

To

[Name & Address of the Assured]

Dear Mr./Ms.[\_\_\_\_\_]

Subject: Letter of Assurance

## **Preamble**

In consideration of the request by [*insert name of the applicant and address of the unit/planf*] (hereinafter referred to as “**the Assured**”) for issuance of Letter of Assurance (hereinafter referred to as “**LOA**”) requiring [*insert quantity*]tonnes per annum (tpa) of [*insert Grade of coal*] Grade coal for its [*insert capacity*]TPA Cement plant [to be] located at [*insert name of location of the Cement plant*] (hereinafter referred to as “**the Plant**”), from about [*insert the date of commencement of coal supplies*], as requested by the Assured, [*insert name of the CIL subsidiary*] (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:

### **1. Scope of Assurance**

#### **1.1 Quantity & Grade 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, [*insert quantity*]tonnes per annum (tpa) of [*insert Grade of coal*] Grade(s)] 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/or 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.

#### **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 twelve (12) months from the date of issue of LOA and each activity within the time-period mentioned against it. For the avoidance of any doubt, the time-period of twelve (12) months, as aforesaid, shall include any Force Majeure Act that may occur during the validity of the LOA.

### **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 satisfy itself of its authenticity; 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. Notwithstanding anything contained herein, the Assurer shall reserve the right to physically inspect and satisfy itself the installation and commissioning of the Plant prior to signing of FSA with the Assured.

## **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 cash / bank guarantee, for a sum of Rs. [*insert amount in figures and words*] equivalent to ten percent (10%) of base price of Grade [*insert Grade of coal\**] Run-of-Mine (ROM) coal of the Assurer prevalent on the date of application by the Assured 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.3,00,000/- (Indian Rupees Three lakhs only) or be more than Rs.6,00,00,000/- (Indian Rupees Sixty 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 & Conversion of Commitment Guarantee**

The Commitment Guarantee (CG) shall remain valid until four (4) months after the expiry of the LOA period of twelve (12) 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 due to be completed in six (6) months from the date of issue of LOA, as specified in Annexure 1, is not duly performed or completed by the Assured within the said specified time-period, then the Assured shall be liable to furnish to the Assurer one tenth (1/10<sup>th</sup>) of the amount of CG for each such non-performed or incomplete milestone, as additional Commitment Guarantee, within fifteen (15) days of the expiry of such specified time-period. 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 the additional CG.

### **3.4 Encashment of Commitment Guarantee**

#### **3.4.1 Cancellation or withdrawal of LOA**

In the event any activity/milestone due to be completed in six (6) months, as specified in Annexure 1, is not duly performed or completed by the Assured within the said specified time-period and the Assured fails to furnish the additional CG 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 twelve (12) 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.

**4. Validity of the LOA**

The LOA shall remain valid for a period of twelve months (12) months from the date of issue of this LOA, and shall stand annulled upon expiry of such time-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.*

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 business entity	of within 6 months	Certificate of Incorporation/ Commencement of Business Certificate	State Registrar of Companies, Ministry of Company Affairs, Government of India	1) In case of Partnership firm - Copies of the Acknowledgement Receipts of the Income Tax Returns of respective Partners for the immediately preceding financial year; 2) In case of Proprietary firm - Copy of the Acknowledgement Receipt of the Income Tax Return of the Proprietor for the immediately preceding financial year.

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**Annexure 1: Milestones to be achieved by the Assured during the validity of LOA – Cement Plant**

S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone			Issuing Authority	Waival
							requested
3	Registration/ Industrial Entrepreneurs Memorandum (IEM)/ Industrial License	within 6 months	Industrial Entrepreneurs Memorandum (IEM) Acknowledgement Letter/ Industrial License			Directorate of Industries State Government (for Small Scale Inds.-SSI); Secretariat of Industrial Assistance (SIA) (Ministry of Industry) , Government of India	-
4	Technical and Feasibility Studies	within 6 months	Techno-economic Feasibility Report(TFR)/ Detailed Project Report(DPR)			Independent Agency/ Expert	Self-attested DPR in case it is prepared in-house
5	Land acquisition (At least 50% of the area, as shown in the TFR/DPR, acquired)		<b>Pvt. Land</b>	<b>Govt. Land</b>	<b>State Industrial Development Corporation (SIDC)</b>	-	-
		within 6 months	Notification under Sec 6 of Land Acquisition Act, 1894	Application filed by the Assured for requirement of land	Application filed by the Assured 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, notifications under Section 6 or Section 11 would

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S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone	Issuing Authority	Waival		
		within 12 months	Award by the Collector under Section 11 of Land Acquisition Act, 1894; Or Land Registration/ Transfer deed/ Land lease agreement	Land Registration/ Sale deed/ Land lease agreement document	Land Registration/ Sale deed/ Land lease agreement document	State Government/ Collector's Office/ SIDC	not be applicable; and in such case Land registration/ Transfer deed/ Land lease agreement would only be applicable.
6	Acquiring Limestone block for Mining	within 6 months	Grant letter from State Govt. for allotment of area and mining		State Govt or Central Govt, as applicable	In case the Mining lease is transferred, a Copy of " Transfer of Mining Lease" duly stamped & signed by the State Government.	
		within 12 months	Approved mining plan from State/ Central Govt.		State Govt or Central Govt, as applicable		
		within 12 months	Firm letter of award of Mining Lease		State Govt or Central Govt, as applicable		
7	Environment Clearance (Cement Plant)	within 6 months	Approved Terms of Reference (TOR)		Expert Appraisal Committee (EAC) of MoEF(Central Govt.) for Category 'A' Projects or State Expert Appraisal Committee (EAC)	-	

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S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone	Issuing Authority	Waival
				for Category 'B' projects, as applicable	
		within 12 months	Final clearance	MOEF (Central Govt.) for Category 'A' projects or State Environment Impact Assessment Authority (SEIAA) - for category 'B' projects, as applicable	
8	Forest Clearance (For Cement Plant), if applicable	within 12 months	Forest Clearance	MoEF (Central Government)	-
	Forest Clearance (For Limestone Block), if applicable	within 12 months	Forest Clearance	MoEF (Central Government)	

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S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone	Issuing Authority	Waival
9	Clearances for the Limestone block	within 6 months	Approved Terms of Reference (TOR)	Expert Appraisal Committee (EAC) of MoEF(Central Govt.) for Category 'A' Projects or State Expert Appraisal Committee (EAC) for Category 'B' projects	
		within 12 months	Final clearance	MOEF (Central Govt.) for Category 'A' projects or State Environment Impact Assessment Authority (SEIAA) - for category 'B' projects, as applicable	-
		within 12 months	Chief Controller of Explosives	Chief Controller of Explosives	-
10	Tax Related (Any one document)	within 12 months	1. Registration for Professional Tax	Ministry of Labour	-
			2. Sales Tax / VAT registration	Sales Tax Deptt.	
			3. Contract Labor License	Ministry of Labor	
			4. Income Tax registration (Application for PAN / TAN)	Income Tax department	
			5. Service tax registration	Service Tax Department	

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S.No.	Activity/ Milestone	Timeline from the date of LOA	Document to be submitted by the Assured on achievement of milestone	Issuing Authority	Waival
11	Factory Related (Any one document)	within 12 months	1. Registration under the Factory Act, 1948	State Government	
			2. Registration under PF Act	Ministry of Labour	
			3. Registration under Employee State Insurance Act	Ministry of Labour	
			4. Registration under Workmen Compensation Act	Ministry of Labour	
			5. Registration under Industrial Disputes Act	Ministry of Labour	
			6. Registration under Customs Act	Commissioner of Customs	
			7. Import Export Certificate (IEC) (if applicable)	Director General of Foreign Trade	
			8. Clearance related to hazardous & waste management material handling (if applicable)	MoEF	
12	Firm Allocation Water	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 utilization of ground water, relevant permission from relevant department of the State Government.
13	Power Allocation	within 12 months	Load sanction letter	State Electricity Board/ State Distribution Utility	-
14	Approval of Construction Activity & Building Plan	within 12 months	Approved construction plan by the relevant authority	Town and country planning/ Municipal and local authorities/	-

