

BEFORE
THE THAR COAL AND ENERGY BOARD

MOTION FOR LEAVE FOR REVIEW

PURSUANT TO RULE 10(8) THAR COAL TARIFF DETERMINATION RULES, 2014
READ WITH THE PROVISIONS OF
THAR COAL AND ENERGY BOARD ACT, 2011

ON BEHALF OF

SINDH ENGRO COAL MINING COMPANY LIMITED

IN RELATION TO THE DETERMINATION OF THAR COAL AND ENERGY BOARD IN THE MATTER OF
SINDH ENGRO COAL MINING COMPANY TARIFF DATED JUNE 5, 2015

DATED: JUNE 30, 2015

SINDH ENGRO COAL MINING COMPANY LIMITED

ADDRESS : 4TH FLOOR, THE HARBOR FRONT BUILDING, BLOCK 4
CLIFTON, KARACHI 75600, PAKISTAN
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PHONE # : +92 (21) 3529 7501 - 10
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**COPY OF SINDH ENGRO COAL MINING COMPANY LIMITED'S
BOARD RESOLUTION**



**CERTIFIED COPY OF RESOLUTION OF
BOARD OF DIRECTORS**

I, Faryal Mazhar Habib, Company Secretary, Sindh Engro Coal Mining Company Limited hereby certify that the following resolution was passed by the Board of Directors in its 37th meeting held on June 29, 2015:

QUOTE

“RESOLVED THAT the Company be and is hereby authorised to file tariff petition, to file motion for leave for review for any determined tariff issued by Thar Coal & Energy Board (TCEB) in respect of mine of 3.8 MPTA up to 6.5 MPTA at Thar Block II, District Tharparkar, Sindh (the Project) and in relation thereto, enter into and execute all required documents, make all filings and pay all applicable fees, in each case, of any nature whatsoever as required.

FURTHER RESOLVED THAT Mr. Shamsuddin A. Shaikh, Chief Executive Officer of the Company, be and is hereby authorized to sign all documents including petition, motion for leave for review, pay all filing fees, appear before TCEB and provide any information required by TCEB in respect of the Project, and do all acts and things necessary, processing, completion and finalization of the aforementioned petition or motion for leave for review.

AND FURTHER RESOLVED THAT Mr. Shamsuddin A. Shaikh as Chief Executive Officer be and is hereby authorized to delegate all or any of the above powers in respect of the foregoing to any other officials of the Company as deemed appropriate.”

END QUOTE



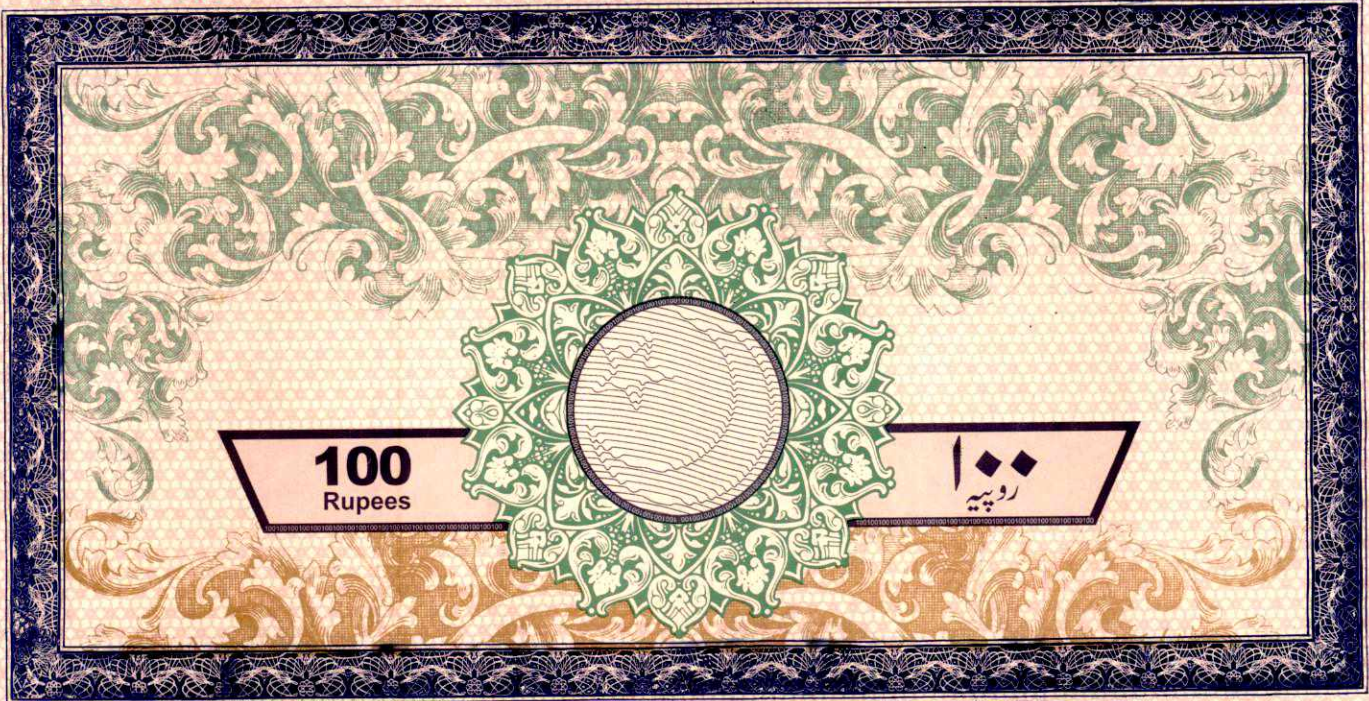
For and on behalf of
SINDH ENGRO COAL MINING
COMPANY LIMITED


FARYAL MAZHAR HABIB
Company Secretary

June 29, 2015

COPY OF AFFIDAVIT





ABDUL HABIB STAMP VENDOR

Licence # 179, Shop # 49

New Ruby Centre, Karachi.

SR. NO. **16507** DATE **18 MAY 2015**

ISSUED TO WITH ADDRESS MR.....

THROUGH WITH ADDRESS MR.....

PURPOSE..... *Muhammad Khud Khan (Advocate)*

VALUE RS..... ATTACHED..... **KDA No: 1739**

STAMP VENDOR SIGNATURE.....

"Not Use For Free Will & Divorce Purpose"



AFFIDAVIT

I, Mr. Shamsuddin Shaikh, holder of CNIC No. 42301 – 6789487-9, do hereby solemnly affirm and declare that:

1. I am the Chief Executive Officer of Sindh Engro Coal Mining Company Limited, 4th Floor, Harbour Front, HC-4, Clifton, Karachi (**Company**) and I am fully conversant with the business and affairs of the Company.
2. The contents of the accompanying motion for leave for review, including all supporting documents are true and correct and the statements made in the motion for leave for review are true and correct to the best of my knowledge and belief.
3. I also affirm that all further documentation and information to be provided by me in connection with the aforesaid motion for leave for review shall be true and correct to the best of my knowledge and belief.



Shameer

DEPONENT

Verification

It is hereby verified on solemn affirmation at Karachi this 29th day of June 2015 that the contents of the above Affidavit are true and correct to the best of my knowledge and belief and that nothing material or relevant thereto, has been concealed or withheld therefrom.

29 JUN 2015

ATTESTED

**S. RIZWAN ADVOCATE
B.A.L.L.B. NOTARY PUBLIC
KARACHI PAKISTAN**



Shameer

DEPONENT

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1. DETAILS OF THE PETITIONER

NAME AND ADDRESS

SINDH ENGRO COAL MINING COMPANY LIMITED

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AUTHORIZED REPRESENTATIVE OF SINDH ENGRO COAL MINING COMPANY LIMITED

- Shamsuddin A. Shaikh
Chief Executive Officer



2. GROUNDS FOR MOTION FOR LEAVE FOR REVIEW

- 2.1 Sindh Engro Coal Mining Company (“SECMC”) is a joint venture between the Government of Sindh and Engro Corporation Limited (including its affiliates), established to construct, develop, own and operate a coal mine in District Tharparkar, Sindh, Pakistan.
- 2.2 SECMC, through its petition (“**Tariff Petition**”) dated January 05, 2015, requested the Thar Coal and Energy Board (“**TCEB**”) for determination of Reference Contract Stage Tariff for SECMC’s Mine of 3.8 Mtpa up to 6.5 Mtpa at Block II Thar Coalfields, District Tharparkar, Sindh, Pakistan (“**Project**”). It also duly submitted all relevant data/information required for TCEB to arrive at an informed decision.
- 2.3 Thereafter, TCEB, pursuant to Rule 10(5) of the Thar Coal Tariff Determination Rules, 2014 (“**Rules**”) issued its Determination in the Matter of Reference Contract Stage Tariff for SECMC’s Mine of 3.8 Mtpa up to 6.5 Mtpa at Block II Thar Coalfields, District Tharparkar, Sindh, dated June 5, 2015 bearing reference No. TCEB/Registrar/2-1/2014 (“**Tariff Determination**”).
- 2.4 Following the Tariff Determination, pursuant to Rule 10(8) of the Rules and on the grounds given below, SECMC is filing this Motion for Leave for Review (the “**Motion for Leave for Review**”), before TCEB, to object to certain key points stated in the Tariff Determination. We request TCEB to kindly reconsider these key points (discussed below).
- 2.5 Each of the following grounds for the Motion for Leave for Review have been elaborated upon in Sections 3 to 10 below and consist of the following heads:
- (i) Debt to Equity Ratio;
 - (ii) Treatment of Non-EPC Costs;
 - (iii) Reimbursement of Taxes and Duties by the Coal Off-Taker;
 - (iv) Working Capital Requirement;
 - (v) Indexation of Power Cost for Mix of Grid and Diesel Power;
 - (vi) Treatment of GoS Performance and Force Majeure Events; and
 - (vii) Calculation Issues and Clarifications.
- 2.6 We request that SECMC be allowed to submit additional evidence and further submissions in relation to this Motion for Leave for Review, if the same are required by TCEB.
- 2.7 Further, we would be pleased to provide any further information, clarification or explanation that may be required by TCEB during the evaluation process.



3. DEBT TO EQUITY RATIO

(Reference paragraph (vi) of General Conditions – on page 34 – of the Tariff Determination)

TCEB has fixed the Debt to Equity Ratio in the Tariff Determination at 80:20 with the provision that SECMC will be allowed a Debt to Equity ratio of 75:25 only if financing requirements necessitate injection of capital beyond USD 700 Million (i.e. the cover provided by the Sovereign Guarantee). The Tariff Determination further states that any capital injection in excess of 25% will be treated as commercial debt to the project at the prevailing rates but not exceeding KIBOR plus 3%.

Based on the above, it can be inferred that the 3.8 MPTA mine financing plan will have to be based on a Debt to Equity ratio of 80:20 and the same will be modified once the financial close in respect of the expansion of the mine up to 6.5 MTPA is achieved. However, this provision is likely to make the financing of the initial mining capacity of 3.8 MTPA more challenging. We have already discussed the possibility of having a Debt to Equity ratio of 80:20 with the lenders consortium, who have communicated that they have already lowered their threshold from the initial Debt to Equity ratio of 70:30 to 75:25 and it would be difficult to procure lending at a Debt to Equity ratio of 80:20 due to *inter alia* the following reasons:

- Mining is being undertaken in Pakistan for the first time. While the Project is backed by a Sovereign Guarantee, the Project is nevertheless categorized as a 'high risk' Project. As per the lenders consortium, an 80:20 Debt to Equity ratio is the highest leverage level and is usually allowed by banks for blue-chip ongoing companies with certainty of operations. Since the Project is a greenfield project, the lenders are not willing to extend such leverage to the Project. Furthermore, considering the fact that a project of this magnitude is being undertaken for the first time in Pakistan, the lenders want to structure this as a bankable project finance transaction and categorize the Sovereign Guarantee as only a secondary comfort (considering other projects where there was a Sovereign Guarantee and which have still been impacted).
- With a Debt to Equity ratio of 80:20 there would be no room left for seeking additional financing for any cost overruns in respect of the development of Phase – 1 (3.8 MPTA mining capacity). Arranging working capital loans during Phase – 1 of 3.8 MTPA will be difficult as banks generally do not allow a total leverage of 4:1, which the Project will achieve if the capital structure is set at 80:20, The lenders generally keep a cushion in case a project needs working capital at a later stage.
- Please note that both term sheets received from local as well as Chinese lenders clearly state that the Debt to Equity Ratio of 70:30 should be maintained. Nevertheless, we have already initiated negotiations with the lenders to revise the Debt to Equity ratio upwards and, despite our best efforts, the Debt to Equity ratio of 80:20 may not be acceptable to the lenders. The lenders are willing to allow a Debt to Equity ratio of up to 75:25. Any further change in the capital structure would further delay the process of financial close of this Project of National Importance.

It should be noted that this was a Contract Stage Tariff and financing terms cannot be locked at this stage as financial/commercial documents are still being finalized.



It is therefore requested that the TCEB reconsiders the Debt to Equity ratio allowed in the Tariff Determination and that a Debt to Equity ratio of 75:25 is allowed to SECMC for the Project.



4. TREATMENT OF NON-EPC COSTS

(Reference General Conditions of the Tariff Determination)

In the Tariff Petition submitted by SECMC to the TCEB, the costs were divided into two categories, i.e. controllable costs and uncontrollable costs. The Tariff Determination in some clauses seeks to cap the Non-EPC costs, excluding costs in respect of land acquisition and village relocation, and in some clauses seeks to actualize such costs. Additionally, there is a certain degree of ambiguity with respect to certain cost items, such as, legal and professional charges.

In view of the foregoing, it is kindly requested that the TCEB clarifies as to how the concept of 'controllable' and 'uncontrollable' costs will be applied at the Commercial Operations Date of the Project. Additionally, rather than having individual caps in respect of certain costs, there should be an overall aggregate cap on such costs.



5. REIMBURSEMENT OF TAXES AND DUTIES BY THE COAL OFF-TAKER

(Reference paragraph (x) of General Conditions – page 36 – of the Tariff Determination)

As per clause (x) of General Conditions of the Tariff Determination, any taxes, duties, levies, charges, surcharges or other governmental impositions paid by the SECMC (including those on account of Workers Welfare Fund and Workers Profit Participation Fund) are to be subsequently reimbursed by the Coal Purchaser on the basis of original tax receipts. Such taxes, duties, levies, charges, surcharges or other governmental impositions, payable by SECMC in respect of the Project, have not been accounted for in the Coal Tariff.

We understand that reimbursement for such taxes, duties or other levies paid by SECMC in respect of the Project cannot be reimbursed by Coal Purchaser unless the same are treated as pass-through items under the Coal Tariff. Further, in case of reimbursements of such taxes from the Coal Purchaser, it would be difficult for the Coal Purchaser to recover the same from its tariff.

In view of the foregoing, it is requested that the TCEB allows all taxes, duties and other levies payable by SECMC in respect of the Project to be treated as a Pass-Through Item in the Coal Tariff over the relevant time period depending on the nature of such expenses.



6. WORKING CAPITAL REQUIREMENTS

(Reference paragraph (x) of General Conditions of the Coal Tariff Determination Order)

In the Tariff Petition submitted by SECMC to the TCEB, thirty (30) days of Fixed Capacity Payment Receivables was not included in the working capital requirements as it was expected to be included in 70% advance Capacity Payments paid by the National Transmission and Despatch Company ("NTDC") to Engro Powergen Thar Limited ("EPTL"), which amount was supposed to be paid as advance to SECMC. However, NTDC, in the Power Purchase Agreement ("PPA") signed with EPTL, has stated that the Mine's Fixed Fuel Charges will not be paid in the 70% advance Capacity Payments. Relevant section from the signed PPA is attached as **Annexure – I**.

In view of the foregoing, it is kindly requested that the TCEB allows additional cost of working capital for thirty (30) days of up to 70% Mine Fixed Capacity Payments along with relevant indexations in the coal tariff, which is in line with that provided for by the National Electric Power Regulatory Authority (NEPRA) in respect of power projects.



7. INDEXATION OF POWER COST FOR MIX OF GRID AND DIESEL POWER

(Reference paragraphs (vii) and (viii) of Reference Tariff Indexations – pages 39 and 40 – of the Tariff Determination)

The above referenced indexations of the Tariff Determination state that indexations in respect of Power Cost proportion of diesel and grid will be done as and when notified by the relevant authorities. However, this is likely to result in a mismatch of cash flows and therefore will create cash flow problems for the Project.

In view of the foregoing, it is requested that the TCEB reconsiders this and amends the Tariff Determination to state that the pricing for power cost from diesel and from the grid would be done as and when notified by the relevant authorities and the proportion of diesel and grid used in the power cost would be indexed on a quarterly basis.



8. TREATMENT OF GOS PERFORMANCE AND FORCE MAJEURE EVENTS

(Reference paragraphs 20.7 and 20.8 – pages 30 and 31 – of the Tariff Determination)

In the Tariff Petition submitted to TCEB, a tariff adjustment was sought in case of *inter alia* the following:

- A. Force Majeure Events faced by the Project (as defined in the Implementation Agreement to be entered into between SECMC and the Government of Sindh (“Implementation Agreement”)), which Force Majeure Events cause delays in the COD or operations of the Project.
- B. Any non-performance or delays caused by the Government of Sindh that result in delays in the COD of the Project.

However, the Tariff Determination states that any LDs or other compensations triggered by a default of the Government of Sindh and any possible impact of Force Majeure Events should be compensated through the Implementation Agreement.

In this regard it is highlighted that this mining project is the pioneering project in Pakistan and no other mining project has so far been undertaken in Pakistan on such a large scale. Therefore, it is imperative that certain critical supports are provided to the Project, especially during its development and construction phases. As a result and in order to ensure the success of the Project, SECMC has requested and the Government of Sindh has agreed to provide *inter alia* the following supports/facilities to the Project:

- Delivery of vacant possession of land to SECMC, which land has been leased to SECMC pursuant to the mining lease;
- Relocation and resettlement of existing settlements over the mining lease area;
- Successful completion of the Effluent Disposal Scheme being constructed by the Government of Sindh, which scheme would dispose of underground water extracted from the mining site;
- Completion of the water supply scheme being constructed by the Government of Sindh, which scheme would supply the much needed water to the Coal Purchasers; and
- Development of infrastructure facilities providing easy and safe access to the mining site.

It is emphasized that the above obligations of the Government of Sindh are critical for the timely completion and smooth operation of the Project. As such, the above obligations of the Government of Sindh are being dealt with in the Implementation Agreement and appropriate remedies are being factored into such Implementation Agreement. However, the consequences of any delays or failure by the Government of Sindh to timely comply with its aforesaid obligations would cause huge losses to the Project.



Since the Project is intended to benefit the entire country, it may be appropriate if the consequences of delays on account of the Government of Sindh to timely complete its aforesaid obligations are also recovered through the Coal Tariff.

As regards consequences of Force Majeure Events, as per the Implementation Agreement currently being negotiated with the Government of Sindh, the relevant department of the Government of Sindh has clearly indicated that Force Majeure Events should be compensated through appropriate adjustments in the Coal Tariff. Additionally, since most Force Majeure Events are also beyond the control of the Government of Sindh and the benefits from the Project are to be reaped by the entire country, it would be just and reasonable to provide compensation for such Force Majeure Events in the Coal Tariff.

It is therefore requested that the TCEB allows compensations, in respect of defaults by the Government of Sindh and Force Majeure Events under the Implementation Agreement (during both construction and operations phases), in the Coal Tariff.



9. CALCULATION ISSUES AND CLARIFICATIONS

- There appears to be an error in calculation in production payments and working capital due to heating value variations that are stated in the tables attached as Annexures to the Tariff Determination. In this regard the details of the error and the corrected workings are attached hereto as **Annexure – II**.
- In respect of calculation of Equity Returns for 3.8 MTPA mine capacity, clause 10.2 on page 11 of the Tariff Determination states that:

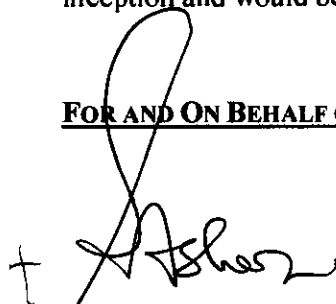
"The Board considers it prudent to accommodate a delay of six months beyond the stipulated 18 month period without incorporating any penalizing factor. If a delay in achieving COD of 6.5 MTPA occurs beyond the 24 month period subsequent to the COD of 3.8 MTPA, the Petitioner shall surrender an amount equivalent to the higher of 1% Equity IRR or USD 3.25 Million per annum from its accrued ROE. This deduction shall be applicable up to such time as the Petitioner achieves commercial operations for 6.5 MTPA capacity or higher. A pro rata calculation of deductions will be applicable in case summations of delays include partial years."

- In this regard, instead of surrendering USD 3.25 Million per annum of accrued ROE, the Tariff Determination Annexure A-2 (Annual Profile for Coal Price of 3.8Mtpa Capacity Mine of Thar Block - II) indicates that USD 4.15 Million per annum have been reduced from the third year onwards. In this regard the details of the error and the corrected workings are attached hereto as **Annexure – III**.
- Furthermore, since this is the first of its kind project being implemented in Pakistan, clarification is request from TCEB as to how the 'Multi Year Tariff Framework (MYTF)' will work.

In view of the foregoing, the TCEB is kindly requested to look into the above matters and provide clarifications and appropriate amendments in the Tariff Determination. The TCEB would no doubt appreciate that the concerns raised above are genuine and directly impact the Project.

SECMC is grateful to the TCEB for supporting the Project throughout since its inception and would be available to discuss the above matters at your convenience.

FOR AND ON BEHALF OF SINDH ENGRO COAL MINING COMPANY LIMITED



SHAMSUDDIN A. SHAIKH
CHIEF EXECUTIVE OFFICER



Month, the Energy Price, as determined in accordance with Schedule 1, the Despatched Net Electrical Output, the Fuel Cost (Fixed) Component, the Available Capacity, the then-prevailing Tested Capacity, the Fuel Cost (Variable) Component or weighted average Fuel Cost (Variable) Component, as applicable, and such other documents, information and calculations, in reasonable detail, so as to permit the Power Purchaser to confirm that the calculation of the amounts shown in the invoice comply with the provisions of this Agreement and Schedule 1;

- (iii) (A) the Pre-COD Energy Price for all Net Electrical Output produced prior to the Commissioning Tests due in respect of the previous Month (or part-Month), determined in accordance with Section 8.8;
- (B) the Test Energy Price for all Net Electrical Output produced during the Commissioning Tests carried out prior to the Commercial Operations Date and due in respect of the previous Month (or part-Month), determined in accordance with Section 8.7 and Schedule 1; and
- (C) the Energy Price for all Net Electrical Output produced during an Annual Capacity Test or any additional Capacity Tests carried out pursuant to Article VIII following the Commercial Operations Date and due in respect of the previous Month (or part Month).

Such invoice shall set forth the Pre-COD Energy Price, the Test Energy Price or the Energy Price, as applicable, as determined in accordance with Sections 8.7, 8.8 and Schedule 1, the Net Electrical Output delivered during the relevant tests, and such other information and calculations, in reasonable detail, so as to permit the Power Purchaser to confirm that the calculation of the amounts shown in the invoice comply with the provisions of this Agreement and Schedule 1;

- (iv) any Pass-Through Item due in respect of the previous Month (or part-Month) in accordance with Schedule 1;
- (v) any Unit Start-Up Charges due in respect of the previous Month (or part-Month) as determined in Schedule 1;
- (vi) any Supplemental Tariff due in respect of the previous Month (or part Month) in accordance with Schedule 1; and



- (vii) any interest payable hereunder on an amount not paid by the Due and Payable Date, showing the calculation of such claimed interest in reasonable detail;

together, in each foregoing case, with such supporting documents and information as may reasonably be necessary to substantiate the amounts claimed in the invoice which shall be complete in all respects. Such supporting information shall include, *inter alia*, the relevant invoice from the relevant Coal Supplier or Coal Suppliers under the relevant Coal Supply Agreement or Coal Supply Agreements; the relevant Foreign Exchange Bulletins showing the applicable exchange values between the Rupee and the Dollar; the relevant GOP Bureau of Statistics publication showing the relevant wholesale price index values; evidence of the relevant KIBOR and LIBOR values, as applicable; invoices or payment receipts for any amounts claimed as Supplemental Tariff or Pass-Through Items; and paper and electronic copies of meter readings showing the Despatched and Delivered Net Electrical Output and Net Electrical Output delivered during testing.

- (c) At any time after the first (1st) Business Day of each Month, the Power Purchaser may submit an invoice to the Company stated in Rupees (except for an invoice issued under Section 9.4(d), which shall be stated in Dollars) for (i) the amount of liquidated damages due to the Power Purchaser under this Agreement for the previous Month (or part-Month), (ii) for delivery of energy by the Power Purchaser at the Interconnection Point to the Complex in the preceding Month at the then prevailing rate under the relevant Distribution Company's bulk-supply tariff category C-3 (or any substitute tariff category as approved by NEPRA from time to time), and (iii) any interest payable hereunder on amount not paid by the Due and Payable Date, showing the calculation of such claimed interest in reasonable detail, together with such supporting information as may reasonably be necessary to substantiate the amounts claimed in the invoice.
- (d) Either Party may require clarification or substantiation of any amount included in an invoice or statement submitted under Section 9.5(a), (b), or (c) by delivering notice of such requirement to the other Party. The Party receiving such request shall provide the requested clarification and substantiation of such invoice or statement within fifteen (15) Business Days of its receipt of such request.
- (e) Each Party shall be entitled to submit a revised invoice if an error is discovered in the calculation of an invoice at any time up to ninety (90) Days after the date that the original invoice was submitted.

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Operations Date, then for each Month (or any portion thereof, prorated daily) thereafter until the Commercial Operations Date is actually achieved, the Company shall pay the Power Purchaser as liquidated damages an amount equal to two and one-half Dollars (\$2.50) per kW of Contract Capacity per Month (or portion thereof, prorated daily) until the Commercial Operations Date is achieved. The Parties acknowledge and agree that it would be difficult or impossible at the date of this Agreement to determine with absolute precision the amount of damages that would or might be incurred by the Power Purchaser as a result of the Company's failure to perform those matters for which liquidated damages are provided under this Section 9.4.

- (e) The Parties agree that the amounts of liquidated damages provided under this Section 9.4 are in lieu of actual damages and are the Parties' reasonable and genuine estimates for the actual damages and/or losses that may reasonably be anticipated from such failures in respect of such matters, and do not constitute a penalty.

Section 9.5 Billing

- (a) At any time following the Commercial Operations Date, the Company may submit an invoice to the Power Purchaser for seventy percent (70%) of the estimated Available Capacity (at the Reference Site Condition) during that Month (or part-Month). Such invoice shall set forth for each hour of the relevant Month (or part-Month), the Capacity Price and the then-prevailing estimated Available Capacity (at the Reference Site Conditions) based on the then-prevailing Tested Capacity, adjusted for expected hours of unavailability not excused under Section 9.1(c) or 9.1(d).
- (b) At any time on or after first (1st) Business Day of each Month, the Company may submit an invoice to the Power Purchaser stated in Rupees for the following:
- (i) (A) the Capacity Payment (net of the amount shown in the invoice delivered pursuant to Section 9.5(a)) due in respect of the Available Capacity during the previous Month (or part-Month) and (B) seventy percent (70%) of the estimated Available Capacity (at Reference Site Conditions) during that Month. Such invoice shall set forth for each hour of the relevant Month (or part-Month) the Capacity Price, the Available Capacity and the then-prevailing Tested Capacity;
- (ii) the Energy Payment due in respect of the previous Month (or part-Month). Such invoice shall set forth for each hour of the relevant



ANNEXURE - II

Changes to be made in Annexure A-3 (Annual Profile for Coal Price of 6.5Mtpa Capacity Mine of Thar Block - II)

In the clause 18.2 & 18.3 page 24 of Tariff Determination, SECMC has been permitted proportionate adjustment on account of heat content variations for variable components

- 18.2. The Petitioner submits that upon conduct of a mine optimization study, average energy content during the first eight years of operations was found to be lower than the expected value of 11.61 MJ / Kg as indicated in the feasibility study and therefore, expecting increased production than 3.8 MTPA during these initial years, the Petitioner submitted proportionately higher Foreign O&M Costs for approval in comparison to the costs quoted in the commercial bid received with respect thereto.
- 18.3. The Board notes that based on the industrial practice of benchmarking coal price upon an acceptable range of calorific value, the Petitioner's request is justified only to the extent of variable components of Foreign O&M. Accordingly, it permits the proportionately higher costs of variable Foreign O&M, but does not allow any adjustment on account of heat content variations for fixed Foreign O&M. Furthermore, the costs submitted in the commercial bid are found to be reasonable, and the Board permits Foreign O&M as tabulated below.

Error 1

From the Cell D41 to J41 in the sheet "EPC Opex – Input sheet – 6.5" the inserted formula was only correct for the first cell (D41). The formula calculates additional quantity required using the following formula:

$$\text{Additional Qty required} = \text{Qty}/11.61 \times 11.3 - \text{Qty}$$

For remaining cells the multiplication was with the wrong cells (E30 to J30) which is actually site expenses, instead of using the Quantity Cell (E17 to J17).

Following corrections have been made in the model:

The formula was corrected by replacing the incorrect cell (E30 to J30) by E17 to J17 which is the mine capacity. The resultant cells are E41 to J41

Error 2

In the sheet "EPC Opex – Input sheet – 6.5", additional tyres required (Row 43) and additional spares required (Row 44) had to be added to the tyres (Row 7) and spares (Row 8) respectively for the first 6.5 years to arrive at the heating value adjusted values. It was done for the first 04 years only i.e. from the cell D7 to G7 and the remaining 2.5 years were missed out.

Following corrections have been made in the model:

For the remaining 2.5 years the additional tyres and additional spares costs have been added to cells H7 to J7 and H6 to J6 respectively.

Hence, for final value of tyres, cell values of H43 to J43 were added to cells H21 to J21 - Result is shown in cell H7 to J7

The correction of this error will have an indirect impact on Cost of working capital and Royalty, which are automatically adjusted.

Changes to be made in Annexure A-1 (Coal Price of 3.8Mtpa leading to 6.5Mtpa Capacity Mine of Thar Block - II)

Model received from Adeel had the error already corrected in coal price of 3.8Mtpa leading to 6.5Mtpa as per discussions with him. However, as per our understanding, the only error 1 as stated for Annexure-3 was there which was corrected.



ANNEXURE - III

Changes to be made in Annexure A-2 (Annual Profile for Coal Price of 3.8Mtpa Capacity Mine of Thar Block - II)

Error

As stated in clause xiv of Tariff Determination Order (Page 35), higher of 1% IRR or USD 3.25 M will have to be surrendered by SECMC if 6.5 mtpa mine COD is not achieved within 24 months of 3.8 mtpa COD.

- xiv. A six-month delay in COD of 6.5 MTPA impacted by delay in downstream off-take agreements is permitted, without any bearing on the tariff. If a delay in achieving COD of 6.5 MTPA occurs beyond the 24-month period subsequent to the COD of 3.8 MTPA, the Petitioner shall surrender an amount equivalent to the higher of, 1% Equity IRR or USD 3.25 Million per annum from its accrued ROE. This deduction shall be applicable up to such time as the Petitioner achieves commercial operations for 6.5 MTPA capacity or higher. A pro rata calculation of deductions will be applicable in case summations of delays include partial years.

In Annexure A-2 (Annual Profile for Coal Price of 3.8 mtpa capacity mine of THAR Block II) Equity returns from third year have been reduced by USD 4.15 M which is not consistent with the stated clause xiv.

Following corrections have been made in the model:

In sheet OPEX - based Phase 1 from cell H24 to cell AI24 USD 3.25M have been subtracted instead of USD 4.15 M. The resultant table can be found in sheet "Coal Price Phase 1 - USD"

The correction of this error will have an indirect impact on Royalty, which is automatically adjusted.

