



South Eastern Coalfields Limited

'MINIRATNA' CATEGORY-I COMPANY

(A Subsidiary of Coal India Limited)

Seepat Road, PO. SECL,
Bilaspur-495 006 (Chhattisgarh)

Tel. 07752-246322

Fax. 07752-246472

Sales & Mktg. Deptt.

SECL/BSP/S&M/COMML/ / TPS (LOA)/

Date:

Speed Post

(Name & Registered Office Address)

Dear Sir,

Subject: **Letter of Assurance**

Preamble

In consideration of the request by **(Name & Registered Address)** (hereinafter referred to as **"the Assured"**) for issuance of Letter of Assurance (hereinafter referred to as **"LOA"**) requiring (Quantity) tonnes per annum (tpa) of **F** Grade coal for its **(Capacity)** Power Plant located at **(Plant Address as per 6th or 7th CLOA Meeting)** (hereinafter referred to as **"the Plant"**), from about (*) as requested by the Assured, **SECL** (hereinafter referred to as **"the Assurer"**) hereby provisionally assures that it would endeavour to supply coal to the Assured subject to the following terms and conditions:

* Not indicated

1. Scope of Assurance

1.1 Quantity, Grade and Source of coal

Subject to the Assured fulfilling its obligations in accordance with Clause 2 to the satisfaction of the Assurer within the period of validity of this LOA and the signing of the Fuel Supply Agreement (FSA) within three (3) months thereafter, the Assurer shall endeavour to supply, as per the normative requirement of the Plant **(Quantity)** tonnes per annum (mtpa) of **F** Grade * coal to the Assured, which shall be subject to review and assessment by the Assurer of the actual coal requirement of the Assured as well as the incremental availability of coal from the mines of the Assurer and of imported coal. It is expressly clarified that in the event that the incremental coal supplies available with the Assurer (after meeting out the commitments already made) is less than the incremental coal demand, such incremental availability shall be distributed on pro-rata basis and the balance quantity of coal requirement shall be met through imported coal available with the Seller, which too shall be distributed on pro-rata basis.

** Parameters in case of imported coal shall be specified by CIL/Assurer.*

1.2 Price of coal

The price of coal assured herein shall be as per the notified price of CIL from time to time. Notwithstanding, in case the quantity of normative requirement, as stated in Clause 1.1 above, necessitates opening of a dedicated mine, then coal shall be priced at the higher of the cost plus reasonable return or such notified price. The quantity of imported coal that may be supplied to the Assured, as mentioned in Clause 1.1, shall be charged at the landed cost plus service charge. Such service charge shall be notified by the Assurer from time to time. The Assured shall be liable to pay all applicable taxes and statutory levies.

1.3 Change in law

In the event of an enactment, promulgation, amendment or repeal of any statute, policy, decree, notice, rule or direction by any government instrumentality that would have an impact on the coal supply terms assured hereof; the Assurer shall be free to amend or repeal this LOA without any liabilities or damages, whatsoever, payable to the Assured.

1.4 Force-Majeure affecting the Assurer

In the event that development of the coal block identified by the Assurer for the purpose of meeting the normative requirement stated in Clause 1.1 is delayed or terminated for reasons including de-allocation of such block by the Government and inordinate delays faced in acquiring land or receiving environmental/forest clearances; Or that imports of coal required for the purpose of meeting the portion of normative requirement stated in Clause 1.1 is reasonably withheld owing to such factors as global shortage or a Force-Majeure event affecting the source(s) of imported coal or logistical bottlenecks faced in transportation and unloading; which are not within the control of and not caused by the negligence or fault of the Assurer; the Assurer shall be free to amend or repeal this LOA without incurring any liability whatsoever, including the liability for payment of damages to the Assured.

2. Fulfillment of Assured's obligations

2.1 Time-bound achievement of milestones

The Assured shall undertake to complete all the activities, as mentioned in Annexure 1 to this LOA, within twenty four (24) months from the date of issue of LOA and each activity within the time-period mentioned against it unless such completion is affected due to any Force Majeure event provided that such Force Majeure event shall not include inability or failure to obtain financing for the Plant or failure to comply with the existing rules and regulations with respect to statutory clearances applicable to the Plant or any such event resulting from the negligence, omission or default by the Assured; and the Assured notifies in writing within seven (7) of occurrence of any such Force Majeure event along with documentary evidence of the same.

2.2 Reporting Requirement

The Assured shall submit the status of each activity/milestone including the documentary evidence in relation to such status within the time-period as mentioned in Annexure 1.

2.3 Verification by the Assurer

The Assurer reserves the right to independently verify the status of each milestone as mentioned in Annexure 1, and in the event of any significant or reasonable discrepancy found by the Assurer in respect of the status reported /documentary evidence submitted by the Assured, the Assurer shall notify the Assured forthwith upon which the Assured shall correct the discrepancy so noted by the Assurer within seven (7) days. Further, in the event that the Assured fails to correct the discrepancy as provided herein the Assured shall be liable to submit additional Commitment Guarantee, as per Clause 3.3.

3. Commitment Guarantee by the Assured

3.1 Amount of Commitment Guarantee

Prior to the date of issue of this LOA, the Assured have provided to the Assurer, a Commitment Guarantee (CG), in bank guarantee, for a sum of Rs. _____ (**Rs.** _____) equivalent to ten percent (10%) of base price of Grade **F*** Run-of-Mine (ROM) coal of the Assurer prevalent on the date of application for issue of LOA, multiplied by the quantity of coal mentioned in the Preamble. {Note: In no case shall the CG be less than Rs.2,50,00,000/- (Indian Rupees Twenty Fifty Million only) per mtpa of coal quantities requested by the Assured or part thereof.} Such CG shall be non-interest bearing, and in case of it being deposited in the form of bank guarantee it should comply with the format specified by the Assurer and issued by a scheduled bank acceptable to the Assurer.

3.2 Validity of Commitment Guarantee

The Commitment Guarantee (CG) shall remain valid until four (4) months after the expiry of the LOA period of twenty-four (24) months. Thereafter, the CG shall stand converted into the Contract Performance Guarantee (CPG) that would be the condition precedent to signing of the FSA, in which case, validity of the CG shall be extended in accordance with the terms of the FSA. For the avoidance of any doubt, the Assured shall be liable to submit the guarantee for such further amount that may result from the difference between the CPG under FSA and the CG under this LOA.

3.3 Additional Commitment Guarantee

If any activity/milestone is not duly performed or completed by the Assured within the time stipulated against each such activity/milestone, as specified in Annexure 1, then the Assured shall be liable to furnish to the Assurer one tenth (1/10th) of the amount of CG for each such non-performed or incomplete milestone, as additional CG, within fifteen (15) days from the date such activity/milestone is falling due for completion. For the avoidance of any doubt, such additional CG may need to be deposited multiple times subject to partial/non-fulfillment of each activity /milestone at the end of each half-yearly interval, as mentioned in Annexure 1. Further, such additional CG(s) shall at all times be deemed to be a part of the CG and all related provisions of this LOA shall be equally applicable for additional CG.

3.4 Encashment of Commitment Guarantee

3.4.1 Cancellation or withdrawal of LOA

In the event that any of the activities/milestones is delayed beyond the period specified against each such activity/milestone in Annexure 1 and the Assured fails to furnish the additional CG to the Assurer in accordance with Clause 3.3 hereof, or the Assured furnishes additional CG to the Assurer in accordance with Clause 3.3 hereof but fails to fulfill all the activities/milestones within the total period of twenty-four (24) months, as specified in Annexure 1, the Assurer shall have the right to cancel or withdraw this LOA after duly notifying the Assured in writing at least seven (7) days in advance. For the avoidance of doubt, all the milestones, as specified in Annexure 1, shall need to be fully completed and any partial completion with regard to any activity/milestone at the end of validity of the LOA shall entitle the Assurer to cancel or withdraw this LOA. Upon such cancellation/ withdrawal of this LOA, the Assurer shall encash the CG including any additional CG submitted by the Assured. It is clarified for removal of doubt that this Clause shall survive the cancellation/ withdrawal of this LOA.

3.4.2 Failure to sign the FSA

The Assurer shall have the right to encash the CG in the event of failure by the Assured to sign the FSA within three (3) months from the expiry of validity of the LOA or the satisfactory achievement of all the milestones, as shown in Annexure 1, whichever is earlier. It is also clarified to the Assured that the percentage of annual contracted quantity fixed with respect to Take or Pay obligations in the FSA may be reviewed by the Seller in light of its coal availability and coal commitments, and amended on year-to-year basis during the term of the FSA.

3.5 Return of Commitment Guarantee

In case of inability of the Assured to fulfill any activity/ milestone, as specified in Annexure 1, due to the occurrence of any Force Majeure event, the time period for fulfillment of such activity/milestone, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of three (3) months, continuous or non-continuous in aggregate. In no case including a Force Majeure event affecting multiple activities/ milestones shall the validity of LOA be extended by more than three (3) months. Thereafter, this LOA may be cancelled/ withdrawn by the Assurer after duly notifying the Assured in writing at least seven (7) days in advance without any liabilities or damages, whatsoever, payable by the Assured to the Assurer; and the Assurer shall return the CG submitted by the Assured.

4. Validity of the LOA

The LOA shall remain valid for a period of twenty-four (24) months from the date of issue of this LOA unless extended for three (3) months in accordance with Clause 3.5 hereof, and shall stand annulled upon expiry of such period..

5. Assignment of the LOA

The Assured shall not, without the express prior written consent of the Assurer, assign to any third person the LOA, or any right, benefit, obligation or interest therein or thereunder.

6. End-use of coal

The total quantity of coal assured pursuant to this LOA is for use at the Plant, and the Assured shall not re-sell or trade the coal assured or supplied hereunder to any third party. If at any time in the reasonable opinion of the Assurer, the Assured has entered into an arrangement for such resale or trade of such coal supplies, the Assurer shall cancel/withdraw this LOA without incurring any liability whatsoever, including the liability for payment of damages to the Assured.

** In case of multiple Grades mentioned in Clause 1.1, Grade with the highest Useful Heat Value (UHV) shall be considered for the purpose of calculation of Commitment Advance.*

7. *It is expressly clarified that notwithstanding anything to the contrary mentioned hereinabove and/or in Annexure-1 hereof, the following conditions shall also apply:*

- (i) The LOA will stand withdrawn without any further notice and the project would be reverted back to the pending list of applicants at MOC on failure to comply with the conditions relating to environmental clearance, financial closure, acquisition of land and start of construction within the stipulated period.**
- (ii) In case the Assured is unable to fulfill following conditions, then the project will be considered by SLC(LT) for cancellation/deferment to 12th Plan:**
- a) Date of Synchronization before September'2011**
- b) Date of COD before 31st December'2011**

CHIEF GENERAL MANAGER(S&M-QC)
SOUTH EASTERN COALFIELDS LIMITED
BILASPUR (CG)

Copy for kind information:

- 1) CMD, SECL
- 2) DT(O), SECL
- 3) DT(P&P), SECL
- 4) CGM(S&M), CIL, Kolkata

Annexure 1: Milestones to be achieved by the Assured during the validity of LOA – IPPs & Pvt. GENCOs

S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone			Issuing Authority	Waival	
1	Existence of business entity	within months	6	Certificate of Incorporation/ Commencement of Business Certificate			State Registrar of Companies, Ministry of Company Affairs, Government of India	-
2	Approval of the Investment Decision	within months	6	Certified copy of the decision of the Board of Directors			Company Secretary under the Company Seal	-
3	Technical & Feasibility Studies	within months	6	Detailed Project Report (DPR)			Independent Agency/ Expert	Self-attested DPR in case it is prepared in- house
4				Pvt. Land	Govt. Land	State Industrial Development Corporation (SIDC)	-	-
	Land acquisition	within months	6	Notification under Section 6 of the Land Acquisition Act, 1894	Application filed by the Assured for requirement of land	Application filed by the Company for requirement of land (if applicable)	State Government (in case of proceedings under the Land Acquisition Act 1894	In case of Pvt. Land being purchased from the owner directly, notification under Section 6 would not be applicable; and in such case Land registration/ Transfer deed/ Land lease agreement would only be applicable
	Land acquisition (At least 90% of the total land, as considered in the DPR, acquired)	within months	12	Land Registration/ Transfer deed/ Land lease agreement	Land Registration/ Transfer deed/ Land lease agreement	Land Registration/ Transfer deed/ Land lease agreement	State Government /SIDC	
5	Environment Clearance	within months	6	Final clearance			MOEF (Central Govt.) for Category 'A' projects or State Environment Impact Assessment Authority (SEIAA) - for category 'B'	-

Annexure 1: Milestones to be achieved by the Assured during the validity of LOA – IPPs & Pvt. GENCOs

S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone	Issuing Authority	Waival
				projects, as applicable	
6	Forest Clearance, applicable if	within 12 months	Recommendation for Forest clearance	State Government	-
		within 24 months	Forest Clearance	MoEF (Central Government)	-
7	Water Allocation	within 6 months	In-principle water allocation	State Water Supply Authority	In case of utilisation of ground water, relevant permission from relevant department of the State Government.
		within 6 months	Clearance, if applicable	Central Ground Water Authority (CGWA)	
		within 12 months	Sanction Letter for firm water allocation	State Water Supply Authority	In case of utilisation of ground water, relevant permission from relevant department of the State Government.
8	Commitment of equity investment by the Company for the project.	within 18 months	Certified copy of the decision of the Board of Directors	Company Secretary under the Company Seal	-
9	Financing of the project/ Financial Closure	within 6 months	Final Sanction letters from Bank(s) / Financial Institution(s) Or Loan Agreement	Bank(s)/ Financial Institution(s)	-
10	Start Construction of	Within 12 months	Appropriate relevant documents acceptable to Assurer		

