

COAL INDIA LIMITED

(A Govt. of India Undertaking)
A Maharatna Company
Marketing Division
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Ref: CIL:S&M:New Pol(47252): 871

Date:28- Dec-2012

To
The General Manager (S&M):
ECL/BCCL/CCL/WCL/NCL/MCL/SECL
GM, NEC

Dear Sir(s)

Sub : Modified FSA provision pursuant to 292nd CIL Board decision

Please refer to this office letter of even No : 853 dated 18/19-12-2012 informing about the modifications in certain provisions of the FSA Models circulated vide CIL:COM:NewPol(47252):388 & CIL:COM:NewPol(47252):389 both dated 2.11.12.

The modified provisions are being enclosed for necessary changes in the applicable FSA models. The provisions are also being uploaded in the CIL website.

Yours faithfully

S. Roychoudhury

General Manager(S&M/QC)

CC to:
Dir(Mktg),CIL
TS to Chairman,CIL
GM (Commercial), GM(LOA/SO/FSA) ;CIL

I. Modification/Amendments in the Private PU/IPP Model FSA circulated in November'2012 for New Power Plants.

Clause No.	Existing provisions	Modified provisions
PERIOD OF AGREEMENT		
2.5	If the review in terms of Clause 2.3 does not result in a mutually agreed position with respect to the subject matter of review, this Agreement shall nevertheless continue to be in force. However, if despite further efforts the Parties are unable to arrive at a mutually agreed position with respect to the subject matter of review, within a period of nine (9) months from the date of notice in terms of Clause 2.3, the aggrieved Party shall have the right to terminate the Agreement subject to a further notice of three (3) months given in writing to the other Party	In the event, the Parties are unable to arrive at a mutually agreed position with respect to the subject matter of review in terms of Clause 2.3 within a period of three (3) months from expiry of each five (5) year term, the Parties shall refer the matter to the Govt. of India and until a decision from the Government of India is received, the Agreement shall continue to be in force. The decision of the Govt. of India on the subject matter shall be final and binding on both the Parties
2.6	In the event of any material change in the Coal distribution system of the Seller due to a Government directive/ notification, at any time after the execution of this Agreement, the Seller shall within fifteen (15) days of introduction of such change provide a written notice to the Purchaser calling for a joint review. If the Parties are unable to arrive at a mutually agreed position with respect to the subject matter of review, within a period of thirty (30) days from the date of notice, the Seller shall have the right to terminate the Agreement subject to a further notice of thirty (30) days given in writing to the other Party	In the event of any material change in the Coal distribution system of the Seller due to a Government directive/ notification, at any time after the execution of this Agreement, the Seller shall within seven (7) days of introduction of such change provide a written notice to the Purchaser calling for a joint review. If the Parties are unable to arrive at a mutually agreed position with respect to the subject matter of review, within a period of thirty (30) days from the date of notice the Parties shall refer the matter to the Govt. of India for a decision.

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II. Modification/Amendments in the provisions for both State / Government PU & Private PU/IPP Model FSAs circulated in November'2012 for New Power Plants.

Clause No.	Existing Provisions	Modified Provisions
Modalities for Assessment of Stone		
4.6.3(e) SEB Model	Compensation for oversized stones shall be payable by the Seller to the Purchaser month-wise, Power-station wise, in terms of weighted average Base Price of the analyzed Grade of Coal for the equivalent quantity of stones verified/ removed, as above provided that the quantity of stones admissible for compensation shall be restricted to 0.75% of the total quantity of Coal supplied progressively in a Year by the Seller to the concerned Power Station by rail after accounting for the weight reduction towards destination end, weighment in terms of Clause 5.2 and moisture compensation in terms of Clause 9.2	Compensation for oversized stones shall be payable by the Seller to the Purchaser month-wise, Power-station wise, in terms of weighted average Base Price of the analysed Grade of indigenous Coal for the equivalent quantity of stones verified/ removed, as above for such coal supplied progressively in a Year by the Seller from the CIL sources to the concerned Power Station by rail after accounting for the weight reduction towards destination end, weighment in terms of Clause 5.2 and moisture compensation in terms of Clause 9.2. However, there will be a ceiling of 0.75% of the total verified/removed quantity of oversized stones for the purpose of compensation if supply of indigenous coal during the year has also been made from any other source(s) including captive block besides CIL sources.
5.6.3(e) PPU/IPP Model	Compensation for oversized stones shall be payable by the Seller to the Purchaser month-wise, Power-station wise, in terms of weighted average Base Price of the analyzed Grade of Coal for the equivalent quantity of stones verified/ removed, as above provided that the quantity of stones admissible for compensation shall be restricted to 0.75% of the total quantity of Coal supplied progressively in a Year by the Seller to the concerned Power Station by rail after accounting for the weight reduction towards destination end, weighment in terms of Clause 6.2 and moisture compensation in terms of Clause 10.2.	Compensation for oversized stones shall be payable by the Seller to the Purchaser month-wise, Power-station wise, in terms of weighted average Base Price of the analysed Grade of indigenous Coal for the equivalent quantity of stones verified/ removed, as above for such coal supplied progressively in a Year by the Seller from the CIL sources to the concerned Power Station by rail after accounting for the weight reduction towards destination end, weighment in terms of Clause 6.2 and moisture compensation in terms of Clause 10.2. However, there will be a ceiling of 0.75% of the total verified/removed quantity of oversized stones for the purpose of compensation if supply of indigenous coal during the year has also been made from any other source(s) including captive block besides CIL sources.



III. Modification/Amendments in the provisions for Private PU/IPP Model FSAs circulated in November'2012 for New Power Plants.

Clause No.	Existing Provisions	Modified Provisions
Security Deposit		
3.1	<p>The Purchaser is required to deposit with the Seller a sum of [Rs [•] (Indian Rupees [•]) equivalent to six percent (6%) of the Base Price of such Grade of Coal, as described in Schedule-III to this Agreement, prevalent on the date of deposit multiplied by ACQ, as Security Deposit (SD), in cash / Bank Guarantee on or before the signing of this Agreement. In case of multiple Grades indicated in Schedule-III, the highest Grade shall be considered for the purpose of calculation of SD without any commitment whatsoever to supply such Grade of Coal. Such Security Deposit shall be non-interest bearing. [In case the SD is in the form of a bank guarantee the same shall be provided in the enclosed format (“SD Bank Guarantee”) with this Agreement at Schedule-III. and issued from a Bank acceptable to the Seller. ’]</p>	<p>On signing of this agreement the Commitment Guarantee (CG) provided by the Purchaser prior to issue of Letter of Assurance (LOA) shall stand converted into the Security Deposit amount as determined under Clause 3.2 Accordingly, a sum of Rs. [•] (Indian Rupees _____) is deemed to have been deposited by the Purchaser towards the Security Deposit amount stipulated in Clause 3.2. In the event the Commitment Guarantee amount provided by Purchaser is more than the Security Deposit amount as determined under Clause 3.2, Seller shall return such balance amount within three (3) months from the date of signing of this Agreement. In an event the Security Deposit amount as determined under Clause 3.2 is more than the Commitment Guarantee amount, the Purchaser shall deposit such balance amount within three (3) months from the date of signing this agreement. Failure to submit the balance amount by the Purchaser within three (3) months from the date of signing of this agreement, as aforementioned, shall entitle the Seller to adjust the ACQ such that it is commensurate with the Security Deposit required to be submitted by the Purchaser under clause 3.2</p> <p><i>Notes: Purchaser directly entering into this Agreement who have been granted coal linkage by Standing Linkage Committee – Long Term (SLC- LT) and have not been issued Letter of Assurance (LOA) by Seller or any Purchaser who have been issued LOA without depositing of Commitment Guarantee as stipulated under the LOA shall deposit the Security Deposit amount as determined under Clause 3.2 before the Signature Date.[In such case delete Clause 3.1]</i></p>
3.2	<p>Accordingly, the Purchaser has furnished Rs. [•] (Indian Rupees) towards the Security Deposit amount stipulated in Clause 3.1 above.</p>	<p>The Purchaser shall deposit with the Seller a sum of [Rs. _____ (Indian Rupees _____)] equivalent to six percent (6%) of the Base Price of such Grade of Coal, as described in</p>

		<p>Schedule-III to this Agreement, prevalent on the date of deposit multiplied by ACQ, as Security Deposit (SD), in cash / Bank Guarantee on or before the signing of this Agreement. In case of multiple Grades indicated in Schedule-III, the highest Grade shall be considered for the purpose of calculation of SD without any commitment whatsoever to supply such Grade of Coal. Such Security Deposit shall be non-interest bearing. Accordingly, the Purchaser has furnished Rs. [•] (Indian Rupees _____) towards the Security Deposit amount.</p> <p><i>[In case the SD is in the form of a bank guarantee the same shall be provided in the enclosed format ("SD Bank Guarantee") with this Agreement at Schedule- II.]</i></p>
3.3	The SD submitted by the Purchaser, as per Clause 3.2 above, shall remain valid till three (3) months from the expiry of this Agreement.	The SD Bank Guarantee submitted by the Purchaser, as per Clause 3.2 above, shall remain valid till thirty (30) days from the First Delivery Date under this Agreement. Purchaser shall extend the SD Bank Guarantee and submit such letter of extension/ extended SD Bank Guarantee to the Seller one month in advance of the expiry date thereof, failing which the Seller shall have the right to terminate this Agreement.
3.4	The value of the Security Deposit shall be suitably increased / decreased to match the changes in the Base Price notified by the Seller from time to time. In the event of failure of the Purchaser to provide such increased value within thirty (30) days from the date of notification of such change in Base Price, the Seller shall have the right to suspend the Coal supplies. If additional SD due to such increase in the Base Price of Coal is submitted by way of additional bank guarantee, the period of validity of such bank guarantee shall be the same as that of the initial SD Bank Guarantee furnished in terms of clauses 3.1 to 3.3 above. Alternatively, the amount of the initial SD Bank Guarantee may be increased by an amendment so as to cover the increased value of SD resulting from the change in the Base Price.	The value of the Security Deposit shall be suitably increased / decreased to match the changes in the Base Price notified by the Seller from time to time. In the event of failure of the Purchaser to provide such increased value within thirty (30) days from the date of notification of such change in Base Price, the Seller shall have the right to terminate the Agreement. If additional SD due to such increase in the Base Price of Coal is submitted by way of additional bank guarantee, the period of validity of such bank guarantee shall be the same as that of the initial SD Bank Guarantee furnished in terms of Clauses 3.1 to 3.3 above. Alternatively, the amount of the initial SD Bank Guarantee may be increased by an amendment so as to cover the increased value of SD resulting from the change in the 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 all claims of Seller arising out of this Agreement.	The Security Deposit shall be refundable to the Purchaser at the end of 30 days from the First Delivery Date.

3.6	The Purchaser shall ensure that the Security Deposit stands replenished within seven (7) 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.	Deleted
3.7	In the event of termination of the Agreement by the Seller in accordance with Clause 16.2.1 to 16.2.5, 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.	Deleted

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IV. Modification/Amendments in the provisions for both State / Government PU & Private PU/IPP Model FSAs circulated in November'2012 for New Power Plants.

Clause No.	Existing Provision	Modified Provision
3.3.3 SEB Model	The Seller may also offer coal from loading points / coal stocks to be lifted by the Purchaser by his/ their own transport arrangement by road / road-cum-rail or any other mode up to 5 % of the ACQ.	The Seller may also offer coal from loading points / coal stocks to be lifted by the Purchaser by his/ their own transport arrangement by road / road-cum-rail or any other mode up to 5 % of the ACQ. The provision shall however be applicable for supplies of coal under the Agreement from collieries of three coal producing subsidiaries of CIL viz. SECL, MCL and CCL. Further the provision shall continue till such time three major railway lines in these coal companies are constructed and made operational.
4.3.3. PPU Model		

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