

Coal Sale & Purchase Agreement

This coal sale and purchase agreement ("**Agreement**") made on this _____ between XYZ Company, a Company incorporated and existing under the laws of _____ and having its registered office at _____ (hereinafter referred as the "Seller") and

GMR KAMALANGA ENERGY LIMITED, a Company incorporated and existing under the laws of India and having its registered office at **Skip House, 25/1, Museum Road, Bangalore, Karnataka, India - 560025** (hereinafter referred as the "Buyer" or "Purchaser")

The Seller and the Purchaser individually shall be referred as "Party" and collectively the "Parties".

WHEREAS, The Purchaser desires to purchase Coal with the required quality and specification as detailed under this Agreement which shall be delivered in a timely manner to sustain the operation of the power station from the Seller and the Seller desires to sell Coal to the Purchaser in accordance with the terms of this Agreement.

WHEREAS, the Seller represented that it has the all the experience, capability and resources to supply coal with the required quality as required under this Agreement. Accordingly, both Parties agree to execute this Agreement for sale of coal to **GMR Kamalanga Energy Limited**.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the Parties, intending to be legally bound, agree as follows:

1. Definitions

In this Agreement, unless the context otherwise requires, the following terms shall respectively have the following meanings:

"ADB", means Gross Calorific Value on Air Dried Basis measured using Bomb Calorimeter as per ASTM/IS standards in kcal/kg. ADB excludes the presence of other moistures other than the inherent moisture.

"Agreement" mean the Agreement between the Seller and the Buyer or Purchaser stipulating the terms and conditions for supply of Imported Coal to the Buyer or Purchaser as may be amended from time to time which shall also include the annexure and schedules.

"ARB", means Gross Calorific Value on As Received Basis and is derived from ADB by adjusting the GCV loss due to total moisture.

“ASTM” means the American Society for Testing and Materials with the technical standards published by ASTM International, as the same may be amended, revised, modified or supplemented from time to time.

“ATDN SHINC” means All Time Day and Night Sunday and Holiday Included.

“Bill of Lading” or **‘BL’** means receipt given by the Vessel for the carriage of coal shipment and is a document of title.

“Business Day” or **“Working Day”** means any day that is not a Saturday or Sunday and is not a legal holiday or a day on which banking institutions are authorized or obligated by law or regulation to close in the country of domicile of the Purchaser / Seller.

“Coal” means steam coal of [country of origin (to be inserted later)] origin that meets the specifications set forth in this Agreement.

“CP” means Charter Party.

“CFR” means Cost and Freight at Discharge Port as defined and construed in accordance with INCOTERMS 2020 except as otherwise provided in this Agreement.¹

“Deadweight Tonnes” or **“DWT”** means the deadweight capacity measured in Tonnes of a Vessel comprising the weight of cargo, crew, bunker fuel, fresh water and stores.

“Discharge Port” means One safe port one safe berth Paradip Port, India or Any Port(s) in India.

“Demurrage” means the financial compensation that a charterer/ receiver must pay to the Vessel owner for delays after the Laytime has expired at the Discharge Port.

“Despatch” means the financial reward paid by the owner of the Vessel to the charterer/receiver if loading at Load Port and/or unloading at the Discharge Port are completed before the expiry of Laytime.

“ETA” means expected time and date of arrival.

“FOBT” or **“Free on Board Trimmed”** means FOB with the Vessel Trimmed at the Loading Port as defined and construed in accordance with INCOTERMS 2020 except as otherwise provided in this Agreement.

“Incoterms” means Incoterms 2020 as published by International Chamber of Commerce, Paris.

“Load Port Independent Inspection Agency (IIA)” means independent inspection agency of International repute, appointed by the Seller at the Load Port to prepare the Shipment Sample to determine the quality of all items marked for determination in the Certificate of Sampling and Analysis for each Shipment, as well as the weight of each Shipment of Coal; and prepare the Certificate of Sampling and Analysis, the Weight Certificate, Certificate of Draft Survey and the Hold Cleanliness Inspection Certificate.

“Discharge Port Independent Inspection Agency (IIA)” means independent inspection agency of International repute, appointed by the Buyer or Purchaser at the Discharge Port to prepare the Shipment Sample and the Umpire Sample; determine the quality of all items marked for determination in the Certificate of Sampling and Analysis for each Shipment, as well as the weight of each Shipment of Coal; and prepare the Certificate of Sampling and Analysis, the Weight Certificate, Certificate of Draft Survey and the Hold Cleanliness Inspection Certificate.

“Kcal” means Kilocalorie (s) as defined in the “metric system”.

“Kg” means Kilogram (s) as defined in “metric system”.

“Load Port” means one safe port one safe berth or one safe Anchorage in [to be inserted], (the “Loadport”) as agreed between the Parties.

“Laytime” means time allowed to the discharge the cargo at Discharge Port.

“mm” means Millimetre as defined in “metric system”.

“Notice of Readiness” means a notice tendered by the master of the Vessel or his agents at Discharge Port to the Buyer or his agent(s) to the effect that the Vessel is in all respects ready for Discharging of Coal.

“Ton(s), “Tonne(s)”, and “MT” means metric tonne of 1,000 Kgs as defined in “metric system”.

SHINC: Sunday and Holidays Included

“Statement of Facts” means a statement jointly prepared by the Buyer’s agent and Seller’s / Vessel’s agent in consultation with master of the Vessel at the Discharge Port which shows the date and time of arrival of the designated Vessel and the commencement and completion of discharge at Discharge Port. It details the quantity of cargo discharged each day, the hours worked and the hours stopped with the reasons of stoppages.

“Vessel” means a single deck, ocean going bulk carrier rated Lloyd’s 100A1, suitable to enter, berth and leave the Load Port and Discharge Port nominated by Buyer and approved by the Seller as further detailed in Article 8 below.

“WIPON”, “WICCON”, “WIFPON”, “WIBON” mean “Whether in Port or Not”, “Whether in Customs Cleared or Not”, “Whether in Free Pratique or Not”, “Whether in Berth or Not”.

“PWWD” or “Per Weather Working Day” means a day of 24 consecutive hours on which work in loading Coal on board a Vessel may be carried out without loss of time due to the weather.

1A Interpretation

Save where the contrary is indicated:

1.1.1. The Agreement shall be binding upon and shall inure to the context otherwise requires or benefit of the Parties and their successors. Nothing contained herein shall be construed to provide any benefit to any Person not a Party to the Agreement except as expressly provided for herein;

Any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;

1.1.2. Any reference to any gender includes the other gender;

1.1.3. The words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);

1.1.4. The headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of the Agreement;

1.1.5. Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have the corresponding meanings;

1.1.6. Any reference to an article, section, appendix, clause, sub-clause, paragraph, sub-paragraph, Schedule or Recital is a reference to an article, section, appendix, clause, sub-clause, paragraph, sub-paragraph, Schedule or Recital of the Agreement;

1.1.7. Any reference to any agreement, instrument or other document (a) shall include all appendices, exhibits and schedules thereto and (b) shall be a reference to such agreement, instrument or other document as amended, supplemented, modified, suspended, restated or novated from time to time;

1.1.8. Any reference to any statute shall be construed as including all ordinance, code or other law includes regulations, statutory provisions consolidating, amending or replacing such statute other instruments under it and amendments or re-enactments of any of them;

- 1.1.9. A reference to a party to any document includes that party's successors;
- 1.1.10. Any reference to "writing" includes printing, typing, lithography and other means of reproducing words in visible form;
- 1.1.11. The terms "hereof", "hereby", "hereto", "hereunder" and similar terms shall refer to the Agreement as a whole;
- 1.1.12. The term, "including" shall mean "including, without limitation";
- 1.1.13. Any reference to "year" shall mean a reference to a calendar year;
- 1.1.14. Any reference to "day" shall mean a reference to a calendar day;
- 1.1.15. Any reference to "month" shall mean a reference to a calendar month;
- 1.1.16. The Schedules/annexures/attachments form an integral part of the Agreement and will be in full force and effect as though they were expressly set out in the body of these Conditions. Terms defined in the Schedules shall have the same meaning throughout the Agreement;
- 1.1.17. Any reference at any time to any Agreement, deed, instrument, license or document of any description shall be construed as reference to that Agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
- 1.1.18. Definitions within Clauses have the meaning ascribed thereto;
- 1.1.19. Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day;
- 1.1.20. Unless expressly provided otherwise in this Agreement, any documentation required to be provided or furnished by SPP to GGIAL shall be provided free of cost and in 4 (four) copies, and if GGIAL and/or its associate is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain three copies thereof;
- 1.1.21. Clause 1.2 of the Concession Agreement shall be deemed to be included in this Agreement by reference. Unless otherwise defined in this Agreement, capitalised terms used in this Agreement shall have the meaning ascribed to it in the Concession Agreement.
- 1.1.22. All codes of practice whether referred to under this Agreement shall mean the latest and most recently updated codes of practice.
- 1.1.23. Where the consent or approval of a Party to the Agreement is required hereunder to any act, deed, matter or thing such requirement shall in the absence of any express

stipulation to the contrary herein mean, the prior consent or approval (as the case may be) in writing;

- 1.1.24. The headings of various Clauses, Articles and Sections in the Agreement are inserted for convenience and reference only and shall not affect the construction of the relative provisions;
- 1.1.25. Unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;
- 1.1.26. If a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day; and
- 1.1.27. A reference to a day is to be interpreted as the period of time commencing at midnight (00 Hrs) and ending 2400 Hrs (twenty-four) hours later.

1B MEASUREMENTS AND ARITHMETIC CALCULATIONS:

- 1.1.28. All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.
- 1.1.29. Fraction of a cent / tonne" in any calculation shall be rounded up to the nearest cent / tonne if such fraction is one half of a cent / tonne or more, and shall be rounded down when otherwise

2. Commodity and Quantity

Shipment of **2 x 70,000 +/- 10% Mts** at vessel option (shipping tolerance) Metric tons per shipment of Indonesian steam coal (non coking) in bulk of **(To be inserted later)** . Coal shall be supplied from Single Mine from **(To be inserted later)** mine

3. Shipment Period

- 1. Arrival August, 2022 at the Discharge Port**
- 2. Arrival September, 2022 at Discharge Port**

4. Quality

The coal to be supplied by the Seller having following specifications as per ASTM standards:

GKEL Plant Coal Specifications:

Specifications as per ASTM Standards

Parameter	Typical	Rejection
TM (ARB)	36 %	>43%
IM (ADB)	16%	NA
VM (ADB)	40 %	NA
ASH (ADB)	8%	>10%
TOTAL SULPHUR(ADB)	0.40%	>0.60%
GCV (ARB)	4200 Kcal /kg	<4000 Kcal /kg
HGI	55	NA
Sizing 0-50 mm	90%	NA
AFT (IDT)	1150 Deg C	< 1120 Deg C

ASTM stands 'American Society of testing and materials'

ADB stands for 'Air Dried Basis'

GAR stands for 'Gross as Received'

ARB stands for 'As Received Basis',

Kcal/kg stands for 'Kilo Calories per kilogram'

5. Non-Contamination

The Seller undertakes to the Purchaser that all Coal, on delivery at Discharge Port by the Seller to the Purchaser, shall be free of contaminants such as wood, rocks, plant matter, garbage, iron, nonferrous materials, blast materials, salt, petroleum coke, pitch, pitch coke, tar sludge etc. which are not found naturally when extracted from the coal seam (the "Coal Condition Undertaking")

6. Rejection

Coal stands rejected once any of the parameters are found to be equal to or more than/less than as the case may be (i.e. for GCV it will be less than and for other parameters it will be more than)/ beyond the rejection level specified as per clause 4 above, based on analysis results certified by the independent inspection agency (as appointed in terms of this Agreement)

In case of rejection of coal, Buyer at its sole option may either reject the entire consignment or decide to buy the rejected coal at a discounted price and different terms than the price agreed under the Agreement and such discounted price & terms shall be mutually agreed between the Parties. However, Buyer's decision will be final and binding on the Parties on this matter.

7. **Price and Delivery Terms**

The unit price basis GAR 4,200 Kcal/kg is as follows:

USD **XX.XX** (United States Dollar **XXXXXXXXXXXXXXXXXXXXXXXXXXXX** only) per metric ton **CFR Paradip Port or Any Port(s) in India basis 4,200 GCV (ARB).**

Buyer shall advise final Discharge Port before completion of loading.

8. **Penalty/Premium**

Gross Calorific Value (GCV):

If the actual Gross Calorific Value (GAR) of coal is above or below **4200 Kcal/kg (ARB)** as stated in the Certificate of Sampling and Analysis (but within the rejection limit) Issued by **XXXXXXXXXXXX** as mutually agreed independent inspection agency appointed by Seller at Load port and for provisional payment purposes, and by **XXXXXXXXXXXX** or any other mutually agreed Independent Inspection Agency appointed by buyer as per Clause 10.2 at Discharge Port (for final payment purposes), the FOB price shall be adjusted as per the following formula:-

$$\text{ADJUSTED FOB PRICE} = \text{Base } \frac{\text{FOB } \$ \times \text{ACTUAL GCV (ARB) KCAL/KG}}{4,200 \text{ KCAL/KG}}$$

Provided that no adjustment shall be made to the FOB Price, in case actual GAR at Discharge Port in above formula is more than 4300 Kcal/kg

Final CFR = Adjusted FOB Price + Insurance + Freight

For the purpose of above price adjustment, base FOB price shall be considered as USD XX.XX PMT and freight as USD XX.XX PMT

Sulphur Content:

If the Sulphur content at **Loading Port** as stated in the Certificate of Sampling & Analysis is more than **_____ % (ADB)**, then the FOB price shall be reduced by **USD _____** for each 0.1% increase of Sulphur above **_____ % (ADB)**, fraction pro rata.

$$\text{Sulphur Adjustment} = \frac{\text{USD } \underline{\hspace{1cm}} \times (\underline{\hspace{1cm}} - \text{Actual Sulphur (ADB)})}{0.1\%}$$

Provided that there shall be no adjustment to FOB Price, in case when Sulphur content is less **than [xyz]**

Ash Content:

If the Actual Ash content at Loading Port as stated in the Certificate of Sampling and Analysis is more than ____% (ADB), then the FOB Price shall be reduced by USD _____ for each % increase of Ash above ____%, fraction pro rata.

Ash Adjustment = USD _____ X (_____ - Ash (ADB))

1%

Provided that there shall be no adjustment to FOB Price, in case when Ash content is less than [xyz]

Moisture Content:

If the Actual Total Moisture, TM (ARB) at Delivery Port as certified the by Independent Inspection Agency or any other mutually agreed Independent Inspection Agency appointed by buyer as per Clause 10.2 at Discharge Port (for final payment purposes), the FOB price shall be adjusted as per the following formula:-

Moisture Adjustment = 1.15 X FOB Price X [1 - (100 - Actual TM)/(100 - Spec TM)]

The final price per metric ton of the coal delivered shall be adjusted as per the aggregate of above price adjustments plus the Ocean Freight of _____ USD per ton shall be the basis for invoicing and settlements.

Provided that there shall be no adjustment to FOB Price, in case when Moisture content is less than [xyz]

9. Quantity Determination

The Seller shall appoint and pay for reputed Independent Inspection Agency at the load port to carry out draft survey in accordance with the Standard Code of Practice. The agency will issue the Certificate of Weight based on draft survey. Quantity as certified at the Load Port by Independent inspection agency on the basis of the quantity/weight stated under the Bill of Lading shall be final and binding on both parties for all contractual purposes including payment.

10. Quality Determination

10.1 LOADPORT

Sampling and analysis of the coal shall be carried out at the time of vessel loading by XXXXXXXXXXXX as mutually agreed and appointed by the Seller. The costs of draft survey and sampling and analysis at loading port shall be on Seller's account. The certificate of sampling and analysis so determined shall be considered for the provisional 90% payment, as per clause 12.1 B, for the quantity of cargo loaded

onto the vessel and dispatched. If GCV at load port is higher than 4300 kcal/kg GCV (ARB), the same shall be restricted to 4300 Kcal/Kg GCV(ARB) for provisional payment.

The buyer has the right to appoint an Independent Inspection Agency to witness the loading at Load port at Buyer's cost.

Buyers' representative / buyers' agency shall be allowed to visit at nominated jetty and mine, witness loading at mother vessel at Buyer's cost. Also Buyers' representative / buyers' agency shall be allowed do mine visit at buyer's cost and Seller will arrange for all necessary permits/approval for the visit/witness in this regard.

One composite split sample will be handed over to Buyer's representative or couriered to address the as advised by Buyer as a Buyer Sample.

In the event that the results of the analysis of the Umpire Sample are deviating beyond the reproducibility limits than ASTM standards interlab tolerance on a dry basis from the analysis reports produced by Independent Inspection Agency, the umpire analysis shall be final and binding on both parties. The costs and expenses of such analysis shall be borne by the Party requesting such analysis

10.2 DISCHARGE PORT

At the Discharge Port, quality parameters shall be determined based on the Certificate of sampling and analysis issued by Independent Inspection Agency or any other mutually agreed Independent Inspection Agency and appointed by Buyer. Such determination shall be final and binding for the shipment and the same shall be the basis for final payment purposes as mentioned in Clause 12.1 B. The cost of sampling & analysis at Discharge Port to be borne by Buyer. Certificate of this analysis would be considered as final for quality for the entire shipment. Buyer has to instruct the inspection agency/surveyor appointed at Discharge Port to share update, results and a copy of certificate with Seller, within 7 working days from completion of discharge. Buyer shall also instruct the inspection agency/surveyor appointed at Discharge Port to share drafts of the certificates with Seller before final issuance, for the purpose of issuance of documents compliant with the requirement under the payment terms.

The Seller or Seller's representative has the right to appoint an Independent Inspection Agency to witness the sampling and receive Seller's sample at Discharge Port at Seller's cost.

Sampling and analysis shall be made in accordance with the latest revision of the standard methods of analysis for coal in accordance with ASTM standards.

In the event that either party wishes to challenge the result of analysis of Discharge Port it shall do so within forty-five (45) days from date of Bill of lading (date of completion of loading of the vessel). In such event the Umpire Sample retained by Discharge Port Independent Inspection Agency shall be sent to mutually acceptable internationally recognized independent commercial laboratory located in neutral country (the "Umpire Laboratory"). The Umpire Laboratory shall perform analysis of the

specifications for the parameters requested by the party called for umpire analysis, and shall issue a certificate (the "Umpire certificate") certifying the results of such analysis.

11. Shipping Terms

- a Buyer to declare final Discharge Port at the time of acceptance of the vessel.
- b Discharge Rate : 13,000 MT PWWD SHINC (excluding Major Port Holidays) for Paradip Port, India or Any Port(s) in India.
- c At least 5 days prior to commencement of vessel ETA at the Loading Port, Seller shall nominate the "Vessel" with specifications and information as below for Buyer's acceptance:
 - Name of Vessel and its particulars
 - Approximate quantity of Coal to be loaded on board the Vessel (Cargo intake)
 - Vessel with LOA 229 Mtrs & Beam 32.26 Mtrs with maximum arrival draft of 14.5 mtrs at Paradip Port, India or Any Port(s) in India.
 - ETA of Vessel's arrival at the Loading Port,
 - Demurrage and despatch as per the market prevailing rate.
- d The Buyer has to send their confirmation within 1 (one) day to Seller, if the Seller does not receive Buyer's confirmation within this time frame then the vessel shall be deemed accepted by Buyer.
- e Seller shall have the right to substitute the Nominated Vessel up to 3 (three) days prior to the ETA of the vessel, within the laycan by giving a written notice to the Buyer. In case of vessel substitution 3 (three) days prior to ETA, the cargo intake shall remain unchanged with the previous nominated vessel, provided the ETA of the substituted vessel is not earlier than the ETA of the prior Nominated Vessel. The Buyer has to send their confirmation within 1 (one) day to Seller, if the Seller does not receive Buyer's confirmation within this time frame then the vessel shall be deemed accepted by Buyer.
- f Notice: The Seller shall notify the Buyer and his Discharge Port agents at least 5,4,3,2 and again at least 24 hours prior to the estimated arrival time of the vessel at Load/Discharge Port.
- g Notice of Readiness (NOR): NOR shall be tendered by the vessel by fax, telex, email or radio on arrival at the Discharge Port ATDN SHINC; WIPON, WICCON WIFPON, WIBON . In case free pratique is not obtained due to vessel's fault, NOR shall be considered null and void and the vessel shall tender a new NOR when the vessel is in all respects ready to discharge the cargo but excluding port holidays. Owners to ensure that Vessel / Master / Crew take all necessary COVID-19 Quarantine protocols and strictly follow all guidelines of the Port Authority / Health Office or any relevant authority with respect to the current situation and any applicable future notices / requirements at Load Port, Discharge Port and as also any other port if it passes thru in transit.

h Laytime: Laytime for Discharge shall commence 12 hours after the notice of readiness is tendered in accordance NOR above, unless sooner commence, in which case actual time used to count. Laytime to cease to count only after vessel completes discharge

i Laytime Exclusion:

Any time lost for the following reasons shall not count as laytime and shall be recorded in the SOF:

1. Time used for first opening and last closing of hatches.
2. Any time lost due to Vessels defects, failure or breakdown of ship's gear or equipment which may affect or delay continued normal discharge operations, the time to count on prorated basis.
3. Any suspension of port operation due to unfavourable weather condition, not to count as laytime, but if the vessel is already on demurrage then laytime to count in full.
4. Initial, Interim & final draft survey time not to count as laytime even if the vessel is on demurrage. Time for interim draft surveys due to lighterage operations (if any) will be for Buyer's account.
5. Time spent in conducting a Draft Survey of the Vessel requested by shipmaster, prior to or during the Discharge of the Coal., If the draft survey is additionally requested by the buyer it shall count as laytime
6. Cleaning and inspection of the Vessel's holds
7. Breakdowns or failures of the vessel to comply with the requirements or regulations of the discharging port causing delay or restriction to discharging operations.

j Once on demurrage always on demurrage clause to apply

k Stevedore Damage: Any damage caused by the stevedores at Discharge Port as certified by third party during the period of vessel's stay at the Discharge Port shall be notified by the master or the agent to the stevedores at the time of occurrence and to the Buyer (Receivers) or their Agents in writing latest within 48 hours of such occurrence or as soon as possible thereafter, but not after the vessel sailed from the Discharge Port. Master shall endeavour to obtain a written acknowledgement in writing from the Buyer (Receiver) or their Agents at the Discharge Port.

Stevedore damage to be settled directly between Owners or Master of the Vessel and Stevedores, however, Receivers to assist on best effort basis in the event no settlement can be reached between stevedores and owners at the Discharge Port (s). In case Owners and Stevedores are not able to arrive at amicable solution, a third party independent P&I surveyor shall be jointly appointed by Buyer and Seller on cost sharing basis. Based on the report of such surveyor, Seller shall be responsible for owner's obligations on best effort basis and Buyer shall be responsible for stevedore's obligations on best effort basis.

l Settlement of Demurrage / Despatch:

All demurrage or despatch is to be settled within 30 working days after discharge laytime statement is mutually agreed with supporting documents, like notice of readiness, statement of facts and time sheets.

- m Once the vessel is on demurrage, she will always remain on demurrage and all time lost shall continuously count as laytime. 1st Shifting from Anchor heave up or Pilot on board whichever is earlier to discharging berth to be on Seller's account and subsequently shifting to be on Buyer's account.
- n If shipping documents are not available to the Buyer at the time the vessel becomes available for discharging, then the Buyer shall provide the Seller with signed Letter of Indemnity in Seller or Motor Vessel Owner's P&I Club wording to discharge the cargo without presentation of original Bills of Lading.
- o Performing vessel to be single decker bulk carrier, and to be maximum 15 years old. Vessel to be classified Lloyds 100 AL or equivalent. Seller to submit to Buyer certificate of seaworthiness / classification issued by the shipping company or their authorised agent.
- p Detention:
In the event the vessel is prevented from or delayed in berthing at the Discharge Port as a result of Buyer's failure to complete all formalities and process the necessary documentation, etc. and where Seller has provided Buyer with shipping documents or authorised consignment release under letter of indemnity in good time, then Buyer will be responsible for the costs associated with the detention of the vessel. Whatever the detention amount, it should not exceed the agreed daily demurrage amount. As the same to apply for buyer, seller may claim detention from buyer based on daily demurrage amount.
- q Performing vessels to be fixed as 14.5 mtrs for Panamax arrival draft as per restriction by the Discharge Port
- r Lightening (if any) for Buyers account.

12. Payment Conditions

12.1 Performance Guarantee

The successful bidder shall submit a performance guarantee of 10% of the Tender value by way of TT or SBLC to be submitted within 7 days of the Letter of Award.

12.2 Against Letter of Credit

Irrevocable Letter of Credit (L/C) 180 days Usance LC covering 100% of value of the contract with typical quality/price adjustment as per clause 8, in favour of Seller. The L/C to be established by Buyer through any banks as agreed by the Parties including +/-10 % tolerance on the LC value. In case of any documentation or assistance required by the Buyer while opening the LC, Seller shall provide them promptly so that LC is opened in a timely manner.

All charges in applicant's bank are for applicant's account. All charges for beneficiary's bank are for beneficiary's account.

Such L/C to be in a format acceptable to the both the Parties., Such draft format to be agreed before the date of commencement of loading and for the purpose of load port documents finalisation.

Vessel shall not commence discharging in the absence of LC at the counter of Seller's bank. Any detention costs associated with such delays are to the account of Buyer when such delay in reaching LC is attributable to it.

Documents to be presented within 21 days from the date of shipment for 90% of payment and for balance presentation of the documents prior the expiry of L/C.

The L/C shall be subject to the most recent version of the UCP in force.

The L/C shall be payable/negotiable against standard applicable original load port documents:

- A. 90% (ninety percent) provisional payment of the total CFR value of the shipment shall be payable/negotiable against standard applicable original load port documents:
 - a. 1 original and 2 copies Seller's signed provisional invoices;
 - b. Full set of 3/3 original clean on board Bill of Lading marked "Freight Payable as per Charter Party", made out to order, blank endorsed and notify as per buyer's instruction.
 - c. 1 original and 3 copies Certificate of Sampling and Analysis issued by Load Port IIA.
 - d. 1 original and 3 copies Certificate of Weight issued by Load Port IIA;
 - e. 1 original and 3 copies Draft Survey Report issued by Load Port IIA;
 - f. 1 original and 3 copies Certificate of Hold Cleanliness issued by Load Port IIA;
 - g. Photo Copy of Certificate of Origin in Form AI issued under AIFTA framework Agreement by Indonesian Chamber of Commerce or any other competent government authority in Indonesia. Said shall be acceptable as presented. But Should have mentioning shipper name as "XXXXXXXXX" and having rubber stamp on Form AI;
 - h. Beneficiary Certificate confirming a set of non-negotiable documents (as described above in a, b, c, d, e, f & g) has been sent by the seller to the buyer by e-mail and/or fax within 5 (five) working days from the date of Bill of Lading. A copy of such email to be presented along with the other documents under the LC.

Certificate of Origin (One Original and three copies) in Form AI issued under AIFTA framework Agreement by Indonesian Chamber of Commerce or any other competent government authority in Indonesia to be dispatched directly as per Buyer's instruction, to an address specified/advised by the buyer outside the L/C within 5 (five) working days from the date of Bill of Lading.

A set of documents Seller's signed provisional invoice based on Load Port Quality adjustment price, Clean on board Bill of Lading, Certificate of Sampling and Analysis issued by Independent Inspection Agent at loading port, Certificate of Weight at load port and Draft survey report at load port shall be sent by the seller to the buyer by e-mail and/or fax from the 5 working days of Bill of Lading to the mail

id Piyusa.Mohanty@gmrgroup.in for the custom clearance purpose.

B 10% (Ten Percent) Final Payment

The balance 10% (ten percent) of the CFR value of the shipment after above claim shall be payable against presentation of the following documents

1. A photocopy of Copy of certificate of analysis issued by independent inspection agency appointed by Buyer ie. Discharge Port IIA.
2. Final Commercial invoice in triplicate on the value of the covered on the LC calculated on the basis of the Discharge Port certificate as per clause 8 & 10 as reduced by the payment already made against 90% invoice under clause 12.1 A.

13. Insurance

The Buyer shall procure, maintain and pay for marine cargo insurance (“Marine Cargo Insurance”) for the shipped cargo under this Agreement. The Seller shall inform the Buyer the final loaded quantity immediately upon completion of loading to enable the Buyer cover the Marine Cargo Insurance for the shipped cargo. Provided that the Seller shall provide all the support in terms of providing documentation and information as may be requested by the Buyer and the insurance company.

14. Title and Risk of Loss

Risk of loss or damage to the goods shall pass from Seller to Buyer as provided under INCOTERM 2020 for CFR.

Should the Buyer exercise its right to reject the Coal in accordance with clause 4 (Quality), the risk in respect of such Coal shall automatically revert to the Seller as if risk in respect of such Coal had never passed to the Buyer.

Title of the Coal shall pass from the Seller to the Buyer either on high seas or upon full settlement of the monies due by the Buyer to the Seller whichever is later.

The Buyer shall insure the Coal against customary risks for its account but on the Seller's behalf and for the Seller's benefit up to the moment of full settlement of all monies due by Buyer to Seller or the title is transferred under this Agreement.

15. Force Majeure

- 15.1 Neither Party shall be liable for any delay in performing or failure to perform its obligations due to events of Force Majeure which are acts of public enemy, war, blockade, revolution, riot, insurrection, civil commotion, strike (other than sellers direct or indirect employees), lockout, explosion, fire, flood, storm, tempest, earthquake, government regulations or orders, including but not limited to prohibition of export or import. Failure to deliver or to accept delivery in whole or in part because of the occurrence of an event of a Force Majeure event shall not constitute a default hereunder or subject either Party to liability for any resulting loss or damage.
- 15.2 Upon the occurrence of a Force Majeure event, the Party affected by the Force Majeure shall promptly give the other Party written notice in not more than 5 days of the event of Force Majeure, and shall specify in reasonable detail the facts constituting the event of Force Majeure. Where such material may be in other languages, the Party affected shall at the other Party's request furnish certified translation. Where such notice is not given within the time required, Force Majeure shall not justify the non-fulfilment of any obligations under this Contract.
- 15.3 The Party affected by the Force Majeure shall give the other Party (a) regular written updates during the period of the Force Majeure, and (b) prompt written notice when the Force Majeure circumstances cease to exist.
- 15.4 Both Parties agree to use their respective reasonable efforts to cure any event of Force Majeure to the extent that it is reasonably possible to do so, it being understood that the settlement of strikes, lockouts, and any other industrial disputes shall be within the sole discretion of the Party Asserting Force Majeure.
- 15.5 In the event of Force Majeure preventing the Seller from shipping or delivering the material, or preventing the Buyer from accepting the Coal, respectively, deliveries shall be suspended for the duration of such Force Majeure event but if such Force Majeure shall last more than thirty (30) calendar days, the tonnage involved may be cancelled with immediate effect by the Party not having declared Force Majeure by written notice to the other Party.
- 15.6 Notwithstanding anything to the contrary set forth in this Clause any failure by the Seller to obtain the necessary permits, licences or authorizations to perform its obligations under this Contract shall not constitute an event of force majeure for any purpose under this Clause 15 or this Contract.

16. **Governing Law**

This Agreement shall be governed by the English Law and the Courts in Singapore shall have exclusive jurisdiction.

17. **Arbitration**

Any dispute, differences or disagreement between the parties arising under or in relation to this contract including (but not limited to) any dispute, difference or disagreement as to the meaning of the terms of this contract or any failure to agree on any matter required to be agreed upon under this contract shall if possible be resolved by negotiation and mutual agreement by the parties within 30 days from vessel discharge date. Should no agreement be reached then the dispute shall be finally settled by arbitration in Singapore upon the request of either party hereto in accordance with the Arbitration Rules of the Singapore International Arbitration Council (“SIAC Rules”) for the time being in force at the commencement of the arbitration. The result of all such arbitration shall be final and binding for the parties and for all purpose. The venue of arbitration shall be Singapore.

18. Taxes

All taxes, fees, duties and other similar charges (however denominated) imposed on, or arising out of, the sale of the goods to the Buyer or on the goods themselves (or value added thereto) at Load Port will be for Seller’s account and All taxes, fees, duties and other similar charges (however denominated) imposed on, or arising out of, the sale of the goods to the Buyer or on the goods themselves (or value added thereto) at Discharge Port will be for Buyer’s account.

19. Remedies

Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided by law.

20. Waivers

Failure of either Party to require strict performance of any provision of this Agreement, or such Party’s forbearance to exercise any right, shall not be deemed a waiver by such Party of its right to require strict performance or exercise such right in the future.

21. Confidentiality

This agreement is confidential and its contents will be kept strictly confidential by both the Buyer and the Seller except if required by Buyer’s Buyer, Buyers’ lenders or any regulatory authority. Notwithstanding the foregoing, each Party may disclose this Agreement to its affiliates, auditors, potential investors, existing or prospective lenders, succeeding entities and to prospective transferees or assignees who, in any such case, have agreed to be bound by these confidentiality provisions or are otherwise bound to keep such information confidential

22. Entire Agreement

This agreement contains the entire agreement between the Buyer and the Seller with respect to the subject matter herein and supersedes all previous writings, understandings, negotiations, representations or agreements with respect thereto, except where provided otherwise.

22A Amendment

This agreement shall only come into force after being signed by both the Buyer and the Seller. Any amendments to this agreement shall be in the form of an addendum to the Agreement and shall come into force only after both Parties will have signed the addendum, where after it will form an integral part of the Agreement.

22B Severability

If any provision of this agreement shall be invalid, illegal or unenforceable to any extent, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. If the invalidity, illegality or unenforceability of one or more provisions of this Agreement or any other circumstances concerning the performance under this Agreement reveals a situation not provided for this Agreement, the Buyer and the Seller shall jointly seek an arrangement having a valid legal and economic effect which will be as similar as possible to the ineffective provision and will cover the scope of any missing provision in a manner reasonably directed to the purpose of this Agreement.

23. Assignment and Novation

Neither this agreement nor the rights and obligations arising out of it may be assigned, delegated or otherwise transferred by either the Buyer or the Seller to any third party without the other Party's prior written consent, which consent shall not be unreasonably withheld. Despite the foregoing either party is allowed in principle to assign its rights and obligations to an affiliated company, provided the creditworthiness of the affiliated company is acceptable to the other party. Also, the Seller is allowed to transfer the receivable(s) arising under this Agreement to a financial institution. However, all the obligations under the contract shall continue to be performed by Seller.

24. Language

All communication between the Buyer and the Seller with regard to this Agreement shall be in the English language.

25. Limitation of Liability

In no event shall either Party be liable for any indirect, special, incidental or consequential damages (including loss of profits) resulting from its performance or non-performance of its obligations under this contract.

26. Representation and Warranty

The Seller warrants only that at delivery the Coal will conform to the specifications mentioned in this Agreement and that the Seller will sell and deliver the Coal to the Buyer free and clear of any liens, encumbrances and other claims of third parties. The Seller shall not be liable for specific performance nor for any indirect, incidental or consequential losses or damages or for any loss of profits, business interruption, loss of contracts, loss of reputation, punitive damages, exemplary damages or loss resulting from the other party's liability to any other person arising directly or indirectly from any failure or delay in performing any obligation pursuant to this Agreement.

27. **Domicillium**

All communication and/or notices under this Agreement shall be deemed to have been duly given in terms of this Agreement if they are sent by mail, facsimile or telex transmission to either party at their following addresses:

IF TO THE BUYER:

GMR KAMALANGA ENERGY LIMITED

Kamalanga via Meramandali,
Near Union Bank,
Dist District – Dhenkanal
PIN - 759121
State – Odisha, India

Telephone : +91 XXXXXXXXX
Attention : Mr. XXXXXXXXXXXXXXX

IF TO THE SELLER:

XXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXX

Telephone : XXXXXXXXXXXXXXX
Attention : XXXXXXXXXXXXXXX

Or at such other addresses as either Party may from time to time designate in writing.

28. **Validity**

This agreement shall take effect for two months upon the contract signing or until the sale and purchase of the quantity under this Agreement has been fully performed by both the Parties or until both the Parties mutually agree to terminate this Agreement, whichever is earlier.

Buyer

GMR KAMALANGA ENERGY LIMITED

Seller

XXXXXXXXXXXXXXXXXXXXXXXXX

Name:
(Authorised Signatory)

Name: XXXXXXXXXXXXXXX
(Authorised Signatory)