NOTICE

The Ministry had earlier issued a model Tender Document containing the format of the Mine Development and Production Agreement (MDPA) for mining leases to be granted through auction. The Ministry has now prepared a model MDPA for cases under section 10A (2) (c) of the MMDR Amendment Act, 2015. The same is attached herewith. State Governments may use the model MDPA with modifications on a case-to-case basis as may be required.
CONTENTS

PARTIES: ................................................................................................................................. 3

BACKGROUND: .......................................................................................................................... 3

1. DEFINITIONS AND INTERPRETATION ............................................................................... 4
2. COMPLIANCE ....................................................................................................................... 7
3. CONDITION FOR GRANT OF MINING LEASE .................................................................. 8
4. PERFORMANCE SECURITY AND APPROPRIATION ......................................................... 8
5. INFORMATION ..................................................................................................................... 11
6. UTILISATION OF MINERAL ............................................................................................... 12
7. PAYMENTS .......................................................................................................................... 12
8. MINIMUM PRODUCTION REQUIREMENT ......................................................................... 12
9. GENERAL RIGHTS AND OBLIGATIONS ......................................................................... 13
10. MINING PLAN AND COMPLIANCE WITH APPLICABLE LAW ....................................... 14
11. REPRESENTATIONS AND WARRANTIES ....................................................................... 14
12. INDEMNITIES .................................................................................................................... 14
13. ASSIGNMENT, SECURITY FOR FINANCING ................................................................. 15
14. INSURANCE ....................................................................................................................... 16
15. ACCOUNTS AND AUDIT ................................................................................................... 17
16. GOVERNMENT INSPECTION ........................................................................................... 17
17. EVENT OF FORCE MAJEURE ......................................................................................... 17
18. EFFECTIVE DATE AND TERM ....................................................................................... 19
19. MISCELLANEOUS ............................................................................................................ 19

SCHEDULE A – LIST OF PERSONS .................................................................................. 23
SCHEDULE B – PARTICULARS OF THE LEASE AREA ...................................................... 24
SCHEDULE C – PARTICULARS OF THE END USE PLANT ............................................. 25
SCHEDULE D – MINIMUM PRODUCTION REQUIREMENT .............................................. 26
SCHEDULE E – WARRANTIES ............................................................................................... 27
SCHEDULE F – ADDRESS FOR PROVIDING NOTICES ..................................................... 29
This Mine Development and Production Agreement is made by and between following:

PARTIES:

1. The Governor of [State], acting through [Department of Mines and Geology of the State] (the “State Government”).

2. [Name of the LOI Holder/Approval Holder] [incorporated in India under the Companies Act, [1956/2013] with corporate identity number [CIN of the LOI Holder/Approval Holder], whose registered office is at [address of registered office], India and principal place of business is at [address of principal place of business, if different from registered office]]¹ OR [an individual who is citizen of India, having income tax permanent account number [number], residing at [address]]² OR [persons listed in SCHEDULE A organised as a [firm/association of persons], all of whom are Indian citizens and resident in India]³ (the “LOI Holder / Approval Holder”).

BACKGROUND:

A. [The State Government has issued a letter of intent in writing on [date], in favour of the LOI Holder (“Letter of Intent”)/ The Central Government has issued a previous approval dated [date] (“Approval Letter”), in favour of the Approval Holder under sub-section (1) of section 5 of the Act (defined hereinafter)], for grant of a Mining Lease (defined hereinafter) over the Lease Area (defined hereinafter) for mining of the Mineral (defined hereinafter).

B. [The LOI Holder has completed the conditions specified in Letter of Intent dated [date] and submitted a letter of compliance in respect thereof with the State Government vide letter dated [date] which was duly acknowledged by State Government vide letter dated [date] / The Approval Holder has completed the conditions specified under Clause [●] of the Approval Letter dated [date] and submitted a letter of compliance in respect thereof with the State Government vide letter dated [date] which was duly acknowledged by State Government vide letter dated [date]]⁵.

C. Thereafter, the State Government has issued an order dated [date] to the [LOI Holder / Approval Holder] for grant of the Mining Lease (defined hereinafter). [The LOI Holder/ Approval Holder] has also submitted a performance security for an amount equal to INR [amount in figures] (Indian Rupees [amount in words]) on [date] through [payment mechanism] with the State Government as per the requirements of sub-clause (a) of sub-rule (3) of Rule 8 of the Mineral (Other than Atomic and Hydro

¹ To be retained only if the LOI Holder/Approval Holder is a company.
² To be retained only if the LOI Holder/Approval Holder is an individual.
³ To be retained only if the LOI Holder/Approval Holder is a firm or association of persons.
⁴ Delete whichever is inapplicable.
⁵ Delete whichever is inapplicable.
Accordingly, the State Government is now entering into this Agreement with the [LOI Holder / Approval Holder] with respect to matters pertaining to the Mining Lease and other matters incidental thereto, and this Agreement shall be read as an integral part of the Mining Lease (defined hereinafter).

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions and understandings set forth in this Agreement, and other good and valuable consideration (the adequacy of which are hereby mutually acknowledged), the Parties with the intent to be legally bound hereby agree as follows:

1. **DEFINITIONS AND INTERPRETATION**

The words and expressions used herein but not defined herein shall have the same meaning as assigned to them in the Act or the rules made thereunder. The following definitions apply to this MDPA, unless the context otherwise requires.

The definitions and rules of interpretation in this clause apply in this Agreement.

1.1. **Definitions**


1.1.2. “Agreement” means this Mine Development and Production Agreement and all attached annexures, schedules, exhibits and instruments supplemental to or amending, modifying or confirming this Agreement in accordance with the provisions of this Agreement.

1.1.3. “Agreement Date” shall mean the date on which the execution of this Agreement by both the [LOI Holder / Approval Holder] and the State Government is completed.

1.1.4. “Applicable Law” shall mean all applicable statutes, laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any governmental authority or court or other law, rule or regulation approval from the relevant governmental authority, government resolution, directive, or other government restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India.

1.1.5. “Appropriation Event” shall have the meaning given to such expression in Clause 4.2.1.

1.1.6. “Approval Letter” shall have the meaning given to such expression in Background A.

1.1.7. “Claim” shall have the meaning given to such expression in Clause 12.3.

---

6 Delete if inapplicable.
1.1.8. “Conditions” shall mean the conditions specified in the Act and the Rules to be complied with by the [LOI Holder/ Approval Holder] including all the conditions listed in the [Letter of Intent / Approval Letter].

1.1.9. “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner.

1.1.10. “Encumbrances” means any mortgage, pledge, equitable interest, assignment by way of security, conditional sales contract, hypothecation, right of other Persons, claim, security interest, encumbrance, title defect, title retention agreement, voting trust agreement, interest, option, lien, charge, commitment, restriction or limitation of any nature whatsoever, including restriction on use, voting rights, transfer, receipt of income or exercise of any other attribute of ownership, right of set-off, any arrangement (for the purpose of, or which has the effect of, granting security), or any other security interest of any kind whatsoever, or any agreement, whether conditional or otherwise, to create any of the same.

1.1.11. “Event of Force Majeure” shall have the meaning given to such expression in Clause 17.1.

1.1.12. “Good Industry Practice” means, in relation to any undertaking and any circumstances, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced Person engaged in the same type of undertaking under the same or similar circumstances.

1.1.13. “Governmental Approval” means any authorization, approval, consent, licence or permit required from any Governmental Authority.

1.1.14. “Governmental Authority” means any government authority, statutory authority, government department, agency, commission, board, tribunal or court or other law, rule or regulation making entity having or purporting to have jurisdiction on behalf of the Republic of India or any state or other subdivision thereof or any municipality, district or other subdivision thereof.

1.1.15. “Indemnified Party” shall have the meaning given to such expression in Clause 12.1.

1.1.16. “Lease Area” shall mean the Lease Area as more particularly described in SCHEDULE B.

1.1.17. “Letter of Intent?” shall have the meaning given to such expression in Background A.

7 Delete if inapplicable.
1.1.18. “Mineral” means [name of the mineral].


1.1.20. “Mining Lease” shall have the meaning given to such expression in the Act and the rules made thereunder.

1.1.21. “Mining Plan” means a mining plan drawn in accordance with clause (b) of sub-section (2) of section 5 of the Act.

1.1.22. “Minimum Production Requirement” shall have the meaning given to such expression in Clause 8.1.

1.1.23. “Parties” means and refers to the State Government and the [LOI Holder / Approval Holder] collectively and “Party” refers to any one of them.

1.1.24. “Performance Security” means a bank guarantee in the format as provided in Schedule IV of the Mineral Concession Rules or a non-interest bearing security deposit to be provided pursuant to the Mineral Concession Rules.

1.1.25. “Term” shall have the meaning given to such expression in Clause 18.2.

1.1.26. “Third Party” means any Person that is not a signatory to this Agreement.

1.1.27. “Warranties” shall have the meaning given to such expression in Clause 11.1 read with SCHEDULE E.

1.2. Interpretation

1.2.1. Any reference to any statute or statutory provision shall include:

(i) all subordinate legislation made from time to time under that provision (whether or not amended, modified, re-enacted or consolidated); and

(ii) such provision as from time to time amended, modified, re-enacted or consolidated (whether before or after the date of this Agreement) to the extent such amendment, modification, re-enactment or consolidation applies or is capable of applying to any transactions entered into under this Agreement prior to the Agreement Date and (to the extent liability thereunder may exist or can arise) shall include any past statutory provision (as from time to time amended, modified, re-enacted or consolidated) which the provision referred to has directly or indirectly replaced.

1.2.2. Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.

1.2.3. References to the masculine, the feminine and the neuter shall include each other.

1.2.4. References to a “company” shall include a company, corporation or other body
corporate, wherever and however incorporated or established.

1.2.5. The recitals/ background and schedules form part of this Agreement and shall have the same force and effect as if expressly set out in the body of this Agreement, and any reference to this Agreement shall include any recitals/ background and schedules to it. Any references to clauses and schedules are to clauses and schedules to this Agreement. Any references to parts or paragraphs are, unless otherwise stated, references to parts or paragraphs of the schedule in which the reference appears.

1.2.6. A reference to this Agreement or any other document shall be construed as references to this Agreement or that other document as amended, varied, novated, supplemented or replaced from time to time.

1.2.7. A reference to this Clause shall, unless followed by reference to a specific provision, be deemed to refer to the whole Clause (not merely the sub-Clause, paragraph or other provision) in which the expression occurs.

1.2.8. A reference to a Party shall include that Party’s representatives, permitted successors and permitted assigns.

1.2.9. Each of the representations and warranties provided in this Agreement is independent of other representations and warranties and unless the contrary is expressly stated, no Clause in this Agreement limits the extent or application of another Clause.

1.2.10. Headings to Clauses, parts and paragraphs of schedules and schedules are for convenience only and do not affect the interpretation of this Agreement.

1.2.11. A reference to “in writing” includes any communication made by letter or fax but not e-mail (unless otherwise expressly provided in this Agreement.).

1.2.12. Unless otherwise specified, any reference to a time of day is to Indian Standard Time.

1.2.13. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.14. Where the context permits, other and otherwise are illustrative and shall not limit the sense of the words preceding them.

1.2.15. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. COMPLIANCE

2.1. The [LOI Holder / Approval Holder] hereby represents and warrants to the State Government that it has complied with all the terms and conditions of the Act, the rules, the [Letter of Intent / Approval Letter] and other Applicable Law, as were required to be complied with by the [LOI Holder / Approval Holder] and the [LOI
Holder / Approval Holder] is eligible in all respects to receive Mining Lease over the Lease Area. The [LOI Holder / Approval Holder] also represents and warrants to the State Government that it is in compliance with all the Conditions.

2.2. Relying on the representations and warranties of the [LOI Holder / Approval Holder] and the information, documents and other undertakings provided by the [LOI Holder / Approval Holder], including the Warranties provided under Clause 11, the State Government is pleased to enter into this Agreement with the [LOI Holder / Approval Holder] for grant of Mining Lease over the Lease Area to the [LOI Holder / Approval Holder] subject to terms and conditions specified in this Agreement.

3. **CONDITION FOR GRANT OF MINING LEASE**

3.1. Grant of Mining Lease over the Lease Area shall be conditional upon the [LOI Holder/ Approval Holder] satisfying the conditions with respect to a Mining Plan. Upon satisfaction of the said condition, a Mining Lease shall be executed and registered by the Parties as per the provisions of sub-rule (4) of rule 8 of the Mineral Concession Rules.

3.2. The date of the commencement of the period for which a Mining Lease is granted shall be the date on which a duly executed Mining Lease is registered.

4. **PERFORMANCE SECURITY AND APPROPRIATION**

4.1. **Performance Security**

4.1.1. The [LOI Holder / Approval Holder] has provided to the State Government [an irrevocable and unconditional bank guarantee, dated [date] from [name of bank] issued at [place] and payable at [capital of the State]/ security deposit] for an amount equal to INR [amount in figures] (Rupees [amount in words]) (the “Performance Security”) in the format provided in Schedule IV of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.

4.1.2. The amount of Performance Security shall be reassessed every five years commencing from the date of issuance of the Performance Security i.e. [date], so that the amount of Performance Security corresponds to 0.50% (point five zero per cent.) of the reassessed Value of Estimated Resources.

4.1.3. For the purposes of such reassessment, the [LOI Holder / Approval Holder] shall submit an application in writing to the State Government at least [three] months prior to the expiry of the aforementioned period of five years. Such application must contain in sufficient detail, documentary evidence confirming the reassessed Value of Estimated Resources on the date of such application.

4.1.4. The State Government shall dispose such application within [three] months from the date of receipt of duly completed application. If the State Government does not
dispose such application within the aforementioned period of [three] months, then the application shall be deemed to be approved. In such case, [bank guarantee constituting the Performance Security shall be substituted with another bank guarantee] OR [additional amount shall be deposited towards the security deposit] of the reassessed value issued/deposited in accordance with this Clause 4, within a period of [15] days after the expiry of the aforementioned period of [three] months. In case the Performance Security has been provided in the form of security deposit and the value of Performance Security is reduced after reassessment, the State Government shall refund the excess value of security deposit.

4.1.5. The Performance Security should remain valid for [period].

4.2. Events for appropriation of the Performance Security

4.2.1. The Performance Security may be appropriated by the State Government upon occurrence of any of the events specified in Table 4.3.1 (the “Appropriation Event”), to be determined by the State Government in its sole discretion. In case the Performance Security is in form of a bank guarantee, the State Government may invoke the same on an Appropriation Event. In case the Performance Security is in form of a security deposit, the State Government may deduct an amount from such security deposit on an Appropriation Event.

4.2.2. Provided however that in the event an Appropriation Event has occurred solely on account of an Event of Force Majeure which could not have been mitigated by the [LOI Holder / Approval Holder] through Good Industry Practice as provided in Clause 17, then the Performance Security shall not be appropriated for such specific Appropriation Event.

4.3. Manner of appropriation of the Performance Security

4.3.1. Upon occurrence of an Appropriation Event, to be determined by the State Government, the State Government shall have the unconditional right to appropriate the Performance Security in the following proportions by providing a written notice to the [LOI Holder / Approval Holder]:

<table>
<thead>
<tr>
<th>#</th>
<th>Appropriation Event</th>
<th>Amount of the Performance Security to be appropriated</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Failure of the [LOI Holder / Approval Holder] to comply with the Minimum Production Requirement as required under Clause 8.</td>
<td>Such per cent of the Performance Security for each failure to comply with the Minimum Production Requirement as specified in SCHEDULE D.</td>
</tr>
</tbody>
</table>
2. Any change in control or transfer of right, title or interest in the Lease Area which is not in conformity the Act and rules made thereunder.

<table>
<thead>
<tr>
<th>Entire Performance Security.</th>
</tr>
</thead>
</table>

3. Failure of the [LOI Holder / Approval Holder] to make payment under Clause 7.1

<table>
<thead>
<tr>
<th>The amount of such payment due and payable, along with simple interest computed at the rate of 24% (twenty four per cent.) per annum on the payment due to State Government and the payment of which is delayed beyond sixty days from the due date thereof.</th>
</tr>
</thead>
</table>

4. Any other breach or non-compliance with any of the provisions of the Act and rules made thereunder, the mining lease inclusive of this Agreement, and the [Letter of Intent / Approval Letter].

<table>
<thead>
<tr>
<th>Such proportion as may be determined by the State Government in its sole discretion.</th>
</tr>
</thead>
</table>

5. In case of lapse of the mining lease, failure to carry out protective, reclamation and rehabilitation measures in the Lease Area

<table>
<thead>
<tr>
<th>Such proportion as may be determined by the State Government as per sub rule (10) of Rule 20 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.</th>
</tr>
</thead>
</table>

6. In case of surrender of the entire area of the mining lease by the [LOI Holder/Approval Holder]

<table>
<thead>
<tr>
<th>Entire Performance Security as per sub rule (3) of Rule 21 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016.</th>
</tr>
</thead>
</table>

4.3.2. In the event of a part or total appropriation of the Performance Security, the [LOI Holder / Approval Holder] shall be required to: (i) rectify the Appropriation Event; and (ii) [top-up the bank guarantee constituting the Performance Security] OR [deposit additional amount towards security deposit] within [seven] days of receipt of a notice under Clause 4.3.1.

4.3.3. Any one or more Appropriation Events resulting in appropriation of the entire Performance Security shall give the State Government a right to terminate the mining
lease without prejudice to any other proceeding to be taken against the mining lease holder.

It is clarified that for the purposes of this Clause the initial Performance Security provided under Clause 4.1.1 for INR \[\text{amount in figures}\] (Rupees \[\text{amount in words}\]) shall be reckoned, and not the reassessed Performance Security under Clause 4.1.2.

5. INFORMATION

5.1. In addition to information that may be required to be provided in accordance with Applicable Law, the [LOI Holder / Approval Holder] shall provide periodic reports to the State Government (or such other Governmental Authority as may be specified by the State Government) regarding mining operations at the Lease Area, including compliance with the Minimum Production Requirement, in accordance with the following provisions:

\( (a) \) Pre-Commencement Report

Prior to commencement of mining operations at the Lease Area, the [LOI Holder / Approval Holder] shall provide a written intimation ("Pre-Commencement Report") to the State Government once every [thirty] calendar days regarding the following:

(i) the actions taken by the [LOI Holder / Approval Holder] towards commencement of mining operations at the Lease Area, including compliance with the Mining Plan and a tentative date for commencement of mining operations;

(ii) any deviations from the Mining Plan, the reasons for such deviations and the steps taken by the [LOI Holder / Approval Holder] to rectify such deviation; and

(iii) whether in the opinion of the [LOI Holder / Approval Holder], it shall be able to commence mining operations at the Lease Area within the time specified under sub-clause (i) above for commencement of mining operations.

\( (b) \) Commencement Report

Within [three] days of the commencement of mining operations at the Lease Area, the [LOI Holder / Approval Holder] shall provide a written intimation to the State Government confirming commencement of mining operations at the Lease Area (the “Commencement Report”).

\( (c) \) Periodic reporting

The [LOI Holder / Approval Holder] shall also submit such reports and information as required under the Act and rules made thereunder including,
inter-alia, compliance with the Minimum Production Requirement.

5.2. The reports under Clause 5.1 shall be provided to the State Government as attachments to an email addressed to the following e-mail address: [email address]. Such attachments must be digitally signed by the [LOI Holder / Approval Holder] using a Class III digital signature certificate issued by a certifying authority in India.

5.3. The State Government shall have the right to seek such further information regarding the reports provided under Clause 5.1 and also seek independent verification of the same.

6. UTILISATION OF MINERAL

6.1. The [LOI Holder / Approval Holder] shall utilise the Mineral strictly in compliance with Applicable Law, including the Act and the rules framed thereunder.

6.2. [The [LOI Holder / Approval Holder] acknowledges that the Lease Area has been reserved for [particulars of end-use] and the [LOI Holder/ Approval Holder] acknowledges and agrees that the Mineral extracted under the Mining Lease shall: (i) be utilised solely for the specified end use mentioned in the [Letter of Intent / Approval Letter]; and (ii) not be sold or transferred or otherwise disposed, either directly or indirectly.]

6.3. The Mining Lease shall be for the Mineral only. If post execution of this Agreement,

(a) the presence of any other major mineral(s) other than specified in Part A and Part B of First Schedule of the Act, is established or discovered, the [LOI Holder / Approval Holder] shall report such discovery to the State Government and shall not win and dispose such discovered mineral, as per the provisions of sub-rule (2) of rule 12 of the Minerals (Other than Atomic and Hydro Carbons Energy Minerals) Concession Rules, 2016;

(b) the presence of any other major mineral(s) specified in Part A and Part B of First Schedule of the Act is established or discovered, [LOI Holder / Approval Holder] shall report such discovery and deal with the same as per the provisions of the Act and the rules thereunder; and

(c) the presence of any minor mineral(s) is established or discovered, the [LOI Holder / Approval Holder] may deal with such mineral(s) only as per the provisions of the relevant legislation in this regard.

7. PAYMENTS

7.1. Other payments

The [LOI Holder / Approval Holder] shall also be required to make payments as required under Applicable Law, including the Act and the rules framed thereunder.

8. MINIMUM PRODUCTION REQUIREMENT

8 To be deleted if no end-use has been prescribed in the Letter of Intent/ Approval Letter.
8.1. The conduct of mining operations at the Lease Area shall be subject to the annual milestones listed in SCHEDULE D with respect to production (the “Minimum Production Requirement”).

8.2. The [LOI Holder / Approval Holder] would provide periodic information to the State Government regarding compliance with the Minimum Production Requirement in the manner stipulated in Clause 5 (INFORMATION).

8.3. Any non-compliance with the Minimum Production Requirement would result in appropriation of the Performance Security in the manner stipulated in Clause 4 (PERFORMANCE SECURITY) and in case where such non-compliance exceeds for more than [seven] instances, such non-compliance shall give the State Government a right to terminate the mining lease without prejudice to any other proceedings to be taken against the mining lease holder.

9. GENERAL RIGHTS AND OBLIGATIONS

9.1. Limited mining rights

Pursuant to this Agreement the [LOI Holder / Approval Holder] shall be entitled to conduct mining operations only in the Lease Area and shall not be entitled to conduct the mining operations in any other area outside the lease area. The rights granted to the [LOI Holder / Approval Holder] herein to conduct mining operations are exclusive within the Lease Area.

9.2. Authorisations

The [LOI Holder / Approval Holder] shall obtain and maintain all Governmental Approvals required for conducting the mining operations at the Lease Area and performing its obligations under this Agreement. The Government undertakes, on a no-obligation basis, to expeditiously provide all necessary approvals and assistance for conducting mining operations and as otherwise may be reasonably required by the [LOI Holder / Approval Holder] in relation to the rights granted to it under this Agreement.

9.3. Geological and archaeological finds

It is expressly agreed that other than rights to mine for the Mineral(s) (as may be granted under any Mining Lease pursuant hereto), geological or archaeological rights do not form part of the rights granted to the [LOI Holder / Approval Holder] under this Agreement and the [LOI Holder / Approval Holder] hereby acknowledges that except in relation to the Mineral(s) (as may be granted under any Mining Lease pursuant hereto), it shall not have any mining rights or interest in the underlying minerals, metals, gas, oil, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Lease Area shall vest in and belong to the Central/ State Government or the concerned Governmental Authority under Applicable Law. The [LOI Holder / Approval Holder] shall take all reasonable precautions to prevent its
workmen or any other person from removing or damaging such interest or property and shall inform the Central/ State Government forthwith of the discovery thereof and comply with such instructions as the concerned Governmental Authority may reasonably give for the removal of such property.

10. MINING PLAN AND COMPLIANCE WITH APPLICABLE LAW

The Mining Plan shall be complied with by the [LOI Holder / Approval Holder] at all times. The [LOI Holder / Approval Holder] shall also comply with Applicable Law in relation to conduct of mining operations.

11. REPRESENTATIONS AND WARRANTIES

11.1. The [LOI Holder / Approval Holder] represents and warrants to the State Government (save as otherwise disclosed to the State Government in writing), as of the Agreement Date in the manner as detailed in SCHEDULE E (“Warranties”).

11.2. None of the representations, warranties and/ or statements contained in this Agreement shall be treated as qualified by any actual or constructive knowledge on the part of the State Government or the Central Government or any of its respective agents, representatives, officers, employees or advisors.

11.3. In the event that any of the representations or warranties made or given by the [LOI Holder / Approval Holder] ceases to be true or stands changed, the [LOI Holder / Approval Holder] shall promptly notify the State Government of the same. The [LOI Holder / Approval Holder] hereby waives all its rights to invoke and shall not invoke the State Government's knowledge (actual, constructive or imputed) of a fact or circumstance that might make a statement untrue, inaccurate, incomplete or misleading as a defence to a claim for breach of Warranties or covenant or obligation of the [LOI Holder / Approval Holder].

12. INDEMNITIES

12.1. In this Clause, a reference to the State Government shall include the State Government; any of the departments or ministries of the State Government; and of the officers, employees, staff, advisors, representatives or agents of the State Government (collectively the “Indemnified Party”) and the provisions of this Clause shall be for the benefit of the Indemnified Party, and shall be enforceable by each such Indemnified Party.

12.2. The [LOI Holder / Approval Holder] shall indemnify the Indemnified Party against all liabilities, costs, expenses, damages and losses (including but not limited to any interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Indemnified Party arising out of or in connection with:

   (a) any breach of the Warranties;
(b) [LOI Holder’s / Approval Holder’s] breach or negligent performance or non-performance of this Agreement;

(c) the enforcement of this Agreement;

(d) any claim made against the Indemnified Party for actual or alleged infringement of a Third Party's rights arising out of or in connection with mining operations at the Lease Area or performance or non-performance of any of the obligations under this Agreement to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the [LOI Holder / Approval Holder], its employees, agents or contractors;

(e) any claim made against the Indemnified Party by a Third Party for death, personal injury or damage to property arising out of or in connection with mining operations at the Lease Area or performance or non-performance of any of the obligations under this Agreement; or

(f) any loss or damages caused on account of breach of any Applicable Law by the [LOI Holder / Approval Holder], including without limitation any costs incurred by the State Government in cleaning or rectifying of any environmental damages caused by the [LOI Holder / Approval Holder] on account of, lack of Good Industry Practice; breach, negligent performance or failure or delay in performance of this Agreement; or non-compliance with Applicable Law.

12.3. If any Third Party makes a claim, or notifies an intention to make a claim, against the Indemnified Party which may reasonably be considered likely to give rise to a liability under this indemnity (a “Claim”), the Indemnified Party shall as soon as reasonably practicable, give written notice of the Claim to the [LOI Holder / Approval Holder], specifying the nature of the Claim in reasonable detail.

12.4. Subject to the [LOI Holder / Approval Holder] providing security to the Indemnified Party, to the Indemnified Party's sole and absolute satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, the [LOI Holder / Approval Holder] may take such action as it may reasonably deem fit to avoid, dispute, compromise or defend the Claim.

12.5. Payments of the amount of Claim shall become due and payable within 30 (thirty) days of receipt of notice of Claim. If a payment due from the [LOI Holder / Approval Holder] under this clause is subject to Tax (whether by way of direct assessment or withholding at its source), the Indemnified Party shall be entitled to receive from the [LOI Holder / Approval Holder] such amounts as shall ensure that the net receipt, after Tax, to the Indemnified Party in respect of the payment is the same as it would have been were the payment not subject to Tax.

13. ASSIGNMENT, SECURITY FOR FINANCING
13.1. Prohibition on assignment

13.1.1. Except as provided in this Clause 13, the [LOI Holder / Approval Holder] shall not assign this Agreement.

13.1.2. In situations where the mining lease of the [LOI Holder / Approval Holder] has been transferred in accordance with the provisions of the Act and the Minerals (Transfer of Mining Lease Granted Otherwise than through Auction for Captive Purpose) Rules, 2016, this Agreement shall be promptly assigned by the [LOI Holder / Approval Holder] to the transferee of such mining lease and the relevant assignee shall comply with the provisions of Clause 13.2.

13.2. Assignment conditions

Assignment of this Agreement under Clause 13.3 shall be subject to the following conditions precedent:

(a) the proposed assignee must agree to unconditionally and irrevocably adhere to the provisions of the Act and the Minerals (Transfer of Mining Lease Granted Otherwise than through Auction for Captive Purpose) Rules, 2016, and this Agreement and must enter into a deed of adherence/assignment agreement in such form as may be satisfactory to the State Government;

(b) the proposed assignee must have furnished the Performance Security, to substitute any subsisting Performance Security provided by the [LOI Holder / Approval Holder]; and

(c) the proposed assignee must have paid any other amount due from the [LOI Holder / Approval Holder] and agreed to indemnify and hold the State Government harmless in all respects against any claims from any Third Party or the [LOI Holder / Approval Holder] with respect to such assignment.

13.3. Security for financing enforcement event

Subject to Applicable Law, the [LOI Holder / Approval Holder] shall be entitled to create security over the Lease Area through mortgage for the purposes of availing financing from a bank or financial institutions for the purposes of financing of mining operations at the Lease Area and such security creation shall not require prior approval by the State Government or the Central Government. Any enforcement of security interest with respect to such encumbrance shall be in accordance with the provisions of the Act and the Minerals (Transfer of Mining Lease Granted Otherwise than through Auction for Captive Purpose) Rules, 2016.

14. INSURANCE

At all times during the Term hereof, the [LOI Holder / Approval Holder] will maintain, and cause its contractors and sub-contractors to maintain, with financially sound and reputable insurers, insurance against such casualties and contingencies, of
such types, on such terms and in such amounts (including deductibles, co-insurance and self-insurance, if adequate reserves are maintained with respect thereto) as is consistent with Good Industry Practice.

15. **ACCOUNTS AND AUDIT**

15.1. **Audited accounts**

The [LOI Holder / Approval Holder] shall maintain books of accounts recording all its receipts, income, expenditure, payment, assets and liabilities in accordance with Good Industry Practice and Applicable Law.

15.2. **Appointment of auditors**

The State Government shall have the right, but not the obligation, to appoint at its cost and at any time, an auditing firm or an auditor to audit and verify all those matters, expenses, costs, realizations and things with respect to the Lease Area or which the statutory auditors are required to do, undertake or certify pursuant to this Agreement.

15.3. **Certification of claims by statutory auditors**

Any claim or document provided by the [LOI Holder / Approval Holder] to the State Government in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its statutory auditors.

16. **GOVERNMENT INSPECTION**

16.1. The Central Government or the State Government, through its authorized representatives shall have the right to free ingress and egress within any part of the Lease Area at any time to inspect works or activities being undertaken or implemented by the [LOI Holder / Approval Holder] in order to monitor and verify compliance with the terms of this Agreement and Applicable Law.

16.2. The Central Government or the State Government, through its authorized representatives, shall have access to the [LOI Holder’s / Approval Holder’s] financial and other records and transactions (relatable to any period) at any time upon reasonable advance notice, the right to copy therefrom, for the purpose of assessing the performance and compliance of the [LOI Holder / Approval Holder] with the terms of this Agreement and Applicable Law, rules and regulations or to aid in the enforcement of the same.

16.3. The Central Government or the State Government, shall have the right to conduct, either directly or indirectly through any Third Party, a performance audit to verify compliance by the [LOI Holder / Approval Holder], of its obligations hereunder.

17. **EVENT OF FORCE MAJEURE**
17.1. Event of Force Majeure means any of the following events or circumstances or combination of the following events or circumstances which are beyond the reasonable control of the [LOI Holder / Approval Holder], which could not have been prevented by Good Industry Practice or by the exercise of reasonable skill and care and which or any consequences of which, have a material and adverse effect upon the performance by the [LOI Holder / Approval Holder] of its obligations or enjoyment of its rights:

(i) acts of God, flood, drought, earthquake or other natural disaster;
(ii) epidemic or pandemic;
(iii) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
(iv) nuclear, chemical or biological contamination or sonic boom;
(v) collapse of buildings, fire, explosion or accident; or
(vi) any labour or trade dispute, strikes, industrial action or lockouts (other than those solely affecting [LOI Holder / Approval Holder] claiming the same as an Event of Force Majeure and attributable to such [LOI Holder’s / Approval Holder’s] policies regarding labour, compensation or employment or labour related conditions).

17.2. Provided it has complied with Clause 17.3, if the [LOI Holder / Approval Holder] is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by an Event of Force Majeure, the [LOI Holder / Approval Holder] shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations.

17.3. Upon occurrence of an Event of Force Majeure, the [LOI Holder / Approval Holder] shall:

(i) as soon as reasonably practicable after the start of the Event of Force Majeure but no later than thirty days from its start, notify the State Government in writing of the Event of Force Majeure, the date on which it started, its likely or potential duration, and the effect of the Event of Force Majeure on its ability to perform any of its obligations under this Agreement; and
(ii) use all reasonable endeavours to mitigate the effect of the Event of Force Majeure on the performance of its obligations including following of Good Industry Practice.

17.4. If an obligation is suspended by reason of an Event of Force Majeure for more than [one] month continuously, the Parties shall enter into good faith negotiations to revise the terms of this Agreement to reflect the changed circumstances, provided that this
Agreement shall remain in effect during the period during which the Parties are negotiating the terms of any such revision.

18. **EFFECTIVE DATE AND TERM**

18.1. **Effective Date**

This Agreement, shall come into effect on the Agreement Date i.e. [date].

18.2. **Term**

This Agreement shall commence on the dates mentioned in Clause 18.1 and shall continue for the period of validity of the Mining Lease granted to the [LOI Holder / Approval Holder] (“Term”).

18.3. **Retention of Books and Records**

Upon termination of this Agreement, the [LOI Holder / Approval Holder] shall retain all documents, books and records related to the Lease Area for a period of [three] years or such longer period as may specified under Applicable Law. It is clarified that the [LOI Holder / Approval Holder] may also retain such books and records in electronic form if permitted under Applicable Law.

19. **MISCELLANEOUS**

19.1. **Time of essence**

Each of the Parties hereby agrees that, with regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

19.2. **Publicity**

The [LOI Holder / Approval Holder] shall not issue any information, document or article for publication in any news or communications media or make any public statement in relation to this Agreement without the prior written consent of the State Government unless required to do so by Applicable Law, provided that prior to any disclosure of any such information required by Applicable Law, the [LOI Holder / Approval Holder] must first notify the State Government, who shall then have the opportunity to respond to and/or dispute such intended disclosure.

19.3. **Severability**

19.3.1. If any term, provision, covenant or restriction of this Agreement or the application thereof to any Person or circumstance shall be held invalid, void or unenforceable by a court of competent jurisdiction or other Governmental Authority to any extent, the remainder of the terms, provisions, covenants and restrictions of this Agreement and the application thereof to Persons or circumstances (other than those as to which any portion of this Agreement is held invalid, void or unenforceable) shall not be affected thereby and shall remain in full force and effect to the fullest extent permitted by law,
so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party.

19.3.2. Upon such a determination, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

19.4. **Costs and expenses**

19.4.1. The [LOI Holder / Approval Holder] shall bear its own costs in connection with the execution of this Agreement.

19.4.2. The stamp duty payable for this Agreement shall be borne by the [LOI Holder / Approval Holder].

19.5. **Further assurance**

The [LOI Holder / Approval Holder] shall cooperate with the State Government and execute and deliver to the State Government such instruments and documents and take such other actions as may be requested from time to time in order to carry out, evidence and confirm their rights and the intended purpose of this Agreement.

19.6. **Legal and prior rights**

All rights and remedies of the State Government hereto shall be in addition to all other legal rights and remedies belonging to the State Government and the same shall be deemed to be cumulative and not alternative to such legal rights and remedies aforesaid and it is hereby expressly agreed and declared by and between the Parties hereto, that the determination of this Agreement for any cause whatsoever shall be without prejudice to any and all rights and claims of the State Government, which shall or may have accrued prior thereto.

19.7. **Waiver**

19.7.1. The waiver of any default or breach under this Agreement by the State Government shall not constitute a waiver of the right to terminate this Agreement for any substantial default of a similar nature or under any other terms and conditions of this Agreement.

19.7.2. No failure or delay by the State Government in exercising any right or remedy provided by Applicable Law under or pursuant to this Agreement shall impair such right or remedy or operate or be construed as a waiver or variation of it or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy. The rights and remedies of the State Government under or pursuant to this Agreement are cumulative, may be exercised as often as it considers appropriate and are in addition to its rights and remedies under Applicable Law.
19.7.3. Submission of any document, information, report or notice, which contains any information or reference to any default or breach under this Agreement or any Applicable Law, to the State Government shall not be construed to be a deemed approval of such breach or default and the State Government may exercise any rights or remedies with respect to such default at any time.

19.8. **Amendments**

No amendment of this Agreement (or of any of the documents referred to in this Agreement) shall be valid unless it is in writing and signed by or on behalf of each of the Parties to it. The expression “amendment” shall include any amendment, variation, supplement, deletion or replacement however effected. Unless expressly agreed, no amendment shall constitute a general waiver of any provisions of this Agreement, nor shall it affect any rights, obligations or liabilities under or pursuant to this Agreement which have already accrued up to the date of amendment, and the rights and obligations of the Parties under or pursuant to this Agreement shall remain in full force and effect, except and only to the extent that they are so amended.

19.9. **Counterparts**

This Agreement may be executed in two counterparts, each of which will be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, but all of which together will constitute one and the same instrument.

19.10. **No agency or partnership**

The Parties agree that nothing in this Agreement shall be in any manner interpreted to constitute an agency for and on behalf of any other Party. None of the provisions of this Agreement shall be deemed to constitute a partnership between the Parties hereto and no Party shall have any authority to bind the other Party or shall be deemed to be the agent of the other Party in any way.

19.11. **Notices**

All notices, requests, demands or other communication (“*Notice*”) required or permitted to be given under this Agreement and the provisions contained herein shall be written in English and shall be deemed to be duly sent by registered post with acknowledgment due, or transmitted by facsimile transmission to the other Parties at the address indicated in SCHEDULE F hereof or at such other address as the Party to whom such notices, requests, demands or other communication is to be given shall have last notified to the Party giving the same in the manner provided in this Clause, but no such change of address shall be deemed to have been given until it is actually received by the Party sought to be charged with the knowledge of its contents. Any notice, request, demand or other communication delivered to the Party to whom it is addressed as provided in this Clause 19.11 shall be deemed to have been given and
received on the day of its receipt at such address.

A copy of the Notice sent by registered post with acknowledgment due, or transmitted by facsimile transmission may also be sent through email to the email addresses specified in SCHEDULE F solely for the information of the recipient and shall take effect only when the registered post is actually delivered or the fax is received by the recipient, as the case may be.

19.12. **Entire Agreement**

The Mining Lease inclusive of this Agreement (including all such deeds and documents issued or executed pursuant hereto or referred to herein), and the [Letter of Intent / Approval Letter], together with all documents referred herein and thereunder constitutes and represents the entire agreement between the Parties with regard to the rights and obligations of each of the Parties and cancels and supersedes all prior arrangements, agreements or understandings, if any, whether oral or in writing, between the Parties on the subject matter hereof or in respect of matters dealt with herein. If there is a conflict between the Mining Lease, inclusive of this Agreement and the [Letter of Intent / Approval Letter], the Mining Lease inclusive of this Agreement would have overriding effect.

19.13. **Specific performance of obligations**

The State Government shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to seek or enforce specific performance of this Agreement, in addition to any other legal rights and remedies, without the necessity of demonstrating the inadequacy of monetary damages.
SCHEDULE A – LIST OF PERSONS

9 To be deleted if this agreement is signed by a company or a single individual.
SCHEDULE B - PARTICULARS OF THE LEASE AREA

[to be provided prior to execution.]
SCHEDULE C – PARTICULARS OF THE END USE PLANT

[To be deleted if no end-use has been prescribed]

[Particulars to be provided to identify the Specified End Use Plant in detail]
SCHEDULE D – MINIMUM PRODUCTION REQUIREMENT

[Details in this regard to be provided by the State Government]
SCHEDULE E - WARRANTIES

1. INFORMATION

1.1. The information, provided to the State Government including but not limited to the information provided prior to issuance of the [Letter of Intent / Approval Letter] and the information contained in this Agreement, by the [LOI Holder / Approval Holder] is true, accurate and not misleading in any manner whatsoever.

1.2. Neither this Agreement nor any of the information and documents provided by the [LOI Holder/ Approval Holder] contains any untrue statement of fact, or omits to state a material fact necessary to make the statements herein or therein not misleading. The documents provided to the State Government and/or its advisors are true and complete copies of such documents and none of the information provided to the State Government and/or its advisors was incorrect, inaccurate or misleading in any manner whatsoever.

2. AUTHORITY

2.1. The [LOI Holder / Approval Holder] has full legal capacity to enter into this Agreement and to perform its obligations under it and has taken all action necessary to authorise such execution and delivery and the performance of such obligations.

2.2. This Agreement has been duly executed and delivered by the [LOI Holder / Approval Holder], and (assuming due authorisation, execution and delivery and performance by the Parties), constitutes a legal, valid and binding obligation of the [LOI Holder / Approval Holder], enforceable against the [LOI Holder / Approval Holder] in accordance with the terms of the Agreement.

2.3. The [LOI Holder / Approval Holder] has obtained requisite corporate authorisation, including passing of all necessary resolutions at the meeting of its board of directors held on [date] to execute this Agreement and carry out all transactions and actions contemplated under this Agreement and do all necessary acts incidental to this Agreement.

2.4. The execution and delivery of this Agreement by the [LOI Holder / Approval Holder] and the performance of the obligations under it do not and shall not:

(a) conflict with or violate any provision of the memorandum of association or articles of association of the [LOI Holder / Approval Holder];

(b) require on the part of the [LOI Holder / Approval Holder], any filing with, or permission, authorisation, consent or approval of, any Governmental Authority;

(c) conflict with, result in breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of obligations under, create in favour of any party any right to terminate, modify or cancel,
or require any notice, consent or waiver under, any contract or instrument to which the [LOI Holder / Approval Holder] is party or by which it is bound or to which its assets are subject; and

(d) violate, conflict with or constitute a default under any Applicable Law, lien, lease, judgement, award, Act, order, writ, injunction, decree, statute, rule or regulation or any other restriction of any kind or character applicable to the [LOI Holder / Approval Holder] or its properties or assets.

2.5. No person is entitled to any brokerage, finder’s, or other similar fee or commission in connection with the transactions contemplated by this Agreement.

3. **GENERAL**

The [LOI Holder / Approval Holder]:

(a) is duly organised, validly existing and in good standing under the laws of India;

(b) meets and satisfies all the Conditions;

(c) has the financial standing and capacity to undertake mining operations at the Lease Area in accordance with the Production Requirement;

(d) is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;

(e) there are no actions, suits, proceedings or investigations pending or to the [LOI Holder’s / Approval Holder’s] knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute an event of default hereunder;

(f) has neither violated or defaulted nor has knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Governmental Authority;

(g) has complied with Applicable Law and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities;

(h) except as set forth in any Mining Lease, all rights and interests of the [LOI Holder / Approval Holder] in and to the Lease Area shall pass to and vest in the relevant Governmental Authority on the date of termination or expiry hereof, free and clear of all Encumbrances without any further act or deed on the part of the [LOI Holder / Approval Holder] or the Central Government;

(i) no bribe or illegal gratification or any other illegal amount has been paid or will be paid in cash or kind by or on behalf of the [LOI Holder / Approval
Holder] to any Person to procure the rights granted hereunder; and

(j) Without prejudice to any express provision contained in this Agreement, the [LOI Holder / Approval Holder] acknowledges that prior to the execution of this Agreement, the [LOI Holder / Approval Holder] has after a complete and careful examination made an independent evaluation of the Lease Area and the information provided by the State Government, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the [LOI Holder / Approval Holder] in the course of performance of its obligations hereunder. The [LOI Holder / Approval Holder] also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that the State Government and any Governmental Authority shall not be liable for the same in any manner whatsoever to the [LOI Holder / Approval Holder].

SCHEDULE F - ADDRESS FOR PROVIDING NOTICES

A. Notice to the State Government

<table>
<thead>
<tr>
<th>Address</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone</td>
<td></td>
</tr>
<tr>
<td>Fax</td>
<td></td>
</tr>
<tr>
<td>E-mail (only for information)</td>
<td></td>
</tr>
</tbody>
</table>

With CC to the Central Government

<table>
<thead>
<tr>
<th>Address</th>
<th>Ministry of Mines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone</td>
<td></td>
</tr>
<tr>
<td>Fax</td>
<td></td>
</tr>
<tr>
<td>E-mail (only for information)</td>
<td></td>
</tr>
</tbody>
</table>

B. Notice to the [LOI Holder / Approval Holder]

<table>
<thead>
<tr>
<th>Address</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone</td>
<td></td>
</tr>
<tr>
<td>Fax</td>
<td></td>
</tr>
<tr>
<td>E-mail (only for information)</td>
<td></td>
</tr>
</tbody>
</table>
IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorised representatives on the date and year written below, at [Capital of the State]:

**Signatories**

<table>
<thead>
<tr>
<th>The State Government</th>
<th>[Name of the LOI Holder / Approval Holder]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name:</th>
<th>Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Designation:</td>
<td>Designation</td>
</tr>
<tr>
<td>Date:</td>
<td>Date:</td>
</tr>
</tbody>
</table>

Duly authorized to execute this Agreement pursuant to resolution passed by the board of directors of the [name of the LOI Holder / Approval Holder] on [date].