five) days from date of issue of such sale order(s)/delivery order(s) or the first day of the month concerned, whichever is later. The validity of the sale order/ delivery order shall in no case be extended. Any quantity remaining unlifted after the expiry of the validity period of sale order/ delivery order shall stand lapsed and it shall attract liabilities as provided under this Agreement.

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

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

## 9. **TRANSFER OF TITLE OF GOODS:**

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

## 10. **PRICE OF COAL:**

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

10.2 The price of imported Coal shall be as decided and declared by CIL from time to time.

- 10.3 Royalties, Taxes, Duties, Cess, and such statutory levies payable to the State Government/ Central Government or to any other statutory authority shall be borne by the Purchaser on the basis of grade of Coal as declared by the Seller, as applicable at the time of delivery.
- 10.4 In all cases, the entire freight charges, irrespective of the mode of transportation of the Coal supplied, shall be borne by and to the account of the Purchaser.

## **11. FINANCIAL COVERAGE:**

### **11.1 By Road:**

For road dispatches, advance payment as required under Clause 8.2.1 shall be drawn in favour of Seller by the Purchaser by means of DD / Bankers' Cheque and payable on any scheduled bank acceptable to the Seller at \_\_\_\_\_ (to be indicated by the Seller).

### **11.2 By Rail:**

- 11.2.1 The Purchaser shall submit financial coverage to the Seller in the form of a Banker's Cheque/DD/Bank Guarantee (issued by a scheduled Bank acceptable to the Seller and in the format enclosed at **Schedule - V** of this Agreement) for an amount equal to the estimated As Delivered Price of Coal for 15 days (Fifteen days) of Coal supplies, i.e. ACQ/24, subject to a minimum amount equivalent to As Delivered Price of Coal of one rake. The Bank Guarantee shall be kept operative and valid by the Purchaser for the Term of Agreement and also for a further period of 180 (one hundred eighty) days, operable at \_\_\_\_\_(to be indicated by the Seller).
- 11.2.2 The amount of the Bank Guarantee shall be increased commensurately within 7 (seven) days of any increase in the As Delivered Price of Coal. The Purchaser shall ensure that at all times the amount of the Bank Guarantee is not less than the estimated As Delivered Price of Coal for 15 days (fifteen days) of Coal supplies, i.e. ACQ/24, subject to a minimum amount equivalent to As Delivered Price of Coal of one rake.
- 11.3 The Seller by way of a notice, to be put up on the Seller's notice board, shall inform the Purchaser the Coal value to be paid through DD / Banker's Cheque at least 3 (three) working days in advance before expected date of offer to the Railways for allotment. The Purchaser shall accordingly be required to deposit DD / Banker's Cheque along with debit advice issued by the drawee bank to the tune of value of Coal in rake loads to be offered as per notice within 48 (forty eight) hours of such notice. The quantity in any single offer within a month shall not exceed the quantity as per financial coverage in terms of Clause 11.2.1.
- 11.4 The Bank Guarantee shall be initially valid for a minimum period of fifteen (15) months. The Purchaser shall ensure renewal at least one month prior to expiry of the Bank Guarantee. In the event of delay in renewing the Bank Guarantee, as an interim measure, the Purchaser may make advance payment on rake-to-rake basis for continuing the Coal supplies. The Seller shall have the right to suspend supplies of Coal, without any notice, so long as, either (i) there does not exist a valid and operable Bank Guarantee for the amount hereinbefore stated, or (ii) the Purchaser has not made advance payment on a rake-to-rake basis.

11.5 The Seller shall raise the Coal supply bills on rake-to-rake basis for delivery of Coal by rail. Bills for delivery of Coal by road shall be prepared by the Seller on monthly basis. Bills shall be prepared by the Seller and payable by the Purchaser on the basis of Declared Grade of Coal.

**12. OVERLOADING & UNDERLOADING FOR RAIL DESPATCH:**

12.1.1 Any Idle freight for underloading below the stenciled carrying capacity as shown on the wagon , for Grade A, grade B, Steel Grade I , Stl Grade II , Washery Grade I , Washery Grade II, Semi coking grade –I, Semicoking Grade II, and washed coal, and stenciled carrying capacity as shown on the wagon plus two(2) tonne for all other Grades of coal shall be payable by the seller.

12.1.2 Idle freight resulting from under loading of wagon as per clause 12.1.1 shall be adjusted in the bills . Idle freight shall be reckoned as

- (i) The difference between the freight charges applicable for the stenciled carrying capacity as shown on the wagon , less the freight payable as per actual recorded weight of coal loaded in the wagon for Grade A , Grade B, Steel Grade I, Steel Grade II, Washery Grade I, Washery Grade II, Semi cokingI, semi coking Grade IGrade II, and washed coal :or
- (ii) The difference between the freight charges applicable for the stenciled carrying capacity as shown on the wagon plus two(2) tonne less freight payable as per actual recorded weight of coal loaded in the wagon for all other Grades of coal

12.2 Any penal freight for overloading charged by the Indian Railways for any consignment shall be payable by the Purchaser. However, if overloading/under-loading is detected from any particular colliery, consistently during 3 (three) continuous months, on due intimation from the Purchaser to this effect, the Seller shall endeavour to take remedial measures.

12.3 Within two Business days after receipt of a bill/invoice from the Seller for supplies made by rail, the Purchaser shall make full payment to the Seller with respect to each bill / invoice after adjustment of amount already deposited in terms of Clause 11.2. The payment shall be through DD / Banker's Cheque payable at \_\_\_\_\_(to be indicated by the Seller). In the event of non-payment within the aforesaid stipulated period, the Purchaser shall be liable to pay interest in accordance with Clause 15. However, in the event of non payment with interest by the Purchaser within 30 (thirty) days of receipt of bill/invoice, the Seller shall be entitled to suspend the Coal supplies and / or realize the outstanding dues in the manner set out in Clause 14.

**13. NOTICE:**

In the event, either Party owing payment of any amount to the other Party defaults in making such payment, the Party not in default shall give a written notice to the Party in default and the matter shall thereafter be dealt with in accordance with Clause 14.

**14. SUSPENSION OF COAL SUPPLY:**

14.1 Notwithstanding other provisions of this Agreement, when payment with respect to an invoice raised by the Seller is not made by the Purchaser or the Bank Guarantee or

Security Deposit is not submitted or replenished, as the case may be, within the stipulated period including the period allowed for making payment with interest in accordance with this Agreement the Seller shall have the right to:

- a) Adjust the outstanding dues against the interest-free Security Deposit as described in Clause 3
- b) Invoke the Bank Guarantee, as described in Clause 11.2, to the extent available and necessary to meet the outstanding dues.
- c) Suspend supplies of Coal after giving a written notice to the Purchaser providing a cure-period of not less than seven (7) Business Days. The Seller shall be entitled to give such notice as soon as the aggregate of sums due from the Purchaser, including the value of Coal to be supplied during the cure-period, is equal to or more than the subsisting values of security under (a) and (b) above.

14.2 During the period of suspension of supplies in terms of Clause 14.1, the Seller shall be relieved of his obligations to supply Coal. However, the obligations of the Purchaser under this Agreement shall fully remain in force.

14.3 In the event of suspension of supplies of Coal pursuant to this Clause, the Seller shall have the right to continue the suspension as long as the interest-free Security Deposit or the Bank Guarantee in terms of Clause 11.2, as the case may be, has not been fully replenished or replaced, as may be required.

14.4 The Seller shall resume the Coal supplies within 3 (three) days of receipt of payment of the outstanding dues together with interest in the manner provided in Clause 15, along with full replenishment of the Security Deposit and/or the Bank Guarantee in terms of Clause 11.2.

15. **INTEREST:**

With respect to default in making any payment due in terms of this Agreement by one Party to the other, the defaulting Party shall be liable to pay interest @ PLR on the total sum outstanding and for the period the payment has remained over due. For removal of doubts, it is clarified that the Seller shall have the right to adjust or recover the interest due in terms of this Clause from the interest-free Security Deposit and/or the Bank Guarantee referred to in Clause 11.2.

16. **Resolution of Disputes:**

In the event of any dispute or differences between the Purchaser and the Seller, such dispute or differences shall be resolved amicably by mutual consultation. If such resolution is not possible, then, the unresolved dispute or difference shall be referred to the sole arbitrator for arbitration as per the Arbitration & Conciliation Act, 1996 and rules made thereunder from time to time. The sole Arbitrator shall be nominated by Chairman, Coal India Limited In the event of such an arbitrator to whom the matter is originally referred, being transferred or vacating his office or being unable to act for any reason whatsoever, the Chairman, CIL shall appoint another person to act as an arbitrator in accordance with terms of the agreement and the person so appointed shall be entitled to proceed from the stage at which it was left out by his predecessors.

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

**17. TERMINATION OF AGREEMENT:**

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

(a) Automatically, in the event the nomination of the Purchaser is withdrawn or cancelled by the concerned State Government, which shall be deemed to be the default of the Purchaser under the Agreement. However, liabilities of the Purchaser that had already accrued on the effective date of such termination shall survive.

(b) LD/LL obligations:

(i) By the Seller within 60 days of the end of the relevant Year, in the event that Level of Lifting (LL) by the Purchaser falls below 30% of ACQ for the concerned Year, and on providing at least thirty (30) days' prior written notice to the Purchaser.

(ii) By the Purchaser within 60 days of the end of the relevant Year, in the event that Level of Delivery (LD) by the Purchaser falls below 30% of ACQ for the concerned Year, and on providing at least thirty (30) days' prior written notice to the Seller .

(c) By the Seller in the event of non payment of compensation by the Purchaser within 180 days the claim for compensation being made by the Seller in accordance with clause 4.9 herein above.

(d) By the Seller, on receipt of advise from the State Government, in accordance with clause 4.5 herein above.

(e) By either party by providing prior written notice for a period of 90 days, where any Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Act, as described in Clause 18 below; and such inability to perform lasts for not less than a total of 90 days in any continuous period of 180 days, In such event, the termination shall take effect on expiry of the notice period of 90 days, and the Parties shall be absolved of all rights/obligations under this Agreement, save those that had already accrued as on the effective date of termination.

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

17.3 Notwithstanding the provisions of Clause 17.1 and 17.2 above, in the event of any material change in the coal distribution system of Seller due to a Government directive/ notification, at any time after the execution of this Agreement, the same shall be notified by the Seller to the Purchaser in writing. In the event the Seller decides to terminate this Agreement, arising out of any such change, it shall notify the Purchaser at least 30 days in advance of such termination coming into effect and the Seller shall stand relieved of

any obligation under the Agreement. For the avoidance of any doubt, CIL/ Seller shall bear no liability on account of such termination.

## 18. **FORCE MAJEURE:**

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

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

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

## 18.2 **Burden of Proof:**

In the event the Parties are unable to agree in good faith that a Force Majeure Act has occurred; the Parties shall resolve the dispute in accordance with the provisions of this Agreement. The burden of proof as to whether a Force Majeure Act has occurred shall be upon the Party claiming the occurrence or existence of such Force Majeure Act.

## 18.3 **Effect of Force Majeure:**

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

- a) Within 5 (five) Business Days after the occurrence of the inability to perform due to a Force Majeure Act, the **Non-Performing Party** provides a written notice to the other Party of the particulars of the occurrence, including an estimation of its expected duration and

probable impact on the performance of its obligations hereunder, and continues to furnish periodic reports with respect thereto, every 7 (seven) days, during the period of Force Majeure.

- b) The Non-Performing Party shall use all reasonable efforts to continue to perform its obligations hereunder and to correct or cure as soon as possible the said Force Majeure Act.
- c) The suspension of performance shall be of no greater scope and no longer duration than is reasonably necessitated by the said Force Majeure Act.
- d) The Non-Performing Party shall provide the other Party with prompt notice of the cessation of the said Force Majeure Act giving rise to the excuse from performance and shall thereupon resume normal performance of obligations under this Agreement with utmost promptitude.
- e) The non-performance of any obligation of either Party that was required to be performed prior to the occurrence of a Force Majeure Act shall not be excused as a result of such subsequent Force Majeure Act.
- f) The occurrence of a Force Majeure Act shall not relieve either Party from its obligations to make any payment hereunder for performance rendered prior to the occurrence of the Force Majeure Act or for partial performance hereunder during periods of Force Majeure.
- g) The Force Majeure Act shall not relieve either Party from its obligation to comply with Applicable Laws. The Non-Performing Party shall exercise all reasonable efforts to mitigate or limit damages to the other Party.
- h) Quantity of Coal not delivered by the Seller, or not accepted by the Purchaser due to the Force Majeure Act shall reduce the ACQ by the same amount.

#### 19. **SCHEDULES / ANNEXURES:**

The Schedules detailed below shall form part of this Agreement.

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

Schedule - II - Bank Guarantee Pro-forma for Security Deposit (Clause 3.1)

Schedule - III - Annual Contracted Quantity (Clause 4.1)

Schedule - IV - Format for Affidavit (Clause 4.5)

Schedule - V- Bank Guarantee Pro-forma for Financial Coverage against Coal Supplies.  
(Clause 11.2)

#### 20. **MISCELLANEOUS:**

- 20.1 Amendment: This Agreement cannot be amended or modified except by prior written consent of the Parties.
- 20.2 Severability and Renegotiation: In the event any part or provision of this Agreement becomes, for any reason, unenforceable or is declared invalid by a competent court of law or tribunal, the rest of this Agreement shall remain in full force and effect as if the unenforceable or invalid portions had not been part of this Agreement, and in such eventuality the Parties agree to negotiate with a view to amend or modify this Agreement for achieving the original intent of the Parties.
- 20.3 Governing Law: This Agreement, and the rights and obligations hereunder shall be interpreted, construed and governed by the laws, regulations and rules in force in India.
- 20.4 Entirety: This Agreement and the Schedules, and such documents attached or referred hereto are intended by the Parties as the final expression of their Agreement and are intended also as a complete and exclusive statement of the terms of their Agreement. All prior written or oral understandings, offers or other communications of every kind

pertaining to the matters contained in this Agreement are hereby abrogated and withdrawn.

- 20.5 Counterpart: This Agreement may be executed in any number of counterparts and each counterpart shall have the same force and effect as the original instrument.
- 20.6 The head of the Marketing Division of the Seller or his representative/s nominated for the purpose shall be authorised to act for and on behalf of the Seller.
- 20.7 It shall be the responsibility of the Parties to ensure that any change in the address for service or in the particulars of the designated representative is notified to the other Party and all other concerned, before effecting a change and in any case within two Business Days of such change.
- 20.8 All notices under this Agreement shall be made in writing and shall be either in Hindi or in English.
- 20.9 Unless otherwise specified, the notices to be sent by the Seller to Purchaser or by Purchaser to the Seller shall be at the following addresses:

**SELLER**

**PURCHASER**

1. Postal Address :
2. Phone No. :
3. Fax :
4. e mail :

1. Postal Address :
2. Phone No. :
3. Fax :
4. e mail :

Signed in presence of the witness / witnesses under mentioned on \_\_\_\_\_ day of \_\_\_\_\_.

Name of Seller

Name of the Purchaser

Name

Name

Designation

Designation

Witnesses (with Name and Designation)1

1

1

2

2

**Schedule-I**

**NOMINATION LETTER OF STATE GOVERNMENT**

|

**Schedule-II**

**BANK GUARANTEE PRO-FORMA FOR SECURITY DEPOSIT (Refer Clause 3.1)**

On Rs. 50/- Non judicial Stamp Paper

Date of Issue: -----

Effective Date: -----

Expiry Date: -----

Value of B.G: -----

1. [The Chairman – cum- Managing Director,  
Coal India Limited,  
10, Netaji Subhas Road, Kolkata – 700 001]
2. [The Chairman-cum-Managing Director,  
(name and address of the subsidiary Company)]
3. \_\_\_\_\_

In consideration of Coal India Limited of 10, Netaji Subhas Road, Kolkata – 700 001/  
\_\_\_\_\_ (name of the subsidiary Company) having its Registered Office  
at \_\_\_\_\_ (regd. address of the subsidiary Company)  
and Sales Office at \_\_\_\_\_ (address of the sales office of the subsidiary Company)  
(hereinafter referred to as ‘**Seller**’, which expression shall unless excluded by or  
repugnant to the subject or context, include its legal representatives, successors and  
permitted assigns) having agreed to supply Coal to \_\_\_\_\_ (Name of the  
State nominated agency) having its registered office at  
\_\_\_\_\_ (address of the State nominated agency) (hereinafter  
referred to as the ‘**Purchaser**’, which term shall unless excluded or repugnant to the  
subject or context include its legal representatives, successors and permitted assigns),  
who has been nominated by (name of concerned department of the State Government)  
vide letter/ OM No. \_\_\_\_\_ dated \_\_\_\_\_ to buy Coal from the Seller;

We, \_\_\_\_\_ (Name and address of the Bank), having its Head Office at  
\_\_\_\_\_ (Address of the Head Office of the Bank) (hereinafter called  
the Guarantor, which expression shall, unless repugnant to the context or meaning  
thereof, include its successors, administrators, executors and assigns) do hereby  
irrevocably and unconditionally guarantee and undertake to pay Seller or such other place  
or places as may be directed by the Seller all amounts payable by the Purchaser to the  
extent of Rs. \_\_\_\_\_/- (Indian Rupees \_\_\_\_\_) at any  
time upto \_\_\_\_\_ (date that is 30 months from the issue of  
the Bank Guarantee) subject to the following terms and conditions :-

- 1) The Guarantor shall pay to the Seller on demand and without any demur, reservation,  
contest, recourse or protest and/ or without any reference to the Purchaser. As to whether  
the occasion or ground has arisen for such demand, the decision of the Seller shall be  
final.
- 2) The Seller shall have the fullest liberty without reference to the Guarantor and without  
affecting this guarantee to postpone at any time or from time to time the exercise of all or  
any of its powers and rights under arrangement made with the Purchaser, and the  
Guarantor shall not be released from this guarantee by any arrangement between the

Seller and the Purchaser or any alteration thereof made with or without the consent of the Guarantor or by exercise or non-exercise by the Seller of all or any of its powers and rights against the Purchaser, or any other forbearance, act of omission on the part of the Seller or indulgence granted by or on behalf of the Seller to the Purchaser, which under the law relating to surety ship would but for this provision have the effect of releasing the Bank as Guarantor from their obligations under this guarantee.

- 3) The guarantee herein contained shall not be determined or affected by the winding up or insolvency of the Purchaser, or withdrawal or cancellation of the nomination of the Purchaser by the State Government but shall in all respects and for all purpose be binding and operative until all monies due to the Seller in respect of all liability or liabilities of the Purchaser are fully paid.
- 4) It is also agreed that Seller will be entitled at its option to enforce this guarantee against the Guarantor as principal debtor in the instance notwithstanding any other security or guarantee that the Seller may have in relation to the Purchaser's liability.
- 5) The Guarantee will remain valid for a period of thirty months (30 months) from the date hereof and to such further period, as may be required and agreed by the Parties and agreed by the Guarantor before the expiry of the aforesaid validity.
- 6) The guarantee shall cover all claims or demand of Seller to the extent of the amount guaranteed.
- 7) Notwithstanding anything contained, the liability of the Guarantor under this Agreement is restricted to Rs. \_\_\_\_\_/- (Indian Rupees \_\_\_\_\_), and the same will remain in force upto and including the day of \_\_\_\_\_(date that is 30 months from the issue of the Bank Guarantee) and to such further period, as may be required and agreed by the Parties and agreed by the Guarantor before the expiry of the aforesaid validity.
- 8) This guarantee can be enforced by Seller any number of times for their claims or demand to the total extent of Rs. \_\_\_\_\_/- (Indian Rupees \_\_\_\_\_), as long as it remains in force.
- 9) Unless a demand or claim under this guarantee is received by the Guarantor within the period mentioned in clause 5 and 7 hereof, all rights of the Seller shall be forfeited and the Guarantor shall be relived or discharged from all liabilities.
- 10) The guarantee is operative at our ----- (name and address of the branch) Branch, \_\_\_\_\_ (Place).

Signature of the Bankers  
With date & Rubber Stamp

**Schedule-III**

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

**Annual Contract Quantity**

Sl. No.	Annual Contracted Quantity (Lakh Tonnes)	Mode of Transport		Coalfield of the Seller
		By Road	By Rail	
			Name of Rake Fit Station	

**Schedule-IV**

**AFFIDAVIT**

[In reference to Clause 4.5 of the Fuel Supply Agreement (“FSA”)]

I, \_\_\_\_\_, S/o \_\_\_\_\_ resident at \_\_\_\_\_ the authorised signatory of \_\_\_\_\_ (“The Purchaser”), registered under the Companies Act, 1956 having its registered office at \_\_\_\_\_, do hereby solemnly affirm and on oath as as under:

- 1) *That I am the \_\_\_\_\_ of the Purchaser and duly authorised to affirm and sign this affidavit on behalf of the Purchaser.*
- 2) *That coal will be sold by the Purchaser only to those small and medium coal consuming units/ consumers for their own use located within the State of \_\_\_\_\_ whose requirement is upto 4200 (four thousand two hundred) metric tonne per annum and who do not have a arrangement for supply of coal from any subsidiary coal company of Coal India Limited (“CIL”)/ CIL.*
- 3) *That the Purchaser shall ensure that the coal is sold only to an end user and shall not be re-sold or traded.*
- 4) *That the Purchaser shall submit to the State Government, a Quarterly Return as specified in Clause 4.4 of the FSA.*

DEPONENT

**VERIFICATION**

I, \_\_\_\_\_, do hereby verify that the contents of the above affidavit are true and correct and nothing material has been concealed therefrom.

*Verified at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.*

DEPONENT

## Schedule-V

### **BANK GUARANTEE PRO-FORMA FOR FINANCIAL COVERAGE AGAINST COAL SUPPLIES (Refer Clause 11.2)**

On Rs. 50/- Non judicial Stamp Paper

Date of Issue :-----

Effective Date :-----

Expiry Date: -----

Value of B.G. :-----

1. [The Chairman – cum- Managing Director,  
Coal India Limited,  
10, Netaji Subhas Road, Kolkata – 700 001]

2. [The Chairman-cum-Managing Director,

\_\_\_\_\_  
(Name & Address of the Subsidiary Company)]

3. \_\_\_\_\_  
(Name & Address of any other office of the Coal Company)

In consideration of Coal India Limited of 10, Netaji Subhas Road, Kolkata – 700 001/  
\_\_\_\_\_(name of the subsidiary Company) having its Registered Office  
at \_\_\_\_\_ (regd. address of the subsidiary Company)  
and Sales Office at \_\_\_\_\_ (address of the sales office of the subsidiary Company)  
(hereinafter referred to as ‘**Seller**’, which expression shall unless excluded by or  
repugnant to the subject or context, include its legal representatives, successors and  
permitted assigns) having agreed to supply Coal to \_\_\_\_\_(Name of the  
State nominated agency) having its registered office at  
\_\_\_\_\_(address of the State nominated agency) (hereinafter  
referred to as the ‘**Purchaser**’, which term shall unless excluded or repugnant to the  
subject or context include its legal representatives, successors and permitted assigns), as  
per the terms of the Fuel Supply Agreement vide Agreement No. (\_\_\_\_\_) dated  
(\_\_\_\_\_);

We, \_\_\_\_\_(Name and address of the Bank), having its Head Office at  
\_\_\_\_\_(Address of the Head Office of the Bank) (hereinafter called  
the Guarantor, which expression shall, unless repugnant to the context or meaning  
thereof, include its successors, administrators, executors and assigns) do hereby  
irrevocably and unconditionally guarantee and undertake to pay Seller or such other place  
or places as may be directed by the Seller all amounts payable by the Purchaser as price  
of Coal supplies, excluding Railway Freight but including interest bills, long flame Coal

bills, transportation charges bills, other supplementary bills and all incidental charges subject to the following terms and conditions :-

- 1) The Guarantor shall pay to the Seller on demand and without any demur, reservation, contest, recourse or protest and/ or without any reference to the Purchaser. As to whether the occasion or ground has arisen for such demand, the decision of the Seller shall be final.
- 2) The Seller shall have the fullest liberty without reference to the Guarantor and without affecting this guarantee to postpone at any time or from time to time the exercise of all or any of its powers and rights under arrangement made with the Purchaser, and the Guarantor shall not be released from this guarantee by any arrangement between the Seller and the Purchaser or any alteration thereof made with or without the consent of the Guarantor or by exercise or non-exercise by the Seller of all or any of its powers and rights against the Purchaser, or any other forbearance, act of omission on the part of the Seller or indulgence granted by or on behalf of the Seller to the Purchaser, which under the law relating to surety ship would but for this provision have the effect of releasing the Bank as Guarantor from their obligations under this guarantee.
- 3) The guarantee herein contained shall not be determined or affected by the winding up or insolvency of the Purchaser, or withdrawal or cancellation of the nomination of the Purchaser by the State Government but shall in all respects and for all purpose be binding and operative until all monies due to the Seller in respect of all liability or liabilities of the Purchaser are fully paid.
- 4) It is also agreed that Seller will be entitled at its option to enforce this guarantee against the Guarantor as principal debtor in the instance notwithstanding any other security or guarantee that the Seller may have in relation to the Purchaser's liability.
- 5) The guarantee shall remain valid for a period of 15 months from the date hereof.
- 6) It is expressly agreed between the Parties that this guarantee is in respect of prices of coal for all orders for purchase of coal which may be placed by the Purchaser on the Seller during the subsistence of this Agreement.
- 7) This guarantee shall cover all claims or demand of the Seller to the extent of the amount guaranteed in respect of despatches of Coal for which allotment has been made.
- 8) Notwithstanding anything contained the liability of the Guarantor under this Agreement is restricted to Rs. \_\_\_\_\_/- (Indian Rupees \_\_\_\_\_) and the same will remain in force upto and including the day of \_\_\_\_\_(date that is 15 months from the date hereof).
- 9) This guarantee can be enforced by the Seller any number of times for their claims or demand to the total extent of Rs. \_\_\_\_\_/- (Indian Rupees \_\_\_\_\_), as long as it remains in force.
- 10) Unless a demand or claim under this guarantee is received by the Guarantor within the period mentioned in clause 5 and 8 hereof, all rights of the Seller shall be forfeited and the Guarantor shall be relived or discharged from all liabilities.

11) The guarantee is operative at our ----- (name and address of the branch) Branch, \_\_\_\_\_.

Signature of the Bankers

With date & Rubber Stamp.