

# KSK Mahanadi Power Company Limited

(Undergoing Corporate insolvency Resolution Process vide NCLT, Hyderabad Bench order dated 3<sup>rd</sup> October 2019

CIN No. U40300TG2009PLC064062

## Works

Near Nariyara Village  
Akaltara Tehsil,  
Janjgir – Champa District,  
Chhattisgarh

## Registered Office

8-2-293/82/A/431/A,  
Road No.22, Jubilee Hills,  
Hyderabad – 500033  
Tel: +91-40-23559922-25  
Fax: +91-40-23559930

Ref: KSK/TR/AUG/001

Date: 20.08.2021

## REQUEST FOR QUOTATION (RFQ)

Last date for offer submission – Date: 25/08/2021 by 13.00 Hours

**Subject: RFQ for transportation of Shakti Linkage and Special Forward e-Auction Coal by Road/RCR mode from various mines of South Eastern Coalfields Limited (SECL) to KSK Mahanadi Power Company Limited Nariyara, Chhattisgarh through washery.**

RFQ being issued for end to end delivery of Shakti Linkage and Special forward e-auction coal from various mines of SECL to KSK Mahanadi Power Company Limited at Nariyara, Chhattisgarh through washery. The details of the requirements are mentioned in this RFQ.

### Definitions:

In the tender as herein defined where the context so admits, the following words and expressions will have the following meanings: -

“Coal” shall mean coal secured by KSK Mahanadi Power Company Limited under **Shakti Linkage and Special Forward E-Auction Coal**.

“Contractor” shall mean “Name of the Contractor-----”

“KMPCL” shall mean KSK Mahanadi Power Company Limited.

“CIL” shall mean Coal India Limited

“SECL” shall mean South Eastern Coalfields Limited

“SECR” shall mean South East Central Railways.

“SER” shall mean South Eastern Railways.

“Day” shall mean a day of 24 hours from midnight to midnight.

“Delivery Order” or “DO” shall mean an entitlement document issued by SECL (South Eastern Coalfields Limited) for ownership of coal in the name of KSK Mahanadi Power Company Limited.

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“Washery Plant” shall mean \_\_\_\_\_ (*washery unit, to be filled by Contractor*)

Unless otherwise specifically stated, the masculine gender shall include the feminine and/or neutral gender and vice versa and the singular shall include the plural and vice versa.

KMPCL and the Contractor will be collectively called as “**Parties**” and will be individually called as “**Party**”.

## 1. SCOPE OF WORK:

Contractor to execute end to end service towards performance of this contract. The Contractor shall arrange to lift the ROM Coal from SECL mines as per Road DO, transport to designated Washery Unit and arrange to deliver the Washed Coal to KMPCL plant after beneficiation, as per the following exhaustive but not limited to the below terms and conditions:

### **A) Transportation of Coal from Mines to Washery by Road mode**

- 1.1 Contractor shall assist KMPCL and co-ordinate with SECL authorities at appropriate levels for release of DO at Bilaspur within three days from the date of payment towards Coal procurement.
- 1.2 KMPCL shall authorize the Contractor to take delivery of Coal from the mines or stock yard.
- 1.3 Contractor shall coordinate with the concerned SECL authorities at the specific colliery (against which the DO has been issued/or to be issued) for further registration and validation of issued DO and all other formalities for timely commencement of coal lifting.
- 1.4 Contractor shall ensure to deploy adequate tipping trucks for lifting of coal from SECL Mines to washery.
- 1.5 Contractor shall deliver minimum quantity (as per daily schedule) to the washery as per delivery order. Any shortfall in delivery of quantities in a particular day, the same shall be covered in next day.
- 1.6 Contractor shall supervise loading & sampling of Coal at SECL mine(s) on behalf of KMPCL & in line with the quantity & quality as mentioned in D.O & declared by SECL/CIL.
- 1.7 Contractor shall supervise and ensure loading of coal quantity as per Carrying Capacity of trucks/tipper as approved by RTA (Road Transport Authority).
- 1.8 Contractor shall provide and cover the truck with tarpaulin with minimum thickness of 170 GSM immediately after the loading. Tie the tarpaulin with ropes tied properly before dispatching the

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tippling trucks to KMPCL for reducing the comprehensive environmental pollution index as per the directives of Ministry of Environment & Govt. of Chhattisgarh and safety of coal. Contractor should transport coal strictly up to the maximum carrying capacity as determined by axle load of the tippling trailers with mechanical unloading arrangements as permitted by Regional Transport Authority. Any penalty imposed by Regional Transport Authority, shall be borne by the Contractor.

- 1.9 Contractor shall ensure that no excess water pouring on Coal, beyond permissible sprinkling limit as per the statutory norms, takes place before placement of trucks/tipper, during loading and till completion of loading.
- 1.10 Contractor shall make necessary arrangements for transportation of Coal from the collieries of SECL Coalfields to washery.
- 1.11 The Contractor warrants that any Coal movement shall be done with proper and valid documents including Transit Pass.
- 1.12 The entire coordination work, wherever required including but not limited to respective district Collectorate, Police, Check Posts en-route, District Mining Department, Village bodies for local issues, tax authorities, Forest Department or any other in-transit issues, water sprinkling wherever required, any type of issues during the movement shall be the sole responsibility of the Contractor. Contractor shall take full responsibility during the movement from mines to washery and to plant. Wherever required, approval shall be taken from the relevant authorities before the commencement/during of Coal movement.
- 1.13 In case of accident to any employee appointed by the Contractor and/or any damages to SECL Property and/or person due to negligence of the Contractor at any point of time during the Work Order period, every cost arising due to this, shall be borne by the Contractor. KMPCL shall not entertain any of the claims either by SECL or by the Contractor in this regard.
- 1.14 Contractor shall send daily report to KMPCL, every day by 11 A.M for all the activities as per the format provided by KMPCL.
- 1.15 Contractor shall co-ordinate with KMPCL for collection of invoices, reconciliation of coal quantity and account with SECL on monthly/required basis.
- 1.16 It would be CONTRACTOR'S responsibility to ensure that complete coal quantity as mentioned in the CONTRACT shall be lifted from SECL and delivered to KMPCL through the designated Washery, either by Road / Road-Cum-Rail mode. At any cost, the CONTRACTOR shall not divert or keep the KMPCL coal.

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### **B) Beneficiation, Crushing & Transportation of Washed Coal from Washery to KMPCL by Road/RCR mode.**

- 1.17 The CONTRACTOR shall do /perform all instructions/procedure as per SECL guidelines/procedures. Coal to be transported along with proper documentation.
- 1.18 Quality of Washed Coal to be delivered at KMPCL.  
Size – 0-50 mm  
Guaranteed GCV on ARB basis as per the clause no. 7  
Yield \_\_\_\_\_% *(to be mentioned by contractor)*  
Handling & Process Loss \_\_\_\_\_% *(to be mentioned by contractor)*
- 1.19 The Contractor shall earmark the dedicated area exclusively for KMPCL within the coal stacking yard of WASHERY UNIT for stacking of sufficient quantity of ROM/washed coal as per the requirement. The Contractor shall deploy security at the coal yard for protection of the ROM/ Washed coal on round the clock basis. KMPCL shall also have the right to deploy their security personnel/representatives round the clock in addition to the contractor security personnel at washery. The coal kept at the yard shall be covered with the tarpaulin during the entire monsoon season.
- 1.20 Contractor shall coordinate with Mines department of Chhattisgarh for obtaining all required permissions for stacking & movement of coal. The permission must be valid till completion of the contract period. All expenses in this regards shall be borne by the Contractor.
- 1.21 KMCPL shall be free to carry out physical verification of coal at washery either by its own personnel or by a third party agency.
- 1.22 Contractor shall make necessary arrangements for unloading of coal at designated coal yard, washing of coal as per the specification and loading of coal into trucks/rail, weightment of coal and dispatched to KMPCL.
- 1.23 If contractor wishes to deliver the washed coal through rakes, the contractor shall make all the necessary arrangements for delivery through rakes. Obtaining necessary required mining permissions, approvals from SECR regarding using concerned Railway siding for loading into rakes shall be in the scope of the Contractor. Any penalties / demurrages / wharf-age / EHC / load adjustment expenses at the siding/en-route in this regard shall be borne by the Contractor. After due approvals and permissions the Contractor shall commence supply of washed coal to KMPCL immediately after beneficiation. Any penalties imposed by SECR towards any damage to the concerned siding shall be borne by the Contractor. KMPCL shall not be responsible for any loss / damage to the equipment of the Contractor at Siding or en-route to Siding.

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- 1.24 At any point of time, the contractor cannot stock at their washery plant, more than 10,000 MT of Washed Coal or the Contractor cannot hold raw Coal/washed coal more than 5 days of lifting of Coal or whichever less.
- 1.25 Contractor shall have provision to stock upto 2 lakhs MT on written instruction of KMPCL.
- 1.26 Penalty shall not be applicable in case of restriction imposed by Indian Railways resulting in non-supply of rakes at siding against indents. Accordingly, the number of days shall be extended on prorated basis. CONTRACTOR shall inform KMPCL on time to time basis. Otherwise penalty shall attract towards delayed delivery.
- 1.27 Contractor shall coordinate with office of the Railways to ensure placements of rakes for loading and same should be informed to KMPCL on daily basis.
- 1.28 Contractor's representative shall inform all designated KMPCL officials about each rake placement for loading and release from railway siding after loading through SMS along with weightment details.
- 1.29 Contractor shall handle wagon loading, weightment and dispatch of washed coal by rail to KMPCL.
- 1.30 Railway Freight and indenting charges shall be paid by the Contractor. In case the railway freight charges levied on KMPCL account by railways, then the same shall be recovered from the contractor bills.
- 1.31 Contractor shall ensure periodic reconciliation and co-ordinate with KMPCL for reconciliation with SECL / SECR including preparation of reconciliation statement and credit balance confirmation document. Also ensure periodic refunds accordingly.
- 1.32 Contractor shall supervise the loading of the washed coal at the siding such that under loading is minimized and rake is loaded to its carrying capacity. Contractor shall monitor the movement of rake from time of loading till the time it reaches the destination siding.
- 1.33 The washed coal to be delivered by direct road mode from Washery to the below address of KMPCL.

KSK MAHANADI POWER COMPANY LIMITED,  
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- 1.34 Contractor shall unload the washed coal by tipping trailers with mechanical unloading arrangements at the designated area at KMPCL power plant premise as per instructions of KMPCL authorities.
- 1.35 The tipping trailers with mechanical unloading arrangement and other machinery deployed for transportation/ unloading should be registered either in the name of Contractor or to be arranged from outside/ other sources with proper documents.
- 1.36 If Contractor tipping trucks arrangement is failed at KMPCL during unloading of washed coal, then KMPCL shall do the unloading. The actual cost of unloading will be deducted from Contractor bills. KMPCL decision will be final for deduction.

## 2. CONTRACT PRICE: *(Contractor shall mention the rates)*

### a. Mines to Washery (by Road mode) as per clause no. 1 (A) of the Scope of work

Colliery (Mine)	Mines to washery (By Road) Rs. per MT
Dipka OC	
Gevra OC	
Kusmunda OC	
Manikpur OC	

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**b. Crushing & Washing and Transportation to Plant (by Road / Rail mode) as per Clause No. 1 (B) Scope of Work.**

Particulars	Dipka Rs/MT	Gevra Rs/MT	Kusmunda Rs./MT	Manikupur Rs.. MT	Remarks
Crushing & Washing Charges					Payable on Actual raw coal lifted in the month.
Sale of Coal Reject to be claimed by KMPCL ( _____ %)					Plus compensation cess (Rs. 400/- or as per actual) and GST @ 5%

Colliery (Mine) Name	Transportation from Washery (Washed coal) to KMPCL plant (Cost Per Metric Ton)		Remarks
	Transportation by Road	by RCR Re-handling, Loading into wagons and siding charges	
Dipka OC			Payable on normalized plant receipt
Gevra OC			
Kusmunda OC			
Manikpur OC			

The transportation charges for mines to washery will be paid on mines lifted quantity and for washery to plant will be paid on plant receipt (normalized quantity after moisture Correction)

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The above rates shall be fixed for the entire duration of the Work Order except the price of diesel escalation /de-escalation clause.

Any diesel Escalation / De-escalation should be intimated by Contractor over e-mail in 24 hrs.

Diesel escalation/de-escalation shall be calculated on every change in multiples of Rs.5/- on diesel base price. And the Increase and Decrease is applicable 1/6<sup>th</sup> of the above transportation price of coal. Diesel price is Rs. \_\_\_\_\_ per Litre will be considered as base price for further diesel escalation.

For Example: Diesel Escalation for = Rs X -----% Increase/Decrease in diesel price.

Diesel Escalation = Rs X -----% Increase/Decrease in diesel price.

Diesel price is -----Rs /Litre and the same will be considered as base price for further diesel escalation.

Any diesel escalation should be intimated by CONTRACTOR over mail in 24 hrs.

Goods and Services Tax (GST) as applicable shall be paid extra for the services rendered against this Work Order. TDS shall be deducted from the bills as per tax rules applicable.

All payments including statutory payments shall be borne by the Contractor for the movement of Coal and are included in the rate.

### 3. WEIGHMENT:

Weight recorded at KMPCL Weighbridge is considered as final weight and binding on both the parties. Contractor may depute one representative to witness the weighment at KMPCL weighbridge. In the absence of Contractor's representative, KMPCL shall go ahead with weighment. For any reason, if it is not possible to weigh at KMPCL weighbridge, then Challan (submission of weighment slip necessary) / RR quantity shall be final and binding.

### 4. QUANTUM OF WORK:

The quantum of coal shall be based on monthly schedule quantity from Shakti Linkage and Special Forward E-auction coal quantities as and when secured. This quantum is subject to SECL's Production program, KMPCL payment plan and issuance of delivery order from SECL and may vary from month to month. The quantum of coal for lifting/transportation shall be intimated by email to the transporter on month on month basis. However approximate quantity per month shall be 1 Lakh – 1.5 Lakh MT. However KMPCL shall not guarantee quantity.



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KMPCL reserves the right to allocate mines and quantity in part or full of the quantum of work to multiple agencies. The decision of KMPCL in selection of Transporters / Agencies shall be final and binding on the TRANSPORTER.

## 5. SAMPLING AND TESTING:

The sampling & testing shall be done at KMPCL as per following procedure:

- a) For determination of coal quality, sampling and analysis done by agency appointed by KMPCL, shall be final and binding.
- b) An authorized representative of the Contractor shall be allowed to witness the collection of samples; however in no case the representative shall be allowed to witness sample preparation and sample testing. In case the authorized representative is not available for sample collection, KMPCL will carry out sample collection unilaterally and the results shall be final and binding on Contractor.
- c) The material received in each truck/ RAIL shall be taken for sampling separately as per IS procedures. Coal sampling shall be done through manual sampling process or Mechanical Auger sampling system, in compliance with relevant IS coal sampling procedures. One of the above sample collection methods shall be used as per the discretion of KMPCL.
- d) The material collected for sampling purpose, shall be taken for preparation of sample as per IS procedures. Three samples for each rake shall be prepared. One sample shall be used for testing, remaining two sealed samples shall be kept at KMPCL Laboratory and will be used in case of any dispute.
- e) The coal analysis shall be carried out at KMPCL laboratory in compliance with IS procedures and results shall be declared within four days from the date of sampling.
- f) In the event of dispute, Contractor may demand for referee sample analysis within two days after declaration of the results by KMPCL. In case of dispute after the quality results declaration of the second sample then the third sample will be sent for referee analysis (outside reputed laboratory identified by KMPCL). Declared referee sample results shall be final and binding on both the Parties. Contractor will bear the cost of the analysis done for third sample analysis.

## 6. COAL QUALITY:

- a) Washed Coal supplied hereunder by the Contractor shall be substantially free from impurities and foreign material including, but not limited to Indonesian coal, slate, soil,

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rock, wood, tramp metal, and mine debris or hazardous material. In case of any damage to the property / machinery of the company, shall be recovered from the Vendor at Actuals.

- b) Contractor shall ensure for supply of Washed Coal, having guaranteed GCV (ARB) as per below table.

Mines	On ARB GCV basis (Typical value)
Dipka OC	3900Kcal/Kg (+/-50)
Gevra OC	3900 Kcal/Kg(+/-50)
Kusmunda OC	3900 Kcal/Kg(+/-50)
Manikpur OC	3800 Kcal/Kg(+/-50)

- c) Guaranteed Total Moisture (TM) **not exceed 12%** or less in dry season (Oct – May) & 14% during the monsoon season (Jun-Sep)

## 7. PENALTY:

- a) In case the Contractor fails to deliver the Guaranteed GCV (ARB) as per clause number 6b, then penalty for the same will be levied at the rate of Rs.1/- per kcal/kg on pro-rata basis  
Example: {[Guarantee GCV 3900+50) – (3800 received GCV) x 1 x Quantity]}.

GCV penalty will be calculated on fortnightly weighted average basis (ie 1<sup>st</sup> to 15<sup>th</sup> and 16<sup>th</sup> to 30<sup>th</sup> or 31<sup>st</sup>)

- b) The contractor shall be responsible for shortage of coal between the quantities issued as per DO by SECL and coal delivered at KMPCL weighbridge (Moisture Normalized quantity). A tolerance of 0.5% shall be allowed between DO issued by SECL and coal received at KMPCL weighbridge (Moisture Normalized quantity). Beyond 0.5% shall attract penalty equivalent to landed cost of coal. Shortages shall be calculated on DO to DO basis.
- c) In case of non-lifting of entire or part of DO quantity, amount of Rs.500/-, towards un-lifted Coal quantity, would be recovered from the Contractor bills or shall be recovered from BG.
- d) Normalized quantity at KMPCL shall be considered as final receipt quantity at plant. Proportionate correction will be done in the receipt weight. I.e. as per formula mentioned below.

**Normalized receipt quantity** = {[Actual receipt weight at KMPCL end]} \* {100- TM receipt at KMPCL end}]/ [100 – Guaranteed TM]. There no premium for lower moisture

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## 9. BILLING & PAYMENT:

Contractor shall provide bills for all the charges along with the supporting documents as per Work Order terms, within four days from the completion of fortnight basis i.e., 1<sup>st</sup> to 15<sup>th</sup> and 16<sup>th</sup> to 30<sup>th</sup>/31<sup>st</sup> of calendar months.

The contractor has to submit separate bills for Transportation and separate bill for Washing, crushing, & handling charges ( KMPCL shall contract directly with the washery operator for washing/crushing & sale of reject ) . Services Charges along with relevant GST to be submitted to KMPCL for payment processing. GST on transportation shall be paid to Government by KMPCL under Reverse Charge Mechanism.

The bills submitted shall be processed at KMPCL Head office at Hyderabad, after due certification by site (of bills copy) and the payment shall be released for 90% of invoice value within 21 days' time from submission of complete and clear documentation.

The Balance 10% payment after deduction of penalties for quantity, quality and any other recoveries as per provisions of the order shall be released from the HO at Hyderabad within 15 days from the date of completion of Work Order.

Contractor shall collect the invoices from SECL and submit to KMPCL within 3-4 days from issue of Invoices from SECL.

## 10. WORK ORDER DURATION:

Work Order shall be valid for a SIX (6) months from date of issue and shall extend based on the contractor performance.

## 11. PERFORMANCE BANK GUARANTEE:

The Contractor has to furnish Performance Bank Guarantee of Rs.1,00,00,000/- (One Crore Only) from any nationalized / scheduled bank, duly acceptable to KMPCL, en-cashable at Hyderabad Branch, for proper fulfillment of the performance obligations under the Work Order. The Bank Guarantee shall be valid till the expiry of the Work Order plus 15 days, as claim period. KMPCL shall have right to en-cash in part or full amount of this Performance Bank Guarantee for recovery of any charges/penalties due from Contractor under this agreement and or violation of any contractual Performance by Contractor. In case KMPCL en-cash the Performance Bank Guarantee, then Contractor shall restore the same to original values within 10 days. Such Bank Guarantee format Annexure-II should be furnished within 7 days from issue of Notice to Proceed /Contract by KMPCL.

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If the Contractor fails to submit the BG within the time stipulated the BG amount mentioned here in will retain from the running's bills.

The General Terms and Conditions attached as Annexure - I form an integral part of this Work Order.

## 12. QUALIFICATION CRITERIA

- a. The Contractor should be a registered partnership firm/company incorporated in India.
- b. The Contractor must have 5 Year of experience in transportation of Coal at SECL Korba area & must have transported minimum 5 Lakh tonnes of coal in the last financial year (Proof of experience, transported quantity along with last 3 years turn over details to be submitted by the Contractor alongwith the quotation).
- c. The Contractor must have 100 own high carrying capacity tipping trucks and should have tied up to mobilize 300 plus trucks on hire basis (Details of the list of vehicles & agreement to be submitted along with the quotation).
- d. The Contractor should have own washery with sufficient capacity in and / or near SECL mines or otherwise should have an agreement with washery plants with sufficient beneficiation capacity. (copy of Agreement should be submitted along with the quotation).
- e. The Contractor or his associates directly/indirectly should not be a party to any legal case against KSK Mahanadi Power Company Limited or its officials or have instituted any case in any forum in India against KSK Mahanadi Power Company Limited prior to the date of this RFQ (Ineligible Contractor hereafter). Any affiliate of Ineligible Contractor shall not be eligible to take part in this tender.
- f. The Contractor (s) may note that only one company from the same management/ group shall be eligible to participate in the RFQ process. By submitting the RFQ, the contractor undertakes that it has not submitted offer from any of its group companies. The Contractor has to submit a Chartered Accountant (CA) certificate to validate along with their Bid, that it has not submitted the bid from any other entity where there are common directors, shareholders and management. If it is found that two or more offers have been submitted by the Contractor from companies under same management, KMPCL reserves the right to reject all such offers.
- g. Contractor must sign and stamp each page of entire RFQ document and must quote the rate in metricton as per the requirement of this RFQ document.

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### 13. OTHER TERMS:

- a. KMPCL reserves the right to allocate quantity to more than one party at its sole discretion.
- b. KMPCL reserves the right to reject the quotes that are received late or are not in line with the stipulations of this RFQ document.
- c. KMPCL reserves the right to cancel this tender process at any time on or before the due date as mentioned in this RFQ document without assigning any reasons.
- d. The General Terms and conditions attached as Annexure I form an integral part of this RFQ document.

**We request you to e-mail your most competitive offer(s), quoting the rate of Transportation/Washing crushing and handling in Rupees per metric ton as per the requirement of this RFQ, to Mr. Bijay Kumar Dash on his email ID [coal@ksk.co.in](mailto:coal@ksk.co.in)**

# KSK Mahanadi Power Company Limited

(Undergoing Corporate insolvency Resolution Process vide NCLT, Hyderabad Bench order dated 3<sup>rd</sup> October 2019

CIN No. U40300TG2009PLC064062

## **Works**

Near Nariyara Village  
Akaltara Tehsil,  
Janjgir – Champa District,  
Chattisgarh

## **Registered Office**

8-2-293/82/A/431/A,  
Road No.22, Jubilee Hills,  
Hyderabad – 500033  
Tel: +91-40-23559922-25  
Fax: +91-40-23559930

## **ANNEXURE 1**

### **GENERAL TERMS AND CONDITIONS:**

#### **1 AMENDMENT**

No change, amendment or modification of the Work Order shall be valid or binding upon the Parties hereto unless such change, amendment or modification is carried out by the consent of both the Parties and shall be in writing and duly executed by both the Parties.

#### **2 ASSIGNMENT**

The Contractor shall not be entitled to assign, subrogate, sublet, directly or indirectly or part with the rights and obligations under the Work Order without the prior written consent from KMPCL. KMPCL shall have the absolute right to assign to any person the whole or in part of its rights and obligations under the Work Order by giving intimation to the Contractor of assignment of such rights and obligations.

#### **3 SAFETY AND SECURITY PROVISIONS**

The Contractor shall issue its personnel, protective equipment such as safety shoe, safety helmet, and full harness safety belt with fall arrester, safety goggles, hand gloves, face shield, nose mask, and ear plugs/ ear muffs to all its personnel and should ensure its use.

#### **4 TERMINATION AND SUSPENSION**

##### **4.1 Termination**

Notwithstanding anything hereinabove contained, in the event of the Contractor being adjudicated insolvent, or KMPCL resolved or Work Ordered to be wound up, then in such event, the Work Order shall automatically stand terminated

KMPCL may at any time on breach of the Work Order by the Contractor, give him a written notice of such breach. If the Contractor does not take measures which are considered appropriate by KMPCL, within a period of 7 (seven) days after receipt of such notice, to remedy that breach, then KMPCL may terminate the Work Order at any time thereafter, the completion of 7 (Seven) days stating therein the date of termination.

KMPCL reserves the right to terminate the Work Order at any time by giving a notice of not less than 7 (seven) days without assigning any reason.

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The Contractor shall stop the performance of the Work Order from the date of termination. In such an event, KMPCL shall pay to the Contractor the outstanding legitimate dues against services provided by him less all the amounts recoverable by KMPCL against submission of necessary valid documents. No consequential damages shall be payable by KMPCL to the Contractor in the event of such termination.

## **4.2 Suspension**

KMPCL may suspend the performance of Work Order in whole or in part at any time by giving the Contractor notice in writing to such effect stating the nature, the date and the anticipated duration of such suspension. On receiving the notice of suspension, the Contractor shall stop all such work, which KMPCL has directed to be suspended with immediate effect. The Contractor shall continue to perform other works in terms of the Work Order, which KMPCL has not suspended. The Contractor shall resume the suspended work as expeditiously as possible after receipt of such withdrawal of suspension notice.

During suspension, the Contractor shall not be entitled for any claim whatsoever arising out of any loss or damage.

Immediately upon termination of the Work Order for whatsoever reason, the Contractor shall forthwith hand over the entire stock of the Coal and any other equipment / material belonging to KMPCL and lying in his custody or in transit, to KMPCL failing which KMPCL will be entitled to recover, the value of such material / equipment from the bank guarantee / bills of the Contractor.

## **5 FORCE MAJEURE**

The Parties agree that neither of them shall be liable to the other, for any loss, delay, damage or other casualty suffered or incurred by the other due to any failure or delay by any Party in the performance of any of its obligations under this Work Order due to earthquakes, floods, fires, explosions, acts of God, acts of state, wars, terrorism, action of any Government, tempests, epidemics/pandemics, quarantine restriction, serious industrial disputes, strikes, lockouts, local unrest, shipwrecks, civil war, act of the public enemy including but not restricted to block of passage, riots, directives by any statutory authority, compliance with directives or orders of any Court of Law or directives from State Government or Government of India (“Force Majeure”). Any failure or delay by any Party in the performance of any of its obligations under this Work Order owing to Force Majeure shall not be considered as a breach of any of its obligations under this Work Order

The Party claiming benefit of Force Majeure shall however not be entitled to the same unless it has intimated the other Party by telex / e-mail / cable / fax about the occurrence of such event within a period of seven (7) days from the occurrence of such Force Majeure event indicating there in the steps that it is taking or intending to take to mitigate the effect of such Force Majeure on the performance of its obligations under this Work Order.

The Party unable to perform this Work Order due to the effect of Force Majeure occurrence may, after consultation with the other Party extend the duration of this Work Order by a period commensurate to

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the time actually lost due to the Force Majeure occurrence. In the event the Force Majeure event continues for a period beyond 7 (Seven) days from the date of intimation of such Force Majeure, the Parties hereto shall mutually discuss the matter and decide on the course of action to be taken or terminate this Work Order on account of Force Majeure.

## 6 INSURANCE

The Contractor shall ensure adequate accident insurance of the representatives deployed in the performance of this Work Order and KMPCL shall not be liable for any damages or the like. Insurance against all types of risk for the Contractor's workmen during the period of execution of work will be in Contractor scope. KMPCL shall not be responsible for death, injury or accident to Contractor's or it's associate's employees or any other third Party, which arise out of or in the course of their duties.

The KMPCL shall undertake insurance of the Coal by suitably taking a Marine Transit Insurance Policy and the liability of the Contractor shall be limited to the scope under this Work Order.

## 7 ARBITRATION

It is the intent of the Parties to harmoniously settle all disputes and disagreements that may arise out of and/or in relation with this Work Order (the "Disputes"), through mutual discussion. Therefore, where any Disputes arise between the Parties hereto, the Parties shall first attempt to settle the same amicably between the Parties.

Where any Dispute is not resolved by the Parties with mutual discussion within fourteen (14) days of the same having been notified by one Party to another, then the same may be referred by either Party for Arbitration to an arbitral tribunal consisting of three arbitrators. Each Party shall be entitled to nominate one arbitrator. The two nominated arbitrators shall jointly elect a third arbitrator to serve as the Chairman of the arbitral tribunal. The arbitration proceedings shall be in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (as amended or modified from time to time).

The venue of arbitration shall be at Hyderabad, Telangana, India and the language of arbitration will be in English. The arbitration award shall be final and binding upon the Parties.

## 8 GOVERNING LAW & JURISDICTION

This Work Order shall be governed by, and construed in accordance with, Indian law. The language for the purposes of this Work Order shall be English language and all correspondences, notices and / or communication etc. shall be in English only. The Courts of Hyderabad, India shall have exclusive jurisdiction to settle any dispute arising out of and/ or in connection with this Work Order.



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## 9 INDEMNITY

The Contractor shall Indemnify KMPCL from and against all actions, suits and proceedings by the third Party for the acts/omissions of the Contractor and all costs, charges, expenses, losses, damages, taxes, duties, penalties, levies, and all other liabilities which the KMPCL may be liable to pay, incur or sustain as a result of performance or nonperformance, observance or non-observance by the Contractor of any of the terms and conditions of this Work Order.

The Contractor agrees that time is the essence of this Work Order. If the Contractor fails to provide services the Contractor shall indemnify KMPCL for all losses/ damages suffered by KMPCL. KMPCL shall be at liberty to hire/avail the services from any other contractor at risk and cost of Contractor.

KMPCL shall, without prejudice to its other rights be entitled to deduct/ adjust from any dues payable to the Contractor or any security, all amount(s) which KMPCL may be liable to pay, incur or sustain as a result of the performance or non-performance, observance or non-observance of any of the terms of this Work Order by the Contractor.

## 10 CONFIDENTIALITY

All the confidential information or data supplied by KMPCL to the Contractor in connection with the service being provided by the Contractor shall remain the property of the KMPCL or its licensors. If the Confidential Information is disclosed by the Contractor to an unauthorized third Party, without written permission from KMPCL, the Contractor agrees to indemnify KMPCL from and against the same.

## 11 RELATIONSHIP WITH EMPLOYEE OF KMPCL

The Contractor shall not avail the services of any of the employees of KMPCL, directly or indirectly or enter into any monetary transaction with the employees of KMPCL at any time either pursuant to the Work Order or otherwise and after expiry or sooner termination thereof. Favors such as bribes, commission, gifts or advantage given, promised or offered by or on behalf of Contractor or its partners, agents or servants to any of the employees of KMPCL or their agent or relatives in return of favors or agreeing to do such favors or disfavours to any other person entity or such other third Party in relation to the Work Order shall result in the termination of the Work Order in addition to initiation of such civil or criminal proceedings at the sole discretion of KMPCL and KMPCL reserves the rights to recover any loss or damage resulting from such termination from the Contractor to the extent of the value of loss involved along with interest. If any un-ethical practice followed is identified by KMPCL, there will be a penalty of Rupees Ten Lakhs Only per incident.

## 12 WAIVER OF RIGHTS

No forbearance, delay or influence by KMPCL in enforcing any of the provisions of this Work Order shall

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prejudice or restrict the rights of KMPCL nor shall any waiver of its rights operate as a waiver of any subsequent breach and no rights, powers, remedies herein conferred upon or reserved for the KMPCL is exclusive of any other right, power or remedy available to KMPCL and each right, power or remedy shall be cumulative. Any time concession or indulgence rendered or shown by the owner to the Contractor as regards any of the terms of this Work Order will not prejudice the owner's rights under this Work Order and/or law.

### **13 SEVERABILITY**

If any of the terms and conditions of this Order shall become unenforceable for any cause or reason whatsoever, the ensuing lack of enforceability shall not affect the other provisions hereof, and in such event the Parties hereto shall endeavour to substitute forthwith such other enforceable provision as will most closely correspond to the legal and economic contents of the said terms and conditions.

### **14 NOTICES**

All notices under this Work Order shall be in writing and in English Language. All notices be served, either by hand delivery or by registered post addressed to either Party at the last known place of business or by facsimile and in providing the services of such notice, it shall be sufficient to show that the same has been received in person or property addressed by registered post.

### **15 ENTIRE AGREEMENT**

This Work Order constitutes the entire Work Order between the Parties relating to the matters discussed herein and supersedes any and all prior oral discussions and/or written correspondence or agreements between the Parties.

### **16 SURVIVAL**

All obligations incurred prior to and which by their nature would continue beyond cancellation termination or expiration of this Work Order shall survive such cancellation, termination or expiration.

### **17 MALPRACTICE / DAMAGE / CONTAMINATION**

There should be no malpractice or contamination of coal at sampling area, lab area or at any plant sites or outside the plant premises. If anything is found then the Work Order may be terminated immediately or the Contractor person should be blacklisted immediately and there will be a heavy penalty of Rupees Ten Lakh against the Contractor.

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The Contractor will not use the name of KMPCL in any manner either for credit arrangement or otherwise and it is agreed that KMPCL is in no way responsible for the debts of the Contractor and / or its employees.

## 18 ADDITIONAL TERMS AND CONDITIONS:

The Contractor shall be responsible to comply with all laws of the land including Labour rules and Acts which are in vogue during the period of Work Order and shall indemnify KMPCL against any claim arising out of any non-compliance/or accidents to the third Party.

EPF provisions shall have to be made by the contractor for their personnel as per the prevailing rules and laws.

The Contractor and their personnel shall have to observe all safety measures and follow safety rules at the time of execution of works. Contractor shall have to ensure supply, educate and see that their employees wear all safety equipment such as Helmets, Safety Boots, Hand gloves and other safety measures required during execution of works under the Work Order as per instructions of KMPCL.

The Contractor, as per the Factory Act and Rules, shall have to take appropriate measures to safeguard health, welfare and safety of person engaged by him.

The Contractor shall be responsible for compliance of all the acts, rules and regulations of the land as detailed below but not limited to the following prevailing statutory enactments.

- (i) Factory Act
- (ii) Payment of Minimum Wages Act
- (iii) Bonus Act
- (iv) Employee State Insurance Act
- (v) Employee Provident Fund and Miscellaneous Provisions Act
- (vi) Contract Labour ( Regulation and Abolition Act)

The staff engaged by the Contractor should not be under addiction of any drug/liquor while on duty. It would be obligatory on the part of the Contractor to remove such persons/employees/workmen from the job whose action or conduct in the opinion of KMPCL management is detrimental to the interest of KMPCL.

The Contractor shall be fully responsible for his personnel engaged herein to do contractual works and no way KMPCL be held responsible in any manner of what so ever while carrying out the works at the site of KMPCL.

The Contractor shall have to maintain all statutory registers as required under the above mentioned acts but not limited to shall have to update KMPCL management in compliance thereto periodically.

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## ANNEXURE-II

### Performance Bank Guarantee

Beneficiary Name and Address:

KSK Mahanadi Power Company Limited  
8-2-293/82/A/431/A, Road No. 22  
Jubilee Hills, Hyderabad – 500033.

- a) Bank Guarantee Number:
- b) Amount of Guarantee: Rs.One Crore
- c) Guarantee valid from :
- d) Guarantee Valid Up To:

### BANK GUARANTEE FOR PERFORMANCE

Date of Issue:

Effective Date:

Expiry Date with 3 month claim:

Value of B.G: Rs. 1 Crore

This Performance Bank Guarantee (“Guarantee”) is made on this the \_\_\_ day of \_\_\_, 2021 by \_\_\_ having its branch at \_\_\_\_\_ (hereinafter referred to as the “Bank” or “Guarantor” which expression shall, unless repugnant to the context, include its legal representatives, administrators, successors in interest and assigns)

In favour of KMPCL, having its Registered Office at 8-2-293/82/A/431/A, Road No. 22, Jubilee Hills, Hyderabad – 500033 (here in after called KMPCL) which expression shall mean include its legal representatives, administrators, successors in interest and assigns.

WHEREAS, KMPCL has issued Work Order to with M/s-----transportation of Linkage and special forward e-auction coal, more specifically covered in the Work Order to Thermal Power Plant at, Chhattisgarh State and unloading at the designated area of the plant.

WHEREAS, as per the terms and conditions of the Work Order, the contractor has agreed provide a performance bank guarantee of Rs. 1,00,00,000/- (Rupees One Crores only) in favour of KMPCL.

AND WHEREAS, the Bank, at the request of the Contractor agreed to provide/give in favour of KMPCL an absolute, unconditional, irrevocable guarantee in discharge of their contractual obligations, which KMPCL has agreed to accept.

Now this Bank Guarantee witnessed as follows:

The bank hereby unconditionally, irrevocably without any restrictions and conditions guarantee to KMPCL that in the event of any failure or deficiency in discharge of their contractual works as per the Work Order, bank shall pay to KMPCL forthwith on their first demand without demur such sum or sums of money not

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exceed to Rs.1,00,00,000/- (Rupees One Crores Only) and we shall not be entitled to ask Contractor to establish Contractor claim/claims under this guarantee.

2) The Company 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 Contractor, and the Guarantor shall not be released from this guarantee by any arrangement between the Company and the Contractor or any alteration thereof made with or without the consent of the Guarantor or by exercise or non-exercise by the KMPCL of all or any of its powers and rights against the Contractor, or any other forbearance, act of omission on the part of the Company or indulgence granted by or on behalf of the Company to the Contractor, 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 Contractor, but shall in all respects and for all purpose be binding and operative until all monies due to the KMPCL in respect of all liability or liabilities of the Contractor are fully paid.

4) It is also agreed that KMPCL 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 KMPCL may have in relation to the Contractor's liability.

5) The Guarantee shall cover all claims or demand of the KMPCL to the extent of the amount guaranteed.

6) Notwithstanding anything contained, the liability of the Guarantor under this Work Order is restricted to ----- and the same will remain in force up to \_\_\_\_\_ or on completion of the Obligation by the Contractor as per the terms of the Work Order to the satisfaction of the KMPCL. The period may further be extended as required and agreed by the KMPCL and Contractor.

7) This guarantee can be enforced by the KMPCL any number of times for their claims or Demand to the extent of -----, as long as it remains in force. The BG is valid for 1 (one) year from the date of Work Order excluding claim period 3 (Three) months.

8) Unless a demand or claim under this guarantee is received by the Guarantor within the Period mentioned in clause ( ) hereof, all rights of the KMPCL shall be forfeited and the Guarantor shall be relieved or discharged from all liabilities.

9) This Bank Guarantee shall be interpreted in accordance with the laws of India. This guarantee is irrevocable except with the written consent of the KMPCL.

10) The Guarantor Bank hereby represents that this bank guarantee has been established in such form and with such content that it is fully enforceable in accordance with the terms enshrined herein as against this bank.

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11) This Bank Guarantee shall not be affected in any manner of what so ever by reason of merger, demerger, amalgamation, restructuring, liquidation, winding up, dissolution or any other change in the constitution of the guarantor BANK or Contractor. The Bank further undertakes not to revoke this guarantee during its currency without the previous written consent of the KMPCL. The Bank further agrees that the decision of the KMPCL as to the failure on the part of the Contractor to fulfill their obligations as aforesaid and / or as to the amount payable by the BANK to the KMPCL hereunder shall be final, conclusive and binding on the BANK

For Bankers of the Contractor

Signature of the Bankers of Contractor  
with date & Rubber Stamp