



**HINDUSTAN COPPER LIMITED**  
**(A Government of India Enterprise)**

**TENDER DOCUMENT FOR LOADING AND HAULING OF 8 LBCM OF ROCK  
AT MALANJKHAND OPEN PIT MINE**

**No.: HCL/M&C/MCP/L&H-8 LBCM/2020/01 Dated 14.10.2020**

**HINDUSTAN COPPER LIMITED**  
**(A Government of India Enterprise)**  
**‘Tamra Bhawan’**  
**1, Ashutosh Chowdhury Avenue**  
**KOLKATA 700019**

**NOTICE INVITING TENDER**

**Tender Notice No.: HCL/M&C/MCP/L&H-8 LBCM/2020/01 Dated 14.10.2020**

Hindustan Copper Limited (HCL), a Public Sector Undertaking under the administrative control of the Ministry of Mines, was incorporated on 9<sup>th</sup> November 1967. It is the only vertically integrated copper producing company in India with presence in mining, beneficiation, and smelting, refining and downstream saleable products. HCL holds all the operating mining leases of copper in India.

HCL invites e-Tenders under two bid system from reputed and experienced contractors for loading and hauling of **8 Lakh Bank Cubic Meter (LBCM)** rock from Malanjkhand Open Cast Mine to ore crushing plant, ore stockpile and waste dumps over a period of **15 months** (excluding 2 months of mobilization period). The interested contractors are requested to note the following:

1. Under two-part bid system, the first part (the “Techno Commercial Bid”) of the process involves qualification of interested parties in accordance with the provisions of the pre-qualification criteria (PQC) stipulated in the tender and the second part is the “Price Bid”. **The offers are to be submitted on line at URL ‘<https://etenders.gov.in>’ of NIC, who are our service provider for E-Procurement.** The price bid at above e procurement portal will be opened only of those bidders who qualify techno commercially. Please refer clause no. 2.6 for detailed procedure for submission of offers.
2. The Tender document can be downloaded from the HCL website (<http://www.hindstancopper.com>). Bidders must submit a tender document fee of Rs 5,000/- plus GST @12% i.e. Rs.5,600/- (Rupees Five Thousand and Six Hundred only) only through RTGS / NEFT to Hindustan Copper Limited, payable at Kolkata, along with their Part-I bid of the tender. The tenders not accompanied by the tender document fee as specified above shall be considered as non-responsive and summarily rejected.
3. **Addresses for Communication:**

The e bids (including the Part – II Price Bid) have to submitted in the e tendering portal. In case of Bid Security in the form of Bank Guarantee (BG), the BG must be

submitted on or before as per schedule mentioned in **clause 1.13** in the tender box located on the 3<sup>rd</sup> floor of Hindustan Copper Limited, ‘Tamra Bhawan’, 1, Ashutosh Chowdhury Avenue, Kolkata – 700 019.

The Tenders shall be opened as per schedule mentioned in **clause 1.13**. However, in the eventuality of the day of opening of the tenders becomes a non-working day due to a force majeure event, the date of opening of the tenders will shift to the next working day at the same time.

- a. All communications, including the tenders should have the following information super scribed at the top of the packet in bold letters:

**Tender No.: HCL/M&C/MCP/L&H-8 LBCM/2020/01 Dated 14.10.2020**

**For Loading and Hauling of 8 LBCM of rock at Malanjhand Open Pit Mine**

The name and address of the bidders should be clearly mentioned at the bottom left side of the envelopes.

Any correspondence may please be done at the following e-mail ids :  
[sunil\\_p@hindustancopper.com](mailto:sunil_p@hindustancopper.com)  
[nag\\_sk@hindustancopper.com](mailto:nag_sk@hindustancopper.com)

- b. Official website for notices:

All notice related to this tender including Clarifications / Amendments / Corrigendum to the tender document shall be available on HCL website <http://www.hindustancopper.com> under the heading “Tenders”.

(Sunil Parashar)  
General Manager (Commercial)  
*for*  
Hindustan Copper Limited

## **DISCLAIMER**

The information contained in this tender document or subsequently provided to bidder(s), whether verbally or in documentary or in any other form by or on behalf of Hindustan Copper Limited ("HCL") or any of its employees or advisors, is provided to bidder(s) on the terms and conditions set out in this tender and such other terms and conditions subject to which such information is provided.

This tender is not an agreement and is neither an offer nor invitation by HCL to the prospective bidders or any other person. The purpose of this tender is to provide interested parties with the information that may be useful to them in making their financial offers pursuant to this tender (the "Bid"). This tender includes statements, which reflect various assumptions and assessments arrived at by HCL in relation to the Work (as defined in the tender). Such assumptions, assessments and statements do not purport to contain all the information that each bidder may require. This tender may not be appropriate for all persons, and it is not possible for HCL, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this tender. The assumptions, assessments, statements and information contained in this tender may not be complete, accurate, adequate or correct. Each bidder should, therefore, conduct its own investigations if any required with respect to the tender and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this tender and obtains independent advice from appropriate sources.

Information provided in this tender to the bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. HCL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

HCL, its employees and advisors make no representation or warranty and shall have no liability to any person, including any bidder or bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this tender or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the tender and any assessment, assumption, statement or information contained therein or deemed to form part of this tender or arising in any way in the bid stage.

HCL also does not accept liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any bidder upon the statements contained in this tender.

HCL may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this tender. The issue of this tender does not imply that HCL is bound to select a Bidder or to appoint the selected bidder for the work and HCL reserves the right to reject all or any of the bidders or bids without assigning any reason whatsoever.

The bidder shall bear all its costs associated with or relating to the preparation and submission of its bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by HCL or any other costs incurred in connection with or relating to its bid. All such costs and expenses will remain with the bidder and HCL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a bidder in preparation or submission of the bid, regardless of the conduct or outcome of the bidding process.

The bidders are prohibited from any form of collusion or arrangement by a bidder (or its advisers or consultants) in an attempt to influence the selection and award process. Giving or offering of any gift, bribe or inducement or any attempt to do any such act on behalf of the bidder towards any officer/employee of HCL or to any other person in a position to influence the decision of HCL for showing any favour in relation to this tender or any other contract, shall render the bidder liable to such penalty as applicable under applicable law and as HCL may deem proper, including but not limited to rejection of the bid and forfeiture of its bid security (as defined in the tender).

This tender shall be governed by the laws of India.

Each bidder's acceptance of delivery of this tender constitutes its agreement to, and acceptance of, the terms set forth in this disclaimer. By acceptance of this tender, each bidder agrees that this tender and any information herewith supersedes document(s) or earlier information, if any, in relation to the subject matter hereof.

## CONTENTS

This tender comprises the disclaimer set-forth hereinabove, the contents as listed below in Section I, contract document in Section II.

### Section I: Tender Invitation

| Sl | Clause No  | Particulars                          | Page No |
|----|------------|--------------------------------------|---------|
| 1  | 1          | Introduction                         | 8       |
| 2  | 1.2        | Brief Description of MCP Mine        | 8-9     |
| 3  | 1.3        | Scope of Work                        | 9-13    |
| 4  | 1.4        | Special Conditions of Contract       | 13-14   |
| 5  | 1.5        | Pre-Qualification                    | 14-16   |
| 6  | 1.6-1.11   | Documents for Bidding                | 16-18   |
| 7  | 1.12       | Brief description of Bidding Process | 18-19   |
| 8  | 1.13       | Schedule of Bidding Process          | 19      |
| 9  | 2.1-2.4    | General                              | 20-22   |
| 10 | 2.5-2.14.7 | Preparation and Submission of Bid    | 22-29   |
| 11 | 2.14.8     | Bid Prices                           | 29-30   |
| 12 | 3-3.1      | Evaluation of Bids                   | 30      |
| 13 | 3.2        | Selection of Bidders                 | 30-32   |
| 14 | 4          | Fraud and Corrupt Practices          | 32-33   |

### APPENDICES

| Sl | Appendix No | Particulars                                | Page No |
|----|-------------|--|---------|
| 1  | I           | Covering Letter                            | 34-36   |
| 2  | II          | Details of the Bidder                      | 37      |
| 3  | III         | Bank Guarantee for Bid Security            | 38-39   |
| 4  | IV A        | Power of Attorney for Signing of Bid       | 40-41   |
| 7  | V & V A     | Integrity Pact                             | 42-46   |
| 8  | VI          | Information on Financial Qualification     | 47      |
| 9  | VII         | Information on Technical Qualification     | 48      |
| 10 | VIII        | Resource mobilization to commence the work | 49      |
| 11 | IX A        | Statement of Legal Capacity                | 50      |
| 12 | IX B        | Proposed Site Organization                 | 51      |
| 13 | IX C        | Certificate of Site Visit                  | 52      |
| 14 | IX D        | Affidavit confirming no bar                | 53      |
| 15 | IX E        | Affidavit confirming no arbitration        | 54      |
| 16 | X           | Schedule of Item and Rate                  | 55      |
| 16 | XI          | Check list                                 | 56-57   |

## Section II: CONTRACT

| Sl | Article No | Particulars                        | Page No |
|----|------------|------------------------------------|---------|
|    |            | Contract                           | 58-59   |
| 1  | 1          | Definitions and Interpretation     | 60-68   |
| 2  | 2          | Contract                           | 69      |
| 3  | 3          | Conditions Precedent               | 70-71   |
| 4  | 4          | Work Site                          | 72-73   |
| 5  | 5          | Engineer-In-Charge                 | 74      |
| 6  | 6          | Contractor's Obligations           | 75-87   |
| 7  | 7          | HCL's Obligations                  | 88      |
| 8  | 8          | Contract Price                     | 89-93   |
| 9  | 8          | Liquidated Damage                  | 91-92   |
| 10 | 9          | Force Majeure                      | 94      |
| 11 | 10         | Material Breach and Suspension     | 95      |
| 12 | 11         | Events of Default and Termination  | 96-98   |
| 13 | 12         | Divestment of Rights and Interests | 99-100  |
| 14 | 13         | Mode of Payment by HCL             | 101     |
| 15 | 14         | Dispute Resolution                 | 102     |
| 16 | 15         | Miscellaneous                      | 103-106 |

## Schedules

| Sl | Schedule No | Particulars  | Page No |
|----|-------------|--|---------|
| 1  | I           | Engineer in Charge                                     | 107-109 |
| 2  | II          | Conditions for Employment of Labour                    | 110     |
| 3  | III         | Condition for Environment, Health & Safety Management  | 111-113 |
| 4  | IV          | Supplies from HCL                                      | 114-115 |
| 5  | V           | Schedule of Items and Rate                             | 116     |
| 6  | VI          | Escalation   | 117-118 |
| 7  | VII         | Format for Bank Guarantee towards Performance Security | 119-120 |
| 8  | VIII        | Mandate Form for Electronic Payment through Internet   | 121-122 |
| 9  | IX          | Procedure for Survey                                   | 123-126 |

**HINDUSTAN COPPER LIMITED  
(A GOVT OF INDIA ENTERPRISE)**

**TENDER DOCUMENT**

**SECTION I –TENDER INVITATION**

**1. INTRODUCTION**

1.1 HCL is a Mini Ratna Category –I public sector undertaking under the administrative control of the Ministry of Mines, Govt. of India, was incorporated on November 09, 1967. It is the only vertically integrated copper producing company in India with presence in mining, beneficiation, smelting, refining and downstream saleable products.

**1.2 BRIEF DESCRIPTION OF MALANJKHAND MINE:**

1.2.1 **Geology:** The Malanjkhand open pit Mine area is occupied by granitic rocks. These are intruded by quartz reef 60 to 80 metre in thickness, which is highly fractured and **brecciated**. The reef is mineralized and stretches in arc shape along N-S direction, extending over the strike length of 2.6 km and dipping at 65°–75° due East. Basic dykes and aplites, the former being more abundant dissect these formations.

The granitic and basic rocks are jointed, weathered in upper levels and partially weathered in limited lower part. The fractured and brecciated quartz reef in lower benches, some basic dykes and weathered/ partially weathered rocks are water bearing.

**Tentative Compressive strength of rock as derived from the number of samples indicated is summarized below:**

| Rock Type | Zone                    | No. | Mean x (MPa) | Standard deviation $\sigma$ (MPa) |
|-----------|-------------------------|-----|--------------|-----------------------------------|
| Granite   | Footwall                | 54  | 117          | 32                                |
|           | Ore body                | 33  | 132          | 28                                |
|           | Hanging wall            | 40  | 128          | 42                                |
|           | Ore body + Hanging Wall | 73  | 130          | 36                                |
|           | Far-field               | 16  | 177          | 46                                |
|           | Whole population        | 143 | 130          | 40                                |
| Granite & | Ore body                | 61  | 115          | 38                                |



|        |          |    |     |    |
|--------|----------|----|-----|----|
| Quartz |          |    |     |    |
| Quartz | Ore body | 28 | 96  | 39 |
| Basics | All      | 35 | 95  | 39 |
|        | -        | 15 | 129 | 32 |
| Aplite | -        | 12 | 149 | 29 |

**1.2.2 Current Open Pit Mining:** The present open pit mine extends over a length of approximately 2,200 metre and is 700 metre wide. The pit has reached its ultimate limit in Northern and Southern part.

The present pit bottom is at 340 mRL i.e. around 240 metre at Central-South sector below the average ground level at 580 MRL. The open pit operations as worked by the company are fully mechanized using heavy earth moving equipment. A multiple bench system is followed with 12 metre high benches both in ore and waste. In pit ramps are at 6-8% gradient and ramps at waste dumps are at 6% gradient.

The crusher & lean grade ore containing above 0.3% Cu from the mine is delivered by 50T/60T dumpers directly into the primary crusher and at times in the Reserve ore stockpile located on the footwall (Western) side of the pit near the primary crusher. Oxide ore, if found, are dumped separately in designated stockpile. Waste rock is disposed in the waste dumps, presently located on the eastern side of the pit, i.e. Hanging wall side.

### 1.3 SCOPE OF WORK:

1.3.1 The Selected Bidder shall be responsible for achieving the monthly target as per schedule below:

- (i) The successful bidder is required to deploy 2 nos. of loading equipment (Excavators), having its bucket capacity ranging from 3 m<sup>3</sup> to 4.5 m<sup>3</sup> for loading of broken rocks on to hauling equipment of 50 T / 60T capacity to the designated locations.
- (ii) The successful bidder is required to deploy 8 nos. 50 T / 60T capacity Dumpers for hauling of broken rocks to the designated locations.

- (iii) The successful bidder shall ensure availability and utilization of above 2 nos. Excavators and 8 nos. Dumpers in working condition at all times on round the clock basis to achieve the targeted schedule.
- (iv) The deployment of above loading & hauling equipment shall be required for excavation of 8 LBCM rock by the successful bidder during the period of 15 months (excluding mobilization period of 60 days). Engineer-in-Charge of HCL will communicate the quarterly target at the beginning of each quarter during the contract period and Liquidated Damages will be levied based on the set target.
- (v) The bidder should have ownership/arrangement made to possess (i) 2 nos. Excavators and (ii) 8 nos. 50 T / 60T Dumpers, having the capacity as specified above and deploy the same as per the directives of Engineer-in-Charge on day to day basis.
- (vi) Bidders should submit their bids only after visiting the work site and after ascertaining and fully satisfying themselves about the site conditions, haul roads, locations, surroundings, climate, availability of power, water and other utilities for constructions, access to site, handling and storage of material, weather data, applicable laws and regulation and any other matter considered relevant by them. After submission of bid, no complaints in this regard will be entertained. The bidder should refer to clause no. 2.1 in this regard.
- (vii) LD will be applicable on shortfall quantity on quarterly basis as per Clause 8.6.2 of Article-8.
- (viii) In case of non availability of blasted muck due to shortfall in drilling and blasting on account of HCL, proportionate quantity in that month shall be accounted for revising the target, for the purpose of calculation of LD for the quarter.
- (ix) Procurement, placement at working place, operation and maintenance of loading and hauling machinery, and execution of all the activities in relation to the awarded work and in accordance with the provisions of the Contract to be entered into between the selected bidder and HCL in the form provided by HCL. If required the successful bidder will have to supplement the loading and hauling equipment fleet to achieve each month's targeted quantity.
- (x) The Successful bidder shall be responsible for achieving the monthly target as per scheduled below:

| Tentative Schedule for 8.00 LBCM Contract |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Month                                     | Dec-20 | Jan-21 | Feb-21 | Mar-21 | Apr-21 | May-21 | Jun-21 | Jul-21 | Aug-21 | Sep-21 | Oct-21 | Nov-21 | Dec-21 | Jan-22 | Feb-22 | Total  |
| Target (BCM)                              | 30000  | 30000  | 65000  | 65000  | 65000  | 65000  | 60000  | 60000  | 60000  | 60000  | 60000  | 60000  | 60000  | 30000  | 30000  | 800000 |

\*Final schedule will be prepared by Engineer in charge/HCL on the basis of date of commencement of work and considering the monsoon months.

- 1.3.2 Loading and hauling work shall include loading of the rock from the specified levels/benches, transportation of rock at the places specified by HCL i.e. Crusher / Ore stock pile (Reserve ore stock) in case of ore (above cut-off grade i.e. 0.45% of Cu), Lean grade (0.3 to 0.45% Cu) and oxidized ore dump in case of lean grade ore and oxidized ore, top soil dump yard, and waste dump yard in case of waste/overburden and unloading at these sites. The above cut-off grade ore will have to be dumped into the crusher or in the ROS in the case plant is not running. Rock containing ore, larger than 1000 mm size shall not be transported to crusher as input size to crusher is limited to 1000 mm. Such pieces of rocks shall be kept at a place specified by Engineer-in-Charge for secondary blasting in case of insufficient space at loading point.
- 1.3.3 Oversized boulders of more than 1000 mm will be sized by HCL by secondary blasting.
- 1.3.4 Site Preparation: HCL will provide its dozer immediately after blasting, shifting and general checking to the contractor's working site for placement of loading and hauling equipment. Maintenance of floor levels by way of uniformly cutting of blasted rock will be the contractor's responsibility. However, HCL will intermittently provide the dozer during the shift on need basis for the smooth running of equipment deployed at site. Any consequences due to delay in activities on account of dozing, if any, HCL will not be held responsible in any way.
- 1.3.5 Bench Slopes/Height: Loading of broken rock will be done by the contractor as per instruction of HCL.
- 1.3.6 Average Lead and Lift expected for hauling & dumping of rock during the entire period of the contract (15 months from the commencement of work excluding 2 months of mobilization period) shall be 5.5-6.0 Kms (one way) and 280 meters (Max) respectively.
- 1.3.7 Blasting is conducted normally between 12.40 pm & 01.50 pm and between 4.30 pm to 5.15 pm on emergency basis. In case of heavy rain or emergency, blasting

can be re-scheduled. During blasting, no person is allowed to remain within the mine area and a proper clearance will have to be ensured by the Contractor within the safety zone of 500 metre from blasting area as per the guidelines of DGMS. Loading and hauling equipment shall have to be shifted to safe location as per instruction of Engineer-in-Charge as and when required and such clearance to be recorded in a bound page register kept at blasting section, mining office for the purpose.

1.3.8 Design aspects: The Contractor shall maintain 12 metre high benches by way of splitting the blasted muck profile into two equal parts during loading and deploy equipment accordingly for ensuring safety in mines. The final bench slopes, ultimate pit slopes, location and width of safety berms and location of permanent haul roads shall be strictly as per design of HCL.

1.3.9 Procedure for measurement: The monthly measurement of quantity excavated through loading and hauling from mine benches would be conducted by HCL in presence of the representative of the Contractor, as per the measurement procedure as mentioned in Schedule X. For conducting the joint measurement on regular basis, the contractor's representative shall be bound to be present, if, however, he absents for any reason whatsoever, the measurement will be taken by the Engineer-in-Charge or his representative and this will be deemed to be correct and binding on the Contractor.

1.3.10 The following safety features shall be provided in Dumpers & Excavators:

**1.3.10.1 DUMPERS:**

- i. Mechanical steering lock to prevent untoward movement of steering wheel and tyre while work persons working below the cabin when engine is running.
- ii. Blind spot mirror apart from rear view mirror to enable operator to have clear visibility of blind spot in and around dumpers.
- iii. Mechanical type anti-collision device to avoid head to tail collision on haul road such as tail gate, bumper extension or any other strong device.
- iv. Fire resistant hydraulic hoses in place of ordinary hoses to decrease the change of fire. All the sleeves and conducts where cable /wire is passed shall be fire resistant.
- v. Seat belt for operator.
- vi. The maximum speed of vehicle shall be restricted to 30km/hours by blocking higher gear or any other automatic means.
- vii. Proper shaft guard.
- viii. Proximity warning device.

### 1.3.10.2 EXCAVATORS:

- i. All functions cut off switch.
- ii. Swing Motor Brake.
- iii. Fire resistant hydraulic hoses in place of ordinary hoses to decrease the change of fire. All the sleeves and conducts where cable /wire is passed shall be fire resistant.
- iv. Turbo charger Brake.
- v. Seat Belt.
- vi. Vent valve on top of hydraulic tank should be able to remove without any tool.
- vii. A baffle plate between cold zone and hot zone.
- viii. Provision for limiting of hydraulic cylinders-Stopppers.

### 1.4 SPECIAL CONDITIONS OF THE CONTRACT:

- 1.4.1 The successful bidder shall ensure safe working of man & machinery and HCL/MCP shall in no way be held responsible for any damage/loss/accident etc. of any type and/or reason including blasting operations.
- 1.4.2 The successful bidder will be liable for any damage caused to the HCL's equipment/property etc. due to negligence of his employees.
- 1.4.3 The successful bidder shall not be entitled to any additional cost on account of shifting of equipment from one place to another place.
- 1.4.4 The successful bidder shall ensure reliability/availability of loading and hauling equipment for working at MCP Open Pit Mine during the contract period. In case of any break down of the equipment, the same should be intimated to the Engineer-in-Charge or his representative immediately and also immediate action is to be taken to rectify/replace the equipment to achieve the monthly target.
- 1.4.5 The successful bidder should employ only skilled and authorized manpower for operation and maintenance of loading and hauling equipment. The persons deployed for operation of the equipment should have experience to operate the same in open cast mines and also possess valid HVD license issued under MV Act. In case of new appointment of manpower, they should undergo vocational training as per statute for working in mines at MCP Vocational training centre and must undergo Initial Medical Examination and PME.
- 1.4.6 The successful bidder will submit daily shift report to the Engineer-in-Charge/Representative of Engineer-in-Charge specifying working place, total operating hours, no. of trips loaded into 60T dumpers and also category-wise quantity i.e. crusher ore, lean ore, waste etc.

- 1.4.7 For carrying out work on Sundays/holidays, the successful bidder will approach the Engineer-in-Charge or his representatives at least one day in advance and obtain permission in writing.
- 1.4.8 While carrying out the loading & hauling operation at mine benches, the designed bench slope and bench height shall be maintained as per HCL's design by the tenderer.

## 1.5 PRE-QUALIFICATION

1.5.1 Scope of Bid/Offer: HCL wishes to select experienced and capable bidder for Loading and Hauling of 8 LBCM of rock in 15 months (excluding 2 months of mobilization period) at MCP open pit mine.

1.5.2 Integrity Pact: Bidders shall execute an Integrity Pact Agreement with HCL in the format annexed as **Appendix - VA** as a pre-qualification to the submission of their bids in accordance with the tender. The duly executed Integrity Pact in original on non-judicial stamp paper of appropriate value (Rs. 50/-) shall have to be submitted to HCL along with Techno-commercial bid.

1.5.3 Eligibility of Bidders: The bidder should have to fulfill the following qualification criteria:

### 1.5.3.1 Financial Eligibility:

1.5.3.1.1 The average annual financial turnover of the bidder during the last three (3) audited consecutive financial years, shall not be less than Rs. 17.16 Crore (Rupees Nineteen Crore) as per the audited annual accounts ending on 31.03.2019 i.e. 2016-17, 2017-18 and 2018-19. Relevant documentary evidence including copies of Annual Report, containing Profit & Loss Statement and Balance Sheets for immediately preceding three (3) consecutive accounting years shall be furnished together with the Bid.

The turnover shall be calculated as per the following formula:

Gross Turnover Less Excise Duty / GST/Sales Tax Less Service Tax (as applicable) OR Net Sales (as per INDAs).

1.5.3.1.2 The Bidder shall have positive net worth as per their latest audited financial statement ending on 31.03.2019. Relevant documentary evidence including

copies of Annual Report, containing Profit & Loss Statement and Balance Sheets for immediately preceding three (3) consecutive accounting years ending on 31.03.2019 i.e. 2016-17, 2017-18 and 2018-19 shall be furnished together with the Bid. A Bidder not having positive net worth as per their latest audited financial statement is ineligible to participate in the tender. Further, the Net Worth on 31.03.2019, as the case may be, should not have eroded by more than 30% in the last three years, ending 31.03.2019.

“Net worth” means the aggregate value of the paid-up share capital and all reserves created out of the profits, securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, writeback of depreciation and amalgamation.

#### 1.5.3.1.3 Corporate Debt Restructuring (CDR):

The bidders who have applied for availing Corporate Debt Restructuring (CDR) in the last two (2) financial years ending 31.03.2019 are not eligible to participate in the bid. In regards to the above clause, a certificate from Statutory Auditor by the Bidder shall be enclosed.

The bidders have to confirm that no Resolution Plan by whatever name called, has been formulated or implemented under the extent RBI Circulars / guidelines in this regard nor any insolvency proceedings has been initiated under Insolvency & Bankruptcy Code 2016. In regards to the above clause, a Certificate from Statutory Auditor by the bidder shall be enclosed.

#### 1.5.3.2 Technical Eligibility:

1.5.3.2.1 For demonstrating technical credibility / experience of loading & hauling of rock, the Bidder shall have successfully executed similar works, inclusive of

ongoing works with satisfactory performance during the last seven (7) years ending on the last day of the month previous to the one in which Notice Inviting Tender (NIT) is issued, such as loading & hauling of rock / coal in open pit metalliferous or coal mines for any Government/Quasi Government/PSUs/Limited Company for a quantity of not less than either of the following:

- (i) Experience of a single similar work of loading and hauling/composite excavation of not less than 6.40 Lakh BCM executed in 1 years' period in open pit metalliferous or coal mines.
- (ii) Experience of two similar works of loading and hauling/composite excavation of not less than 4 Lakh BCM each executed in 1 years' period in open pit metalliferous or coal mines.
- (iii) Experience of three similar works of loading and hauling/composite excavation of not less than 3.2 Lakh BCM each executed in 1 years' period in open pit metalliferous or coal mines.

The supporting documents of the bidder for Pre-Qualification should be submitted as per Annexure- II along with the Techno-Commercial (Part-I) Bid.

#### **1.6 Documents for bidding:**

The bidders shall enclose the following in their offer as per the forms prescribed in this tender:

- a. Certificate(s) from the statutory auditors of the bidder as per Appendix VI, specifying the turnover of the bidder as per the audited annual accounts of the consecutive preceding three financial years ending on 31.03.2019 i.e. 2016-17, 2017-18 and 2018-19, and also specifying that the methodology adopted for calculating such Turnover conforms to the provisions of tender.
- b. Certificate(s) from Company or client of the bidder, based on the client certificate and as per **Appendix VII** to be submitted, to showcase relevant experience in loading and hauling in open cast metal or coal mine in the



specified period, to fulfill the technical eligibility.

- c. The bidders should submit a **Power of Attorney in non-judicial stamp paper of Rs. 50/-, strictly as per Appendix IV, duly notarized**, authorizing the signatory of this tender to commit the bidder.
- d. Documentary evidence confirming ownership/arrangements made to possess 02 nos. diesel operated hydraulic loading equipment with bucket capacity in the range of 3 m<sup>3</sup> to 4.5 m<sup>3</sup> and 8 nos. of 50 T / 60 T diesel operated hauling equipment and readiness to commence the work within mobilization period of 2 months (60 days). **The bidder shall give an undertaking that they will start the work from December 2020 onwards, if selected.** All Excavators and Dumpers to be deployed by the successful bidder should not be older than 2017/2018 year of manufacture/make.
- e. Number of loading and hauling equipment planned to be deployed by the contractor to achieve the monthly targeted quantity as per schedule is to be specified as per format in **Appendix – VIII** along with details of Loading and Hauling equipment.

1.6.1 Only individual bidders are eligible to participate in tender and not JV / Consortium.

1.6.2 Any entity which has been barred by HCL and the bar subsists as on the date of the tender by HCL, would not be eligible to submit an offer. The bidder should submit an Affidavit declaring that no such bar has been implied by HCL.

1.6.3 A bidder should, in the last 3 (three) years, have neither failed to perform on any contract related to HCL, as evidenced by an arbitral or judicial authority, a judicial pronouncement or arbitration award against the bidder. The bidder should submit a Affidavit declaring that no arbitration case is filed against them in this respect.

1.6.4 The following conditions shall be adhered to while submitting the Tender:

- (a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms is insufficient. Alternatively, bidders may format the prescribed forms making due provisions for incorporation of the requested information;

- (b) Information supplied by a Bidder;
- (c) In responding to the tender submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below.

**1.7 Number of Tender/Offer and cost thereof**

The bidders shall be responsible for all the costs associated with the preparation of their tenders and their participation in the bidding process. HCL will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the bidding process.

- 1.8 The Contract sets forth the detailed terms and conditions for the work, including the scope of the selected bidder's services and obligations.
- 1.9 The statements and explanations contained in this tender are intended to provide a better understanding to the bidders about the subject matter of this tender and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Contactor set forth in the Contract.
- 1.10 Any omissions, conflicts or contradictions in the bidding documents including this tender are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by HCL.
- 1.11 HCL shall receive bids pursuant to this tender in accordance with the terms set forth hereunder and other documents that may be provided by HCL pursuant to this tender, including any modification, alteration, amendment or clarification that may be issued by HCL from time to time (collectively the "Bidding Documents"), and all bids shall be prepared and submitted in accordance with the terms of the bidding documents within the due date of submission.

**1.12 Brief description of Bidding Process**

- 1.12.1 HCL has adopted a two-part process (collectively referred to as the "Bidding Process") for the selection of the bidder for award of the work. The first bid (the "Techno Commercial Stage") of the process involves the qualification of interested parties in accordance with the provisions of the pre-qualification criteria and the second bid is the price bid. Both the bids have to be submitted on the date of tender submission.

The second bid will be opened only for those bidders who have qualified techno-commercially in the first bid. At the bid stage, the aforesaid qualified bidders (hereinafter referred to as the "Bidders") will be intimated for price bid opening. The bid shall be valid for a period of not less than 180 (one hundred and eighty)

days from the bid due date, and shall be extended by another 30 (Thirty) days, if required by HCL.

- 1.12.2 The bidding documents include the Contract as well as all the other appendices as annexed to this tender and all the aforesaid documents and any addenda issued subsequent to the issue of this tender, but before the bid due date, will be deemed to form part of the bidding documents.
- 1.12.3 The bidder is required to deposit, along with its bid, a bid security as per Clause 2.14. The bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.12.4 **Site visit:** Site visit is mandatory before submission of bid. Bidders have to submit a certificate confirming to have visited the site, duly countersigned by HCL/MCP's Unit Head or his representative in the prescribed format as appendix IX C.
- 1.12.5 Any query or request for additional information concerning this tender shall be submitted by e-mail to the officer designated at clause 2.6.3.

**1.13 Schedule of Bidding Process**

HCL shall endeavour to adhere to the schedule provided for under this clause. However, in case HCL in its sole discretion undertakes any modification in the schedule specified below, the same will be conveyed through HCL website only. Hence, bidders are requested to periodically visit HCL website for any notification.

| Sl. | Event Description                  | Dates                                    |
|-----|------------------------------------|--|
| 1.  | Issuance of tender                 | 14.10.2020                               |
| 2.  | Issue of Amendments, if any        | To be published in HCL website           |
| 3.  | Closing date of issuance of Tender | 03.11.2020                               |
| 5.  | Due date of bid submission         | 03.11.2020 Up to 15:00 Hrs.              |
| 6.  | Opening of Part-I bid              | 04.11.2020 Up to 15:30 Hrs.              |
| 7.  | Opening of Price Bid               | To be intimated to the qualified bidders |
| 8.  | Issue of LOI / WO                  | To the successful bidder                 |

**2. INSTRUCTIONS TO BIDDERS**

**a. GENERAL**

## 2.1 **Site visit and verification of information:**

2.1.1 Bidders must visit the work site and ascertain for themselves the site conditions, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them before submission of bid.

2.1.2 For this purpose, bidders shall communicate to HCL via notice/ e-mail indicating their intention to visit the site along with the intended date of visit and the details of their visiting representatives at least 3 (three) days before their intended visit.

HCL shall communicate its response to the interested bidders who are planning to visit the work site at the earliest approving the date of visit or may specify another date as it may consider suitable.

2.1.3 It shall be deemed that by submitting a bid, the bidder has complete understanding of the work and only after that the bidder has :

- a) Made a complete and careful examination of the bidding documents;
- b) Received all relevant information requested from HCL;
- c) Satisfied itself about all matters, things and information
- d) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the bidding documents or ignorance of any of the matters shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. by the bidders from HCL, or a ground for termination of the Contract;
- e) Acknowledged that it does not have a Conflict of Interest; and
- f) Agreed to be bound by the undertakings provided by it under and in terms hereof.

2.1.4 HCL shall not be liable for any omission, mistake or error on the part of the bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to tender, or the bidding process, including any error or mistake therein or in any information or data given by HCL.

## 2.2 **Verification and Disqualification**

2.2.1 HCL reserves the right to verify all statements, information and documents submitted by the bidder in response to the tender or the other bidding documents and the bidder shall, when so required by HCL, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by HCL shall not relieve the

bidder of its obligations or liabilities hereunder nor will it affect any rights of HCL there under.

2.2.2 HCL reserves the right to reject any bid and appropriate the bid security if:

- a. at any time, a material misrepresentation is made or uncovered, or
- b. the bidder does not provide, within the time specified by HCL, the supplemental information sought by HCL for evaluation of the Bid.
- c. No deviations shall be mentioned in the price bid or any part of the tender document, otherwise the offer will be summarily rejected.

Such misrepresentation/improper response shall lead to the disqualification of the bidder.

In case it is found during the evaluation or at any time before signing of the Contract or after its execution and during the period of subsistence thereof, that one or more of the pre-qualification conditions have not been met by the bidder or the bidder has made material misrepresentation or has given any materially incorrect or false information, the bidder shall be disqualified forthwith if LOI has not been issued to such bidder, and if the selected bidder has already been issued the LOI or the selected bidder has entered into the Contract, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this tender, be liable to be terminated, by a communication in writing by HCL to the selected bidder, without HCL being liable in any manner whatsoever to the selected bidder. In such an event, HCL shall forfeit, invoke and appropriate the Bid Security, or the Performance Security and/or the payments made by the selected bidder as per the Contract, as the case may be, as damages, without prejudice to any other right or remedy that may be available to HCL under the bidding documents and/or the Contract, or otherwise.

2.2.3 The Contract to be executed by successful bidder as given in section II as part of the Bidding documents shall be deemed to be part of this tender.

### 2.3 **Clarifications**

2.3.1 HCL shall endeavour to respond to the questions raised or clarifications sought by the bidders. However, HCL reserves the right not to respond to any question or provide any clarification, and nothing in this clause shall be taken or read as compelling or requiring HCL to respond to any question or to provide any clarification.

2.3.2 HCL may, if deemed necessary by HCL, issue interpretations and clarifications to all bidders. All clarifications and interpretations issued by HCL shall be deemed to be part of the bidding documents. Verbal clarifications and information given

by HCL or its employees or representatives shall not in any way or manner be binding on HCL.

2.3.3 Queries and requests for clarification shall be accepted from bidders only upto 10 days prior to Bid submission date.

## 2.4 **Amendment of Tender**

2.4.1 Before bid due date, HCL may, for any reason, whether at its own initiative or in response to clarifications requested by a bidder, modify the tender by the issuance of addendum.

2.4.2 Any addendum thus issued will be intimated to the bidders by uploading on HCL website as well as in NIC portal.

2.4.3 In order to afford the bidders a reasonable time for taking an addendum into account, or for any other reason, HCL may, extend the bid due date.

## **b. PREPARATION AND SUBMISSION OF BIDS**

2.5 The following may please be noted by the bidders:

- 1) Bidders already having DSC or already registered in CPP for e procurement for tendering in any other organisation, can use the same for HCL.
- 2) No Techno-Commercial document is to be submitted offline. Shortfall documents, if any, may be sought from bidders through e-mail.
- 3) EMD to be submitted in RTGS/NEFT form only. No DD to be submitted as EMD. In case EMD is submitted through BG, only then it is to be submitted in hard copy.
- 4) Bidder has to check Corrigendum uploaded against the TE from time to time on cpp portal and resubmit their bids in case of any change in their offer due to the corrigendum, before the final bid submission date/time.
- 5) For bidders registration or Bid submission Procedure is also available “Bidder Manual Kit” in <https://etenders.gov.in/e procure/app>

### A. Registration procedure:

1. Please visit the Link <https://etenders.gov.in/e procure/app>
2. Click on ‘Online Bidder Enrollment’.
3. Put your Login ID (Enter email address for login id. eg: [abc@nic.com](mailto:abc@nic.com). Care may be taken to enter valid e-mail ID. This information will be kept confidential. The login ID cannot be modified once registered.)
4. Put your correspondence Id. (Correspondence Email ID can be same as your Login ID.)
5. Put your Mobile Number (Note: As Mobile and Email are the modes of correspondence, ensure that mobile no and email id provided is correct.)

6. Fill rest of the form containing firm's details like name, address, PAN etc. to register as bidder. For enrolment, the bidders will be required to register their valid Digital Signature Certificate (Class II/ Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g.Sify / nCode / eMudhra etc.), with their profile.

**B. Bid Submission Procedure :**

(Only by bidders having valid Digital Signature Certificate –DSC)

1. Please visit the Link <https://etenders.gov.in/eprocure/app>
2. Enter your login ID & Captcha
3. Enter password & Captcha
4. Click to DSC Login & enter PIN.
5. Click at 'Search Active Tenders'.
6. Enter Tender ID & other search criteria & then Click 'Search' to search the Tender.
7. Upon finding the desired Tender, click the checkbox to mark the Tender as 'favorite'.
8. Click on 'My Tenders' on left hand side menu panel to find out the favorite Tender list.
9. View the desired Tender by clicking logo under 'View' column. Tender details will appear.
10. Scroll down the page containing Tender details.
11. Download the NIT & Bid-of-Quotation (BOQ) from 'Tender Documents' section.
12. Click 'Proceed for Bid Submission' to proceed ahead.
13. Tick 'I Agree' & 'Next' to proceed further.
14. Update personal details & click 'Next' to proceed ahead.
15. Select EMD Exemption status (Yes OR No) & proceed ahead by clicking 'Next'.
16. If No, Click 'Pay Offline'.
17. Click 'Confirm to Pay'.
18. Enter EMD details in 'Specify Instruments for EMD Offline Payment' & save. Click 'Next'.
19. Click 'Submit OID' then click 'Submit Other Important Documents'.
20. Click 'Encrypt & Upload' to upload cover documents.
21. Click folder logo in 'Fee/PreQual/Technical' box to upload technical cover documents.
22. As new window opens, click 'Browse' to select & attach the documents.

23. After selecting the documents, sign & upload them digitally by clicking “Sign & Upload”.
24. Click ‘Ok’ in the message pop-up box to proceed ahead.
25. As window again goes back, click folder logo in ‘Finance’ box to upload Financial docs.
26. As new window opens, click ‘Browse’ to select & attach the documents (Bid-of-Quotation/ BOQ)
27. After selecting the documents, sign & upload them digitally by clicking “Sign & Upload”.
28. Click ‘Ok’ in the message pop-up box to proceed ahead.
29. Click ‘Next’ in Bid Submission -> Packet Details window to proceed ahead.
30. View Bid details and scroll down to check the same.
31. If all correct, click ‘Freeze Bid’ to lock/freeze your offer.
32. Click ‘Print Acknowledgement’ & ‘Print Bid Details’ to print the same & keep it for record.

NB: You do not require registering again for different tender enquiries of HCL. Registration on the website is free of cost.

GePNIC Contact Person:

Important 1: For Registration related issues, all tenderers are requested to contact: Mr. Sk Imran, Mobile Number: 91 8777791736

or Support e-mail : [support-eproc@nic.in](mailto:support-eproc@nic.in)

Important 2: For Bidding related issues, please call NIC Help Desk Number: 0120-4200 462, 4001 002, 4001 005, 6277 787 Sealing and Marking of Techno Commercial Bid (Part-I)

## 2.6 Sealing and Marking of Bids

The bidder shall upload the following documents of **Techno Commercial Bid (Part-I)** bid in e-procurement portal <https://etenders.gov.in>:

- i. Covering letter in the format specified under the schedule as **Appendix-I**
- ii. Details of the bidder in the format prescribed at **Appendix-II**
- iii. The Bid Security in the format prescribed at **Appendix-III**, and marked as ‘**Bid Security**’ on the envelope.
- iv. Power of Attorney for signing of bid in the prescribed format (**Appendix-IV**).
- v. Integrity Pact Agreement (**Appendix-V & VA**)



- vi. Proof of eligibility criteria in the format prescribed at **Appendix-VI & VII**
- vii. Details of Loading and Hauling equipment including make and year of make in the format prescribed at **Appendix-VIII**
- viii. Statement of Legal Capacity of the bidder in the format prescribed at **Appendix-IX A**
- ix. Proposed Site Organization in the format prescribed at **Appendix-IX B**
- x. Certificate of Site visit in the format prescribed at **Appendix-IX C**
- xi. Affidavit declaring that no such bar has been implied by Central/ State Government as **Appendix-X**
- xii. Affidavit declaring that no arbitration case is filed as **Appendix-XI**
- xiii. A copy of the tender document with each page initialed by the person signing the bid in pursuance of the power of attorney.

Submission of Part I (Techno-Commercial Bid) and Part II (Price Bid consisting of the quotation of prices) shall only be done in the e tendering Portal and no packet consisting hard copy of the Price Bid may be sent to HCL office.

- 2.6.1 The pages of the documents of the bid shall be numbered serially. Each page thereof shall be initialized by the authorized signatory.
- 2.6.2 Only in case of Bid Security in the form of Bank Guarantee, the same shall be submitted in a packet clearly bearing the following identification.

**“Tender for Loading and Hauling of 8 LBCM of rock at Malanjhand Open Pit Mine, Madhya Pradesh”**

**Tender Notice No.: HCL/M&C/MCP/L&H-8 LBCM/2020/01 dated 14.10.2020**

and shall clearly indicate the name and address of the bidder. In addition, the bid due date should be indicated on the right hand top corner of the packet.

- 2.6.3 The packet shall be addressed to:

**ATTN. OF:** General Manager (Commercial)

**ADDRESS:** Hindustan Copper Limited  
‘Tamra Bhawan’  
1, Ashutosh Chowdhury Avenue  
Kolkata – 700 019

- 2.6.4 If the envelope is not sealed and marked as mentioned above, HCL shall not assume any responsibility for the misplacement or premature opening of the bid submitted and consequent losses, if any, suffered by the bidder.

## 2.7 Bid Due Date

2.7.1 Due date of submission of Bid Documents is as per clause 1.13 in the e-tendering portal or as per any addendum / corrigendum to this effect and at the address mentioned above and in the manner and form as detailed in this TENDER.

2.8 Extension of bid due date :

The following is predefined Auto Extension of tender due date function in CPP Portal, which would be binding for the tender :

| Iteration No. | Bid Opening Date            | If total numbers of Bids received is 2 or less |
|---------------|-----------------------------|--|
| 1             | On Bid Submission End Date  | due date extended by 03 days                   |
| 2             | On First Extended Due Date  | due date extended by another 05 days           |
| 3             | On Second Extended Due Date | Tender will be opened                          |

Please Note:

- If no bid is received till third iteration, tender will be scrapped automatically.
- If 3 bids or more are received at any iteration, tender will be opened.

2.9 HCL may, in its sole discretion, extend the bid due date by issuing an addendum.

## 2.10 Modifications/Substitution/Withdrawal of Bids

2.10.1 Except where expressly permitted by these instructions, the bidder shall not make or cause to be made any alteration, erasure or obliteration to the text of the documents prepared by HCL and submitted by the bidder with or as part of his bid.

2.10.2 Withdrawal of a bid during the interval between the deadline for submission of bids and expiration of the period of bid validity specified in the bid shall result in the forfeiture of Bid Security.

## 2.11 Rejection of Bids

2.11.1 Notwithstanding anything contained in the tender, HCL reserves the right to reject any bid and to annul the bidding process and reject all the bids at any time without any liability or any obligation for such rejection or annulment, and without assigning any reasons there for. In the event that HCL rejects all the bids or annuls the bidding process, it may, in its discretion invite all eligible bidders to submit fresh bids hereunder.

2.11.2 HCL reserves the right not to proceed with the bidding process at any time, without notice or liability, and to reject any bid without assigning any reasons.

2.12 **Confidentiality:** Information relating to the examination, clarification, recommendation and evaluation of the Bidders shall not be disclosed to any person

who is not officially concerned with the process or is not a retained professional advisor advising HCL in relation to or matters arising out of, or concerning the bidding process. HCL will treat all information, submitted as part of the bid, in confidence and will require all those who have access to such material to treat the same in confidence. HCL may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or HCL or as may be required by law or in connection with any legal process.

2.13 **Correspondence with the Bidder:** Save and except as provided in this tender, HCL shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

2.14 **Bid Security**

2.14.1 The Bidder shall have to furnish Rs 50.0 lakh (Rs. Fifty Lakh) only as part of its bid, a Bid Security in the form of RTGS / NEFT or a Bank Guarantee issued by any scheduled commercial bank excluding Co-operative Bank, drawn in favour of Hindustan Copper Limited and payable at Kolkata, in the format at **Appendix III** (in case of “**Bank Guarantee**”) and having a validity period of not less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period 60 (sixty) days, and which may be extended for a maximum period of another 30 (ninety) days, if required by HCL. In case of transfer by NEFT/RTGS, copy of the RTGS slip / UTR no along with date to be enclosed. The Bank account details are as mentioned below:

|                     |   |
|---------------------|---|
| Name of account:    | HINDUSTAN COPPER LIMITED  |
| Cash Credit A/C no: | 00000010373629348   |
| Name of Bank:       | State Bank of India<br>Corporate Accounts<br>Group Branch, Kolkata, India |
| Address of Bank:    | 34, Jawaharlal Nehru Road<br>Reliance House<br>Kolkata – 700 071, India   |
| IFSC No:            | SBIN0009998   |

2.14.2 HCL shall not be liable to pay any interest on the Bid Security so made and the same shall be interest free.

2.14.3 Any bid not accompanied by the Bid Security shall be summarily rejected by HCL as non- responsive subject to exemptions, if any, indicated in the tender documents.

2.14.4 HCL shall be entitled to forfeit, invoke and appropriate the Bid Security as

damages inter alia in any of the events specified below. The bidder, by submitting its bid pursuant to this tender, shall be deemed to have acknowledged and confirmed that HCL will suffer loss and damage on account of withdrawal of its bid or for any other default by the bidder during the Bid validity period as specified in this tender. No relaxation of any kind on Bid Security shall be given to any bidder.

2.14.5 Under the following conditions, the Bid Security shall be forfeited, invoked as damages without prejudice to any other right or remedy that may be available to HCL under the bidding documents and/or under the Contract, or otherwise,:

- (a) If a bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice.
- (b) If a bidder withdraws its bid during the period of validity of bids as specified in this tender and as extended on instructions of HCL;
- (c) In the case of selected bidder, if it fails within the specified time limit -
  - (i) to sign and return the duplicate copy of the LoI; and/or
  - (ii) To do all such acts as are required under this tender or before signing of the Contract ; and/or
  - (iii) To furnish the Performance Security within the period prescribed there for.

2.14.6 The following are exempted from submission of Bid Security:

- Public Sector Undertakings /Govt. Dept/Govt. Institutions
- Micro and Small Enterprises registered with Districts Industries Centers (DICs) / Khadi & Village Industries Commissions (KVIC) / Khadi & Village Industries Board (KVIB) / Coir Board/NSIC/Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small & Medium Enterprises (MoMSME) up to the extent of their monetary limit.
- Original Equipment Manufacturers (OEMs).

2.14.7 Refund of Bid Security:

The EMD provided by the Bidders along with the Bids should be returned to the unsuccessful Bidders within 30 days from the date of opening of price Bid / placement of purchase order / signing of the job contract, whichever is earlier. In case of selected Bidder, Bid security will be retained till Performance Security as per Contract is submitted, subject to extension of the validity as per the requirement. In the event of the Bid of any party is rejected during the course of

Techno-Commercial scrutiny and evaluation, the EMD should be returned to such Bidder immediately within seven days from the date of rejection of their offer.

#### 2.14.8 Bid Prices:

In the price bid, the bidder shall include all elements of cost strictly as per the scope of work specified in technical specification. The price shall be item wise in accordance with and as stated in the specification. The bidder will be responsible for complete execution of the job as specified in the scope of work. The rate quoted should be valid for 180 days, which may be extended by 30 days by the bidder, if required by HCL.

The bidder shall give the detail price schedule taking into consideration of all the element of work and services as covered under the scope of work. Quoted Price should be in figure.

The Contract Price is in accordance with commercial terms & conditions, stipulations, specifications, requirements and other conditions of the Contract for the estimated quantities of work and firm unit rates as given in Schedule of items.

Total Quoted Price of bidder shall include basic price, all taxes & duties, levies, freight, Insurance etc. as applicable on base date but excluding GST.

Bidders shall quote for the entire scope on a “single responsibility” basis such that the total bid price covers all the Contractor’s obligations mentioned in or to be reasonably inferred from the tender documents in respect of the engineering, procurement, erection, testing, commissioning, construction, Insurance, ore production and execution of all the facilities in relation to the Project as defined in technical specification. This includes all requirements under the Contractor’s responsibilities for testing, pre- commissioning and commissioning of the equipment, insurance, training of Purchaser’s personnel, commissioning spares, initial fill and Lubricants, special tools and tackles, where so required by the tender documents, the acquisition of all permits, approvals and licenses, etc. up to commissioning and such other items and services as may be specified in the tender documents.

Items against which no price is entered by the bidder will not be paid for by the Employer when executed and shall be deemed to be covered by the prices for other

items. The bidder will execute/supply such item(s) without claiming any extra amount.

Bidder are required to quote the price for the commercial and technical obligations outlined in the bidding documents. Deviations shall not be allowed for this package.

Bidder must clearly mention their Income Tax Permanent Account Number (PAN) and Bank Account Number in the offer. Supplies & Services quoted in Indian Rupee shall be quoted on “HCL, MCP Site” basis. Base Date of the Contract Price shall be the date of opening of Part I (Techno Commercial Bid) of the tender.

Bidder to quote in the “Price Schedule” in Indian Rupees only.

### **3. EVALUATION OF BIDS**

#### **3.1 Opening and Evaluation of Bids**

3.1.1 HCL shall open the Techno Commercial Bid (Part – I) on e-tendering portal and hard copy of Bid Security Bank Guarantee, if any, received by post at HCL, as per schedule given in clause 1.13 in the presence of the bidders who choose to attend. However, in the eventuality that the day of opening of the bids becomes a non-working day due to a force majeure event, the date of opening of the bids will shift to the next working day at the same time.

Part II of the bid (“Price Bid”) shall be opened in the e tendering portal for those bidders who qualify techno-commercially as per qualifying criteria of the tender. The date and time of opening of Price Bid (Part – II) B shall be communicated in due course of time.

3.1.2 To facilitate evaluation of Part-I bids, HCL may, in its sole discretion, seek clarifications in writing from any / all Bidder(s) regarding its Bid.

#### **3.2 Selection of Bidder**

3.2.1 The bidder whose bid is adjudged as responsive and quoting the lowest Contract Price evaluated on the basis of quantities in Schedule of Quantity and rate, for implementation of the Work shall be declared as the selected bidder (the “**Selected Bidder**”).

3.2.2 Bids will be invited for the Project on the basis of the lowest total lump sum fee (“Contract Price”) required by a Bidder for executing the Project. Bidders shall be required to quote in the Price Bid the Contract Price that shall be charged by them for the execution of the Project. The Contract Price amount shall constitute the sole

criteria for evaluation of Bids. The Project shall be awarded to the Bidder quoting the lowest Contract Price. In this tender document, the term “Lowest Bidder” shall mean the Bidder seeking the lowest Contract Price. Bidder shall quote for total/all items of price schedule. Bidder to quote in the “Price Schedule” in Indian Rupees only. ***Standing of L-1 bidder shall be decided based on overall L-1 value of combined work as per scope of work.***

Evaluation shall be done on Total Quoted price of Price Schedule which includes Basic price, all taxes & duties, levies, freight, Insurance etc. but excluding GST. Price for Open items shall not be considered for Evaluation of Price bids.

- 3.2.3 After selection, a Letter of Intent (the “**LoI**”) shall be issued, in duplicate, by HCL to the selected bidder and the selected bidder shall, within 7 (seven) days of the receipt of the LoI, sign and return the duplicate copy of the LoI in acknowledgement thereof. In the event the duplicate copy of the LoI duly signed by the selected bidder is not received within the stipulated time, HCL may, unless it consents to extension of time for submission thereof, appropriate/invoke the Bid Security of such bidder as damages on account of failure of the selected bidder to acknowledge the LoI. No correspondence will be entertained by HCL from the unsuccessful bidders.
- 3.2.4 After acknowledgement of the LoI as aforesaid by the selected bidder, it shall cause the selected bidder to execute the Contract within the period of ten (10) days. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Contract.
- 3.2.5 Upon “Letter of Intent” being signed and returned by the successful Bidder, HCL will discharge/return bid security to other unsuccessful bidders.
- 3.2.6 The selected bidder shall, for the due and proper performance and fulfillment of its obligations during the contract period of the Work, provide an irrevocable and unconditional bank guarantee from any scheduled commercial bank in India, in favour of HCL, for a sum equivalent to 5% of the total contract amount in the form set-forth in the Contract (the “Performance Security Deposit”). Performance Security Deposit in any other format is not acceptable. Payment shall not be released if PSD has not been deposited in totality. The Performance Security Deposit shall remain valid initially for a period of 12 months from the Appointed date and will be renewed subsequently as per Article 6 of NIT. The selected bidder shall further extend the validity of its Performance Security Deposit, if so required by HCL.

The said Performance Security Deposit shall be provided by the selected bidder within 30 (thirty) days of the date of issue of LoI. In the event, the selected bidder

fails to provide the said Performance Security within the time period stipulated herein, HCL may forfeit the Bid Security submitted by the selected bidder along with their bid.

In addition to the above, the Retention money shall be 5% (Five percent) of the Contract amount and to be recovered at the rate of 5% (five percent) from Running Bills, more so detailed under clause 6.1 of NIT.

#### **4 FRAUD AND CORRUPT PRACTICES**

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOI and during the subsistence of the Contract. Notwithstanding anything to the contrary contained herein, or in the LOI or the Contract, HCL shall reject a Bid, withdraw the LOI, or terminate the Contract, as the case may be, without being liable in any manner whatsoever to the Bidder or Selected Bidder, as the case may be, if it determines that the Bidder or Selected Bidder, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, HCL shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to HCL under the Bidding Documents and/or the Contract, or otherwise.
- 4.2 Without prejudice to the rights of HCL under clause 4.1 hereinabove and the rights and remedies which HCL may have under the LOI or the Contract, if a Bidder or Selected Bidder, as the case may be, is found by HCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOI or the execution of the Contract, such Bidder or Selected Bidder shall not be eligible to participate in any tender or request for proposal issued by HCL during a period of 2 (two) years from the date such Bidder or Selected Bidder, as the case may be, is found by HCL to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or



engaging in any manner whatsoever, directly or indirectly, any official of HCL who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOI or has dealt with matters concerning the Contract, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of HCL, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOI or after the execution of the Contract, as the case may be, any person in respect of any matter relating to the Project or the LOI or the Contract, who at any time has been or is a legal, financial or technical adviser of HCL in relation to any matter concerning the Project;

- (b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process ;
- (c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by HCL with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among the Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

**APPENDIX - I**  
**Covering Letter**  
**(To be placed in Packet A of the Bid)**

Date:

**General Manager (Commercial)**  
**Hindustan Copper Limited**  
**1, Ashutosh Chowdhury Avenue**  
**Kolkata – 700 019**

**Sub: Bid for Loading and Hauling of 8 LBCM of rock at Malanjhand Open Pit Mine**

Dear Sir,

With reference to your tender no. .... dated 14.10.2020, I/We, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Work in prescribed format. The Bid is unconditional and unqualified.

1. I/We acknowledge that HCL will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Selected Bidder for the aforesaid Work, and we certify that all information provided therein is true and correct and nothing has been omitted which renders such information misleading and all documents accompanying the Bid are true copies of their respective originals.
2. This statement is made for the express purpose of qualifying as a Selected Bidder for the implementation of the aforesaid Work.
3. I/ We shall make available to HCL any additional information it may find necessary or require to supplement or authenticate the Bid.
4. I/ We acknowledge the right of HCL to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. We certify that in the last 3 (three) years, we have neither failed to perform on any contract, as evidenced by the imposition of a penalty or a judicial pronouncement or arbitration award, nor have been expelled from any work or contract nor have had any contract terminated for breach on our part.
6. I/ We declare that:
  - (a) I/ We have examined and have no reservations to the Bidding Documents, including any addendum issued by HCL; and
  - (b) I/ We do not have any Conflict of Interest and
  - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, in

respect of any tender or request for proposal issued by or any agreement entered into with HCL or any other public sector enterprise or any government, Central or State; and

- (d) I/ We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
  - (e) the undertakings given by me/us along with the offer in response to the Tender for the Work were true and correct as on the date of making the Tender and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
7. I/ We understand that you may cancel/annul the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Work, without incurring any liability to the Bidders.
  8. I/ We certify that in regard to matters other than security and integrity of the country, have not been convicted or indicted by a court of law and no adverse orders have been passed by a regulatory authority which could cast a doubt on our ability to undertake the Work or which relates to a grave offence that outrages the moral sense of the community.
  9. I/ We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the government or convicted by a court of law for any offence committed by us or by any of our Associates.
  10. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/ managers/ employees.
  11. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process the provisions of disqualification in terms of the guidelines referred to above are attracted, we shall intimate HCL of the same immediately.
  12. We further agree and acknowledge that the aforesaid obligations shall be in addition to the obligations contained in the Contract.
  13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by HCL in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Work and the terms and implementation thereof.
  14. In the event of my/our being declared as the Selected Bidder, I/We agree to enter into a Contract in accordance that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid Contract and agree to abide by the same.
  15. I/We have studied all the Bidding Documents carefully and have also surveyed the Work site. We understand that except to the extent as expressly set forth in the tender and/or Contract, we shall have no claim, right or title arising out of any documents or information provided to us by HCL or in

respect of any matter arising out of or concerning or relating to the Bidding Process including the award of the Contract.

16. The Contract Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the tender, Contract, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the work cost and implementation of the Work.
17. I/We offer a bid security of Rs 50.0 Lakh only to HCL in accordance with the tender.
18. The Bid security in the form of a Demand Draft/Pay Order/Banker's Cheque/Bank Guarantee (strike out whichever is not applicable) is attached.
19. In the event of I/We being declared as Selected Bidder, I/We hereby undertake and agree to provide an irrevocable and unconditional bank guarantee as Performance Security Deposit in favour of HCL within 30 (thirty) days of the issue of LoI as per the tender.
20. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Work is not awarded to me/us or our Bid is not opened or rejected.
21. I/We agree to keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the tender.
22. I/ We hereby submit our Bid for undertaking the aforesaid work in accordance with the Bidding Documents and the Contract. The prices of each item aggregating to the Contract Price are quoted by me/us as provided in the schedule annexed hereto. The said Contract Price shall be payable over the construction period and as set out in Contract. The RA bills can be payable only after receipt of security deposit.
23. I/We hereby confirm that no change has been made in any of the formats attached with tender.
24. I/We agree and undertake to abide by all the terms and conditions of the tender and confirm that there is no deviation in the terms and conditions.

In witness whereof, I/ we submit this Bid under and in accordance with the terms of the tender.

Yours faithfully,

Date:

(Signature of the Authorized signatory)

Place:

(Name and designation of the of the Authorized signatory)

Name and seal of Bidder

**APPENDIX - II**  
**DETAILS OF BIDDER**

**1. IN CASE OF INDIVIDUAL:**

- 1.1 Name
- 1.2 Registration details, if any
- 1.3 Date of commencement of business
- 1.4 Permanent Account Number (PAN)
- 1.5 GST registration number
- 1.6 Copies of Balance sheet
- 1.7 HCL's Vendor Registration Code (from website)

**2. IN CASE OF PARTNERSHIP:**

- 2.1 Name of Partners
- 2.2 Whether the Partnership is registered or not.
- 2.3 Date of establishment of firm
- 2.4 Permanent Account Number (PAN)
- 2.5 GST registration number
- 2.6 Copies of Balance sheet
- 2.7 HCL's Vendor Registration Code (from website)

**3. IN CASE OF LIMITED COMPANY:**

- 3.1 Amount of paid-up capital
- 3.2 Name of Directors
- 3.3 Date of Registration of Company
- 3.4 Permanent Account Number (PAN)
- 3.5 GST registration number
- 3.6 Copies of the Balance sheet
- 3.7 HCL's Vendor Registration Code (from website)

(Signature, name and designation of the Authorized Signatory)

Place & Date:

Name and Seal of the Bidder

## APPENDIX – III

### Bank Guarantee for Bid Security

#### (To be placed in Packet A of the Bid)

In consideration of you, Hindustan Copper Limited, having its office at 1, Ashutosh Chowdhury Avenue, Kolkata – 700019 (hereinafter referred to as “HCL”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of \_\_\_\_\_ a Proprietorship/Partnership/Limited Company registered under the provision of the Companies Act, 1956 and having its registered office at \_\_\_\_\_ (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for \_\_\_\_\_, (name of the work)..... in accordance with the tender (hereinafter referred to as “the Work”) pursuant to the tender dated \_\_\_\_\_ issued in respect of the Work and other related documents (hereinafter collectively referred to as “Bidding Documents”), we, \_\_\_\_\_ (indicate the name of the bank), (hereinafter referred to as the “Bank”) at the request of \_\_\_\_\_ (Bidder), do hereby undertake to pay HCL an amount not exceeding Rs. **50.0 Lakh (Rupees Fifty Lakh only)** against any loss or damage caused to or suffered or would be caused to or suffered by HCL by reason of any breach by the said Bidder of any of the terms or conditions contained in the Bidding Documents.

1. We \_\_\_\_\_ (indicate the name of the bank) do hereby undertake to pay the amount due and payable under this guarantee without any demur, merely on a demand from HCL stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by HCL by reason of breach by the said Bidder of any of the terms or conditions contained in the Bidding Documents or by reason of the Bidder’s failure to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs **50.0 Lakh (Rupees Fifty Lakh only)**. The Bank shall be liable to pay the said amount or any part thereof only if HCL serves a written claim on the Bank, on or before \_\_\_\_\_ (indicate date falling 180 days after the Bid Due Date).
2. We, the Bank, further agree that HCL shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of HCL that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between HCL and the Bidder or any dispute pending before any court, tribunal, arbitrator or any other authority. Further, we undertake to pay to HCL any money so demanded notwithstanding any dispute or disputes raised by the Bidder(s) in any suit or proceeding pending before any court or tribunal/relating thereto, our liability under this present being absolute and unequivocal.

The payment so made by us under this guarantee shall be a valid discharge of our liability for payment hereunder and the Bidder shall have no claim against us on making such payment.

3. We, \_\_\_\_\_ (indicate the name of the bank) further agree that the guarantee herein contained shall be irrevocable and remain in full force and effect for a period of 180 (One Hundred and Eighty) days from the Bid Due Date inclusive of a claim period of 60 (Sixty) days or as extended for a maximum period of another 90 (Ninety) days as required by HCL and shall continue to be enforceable till all the dues of HCL under or by virtue of the said Bidding Documents have been fully paid and its claims satisfied or discharged or the \_\_\_\_\_ (office/Department) certifies that the terms and conditions of the said Bidding Documents have been fully and properly carried out by the said Bidder and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before the \_\_\_\_\_ we shall be discharged from all liability under this guarantee thereafter.
4. We, \_\_\_\_\_ further agree with HCL that HCL shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms & conditions of the said Bidding Documents or to extend the validity period of this guarantee or to postpone for any time or from time to time any of the powers exercisable by HCL against the said Bidder and to forebear or enforce any of the terms and conditions relating to the said Bidding Documents and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Bidder or for any forbearance, act or commission on the part of HCL or any indulgence by HCL to the said Bidder or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.
5. This guarantee will not be discharged due to the change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
6. It shall not be necessary for HCL to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which HCL may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.
7. We, \_\_\_\_\_ (indicate the name of the Bank) lastly undertake not to revoke this guarantee during its currency except with the previous consent of HCL in writing.

Dated the \_\_\_\_\_ Day of \_\_\_\_\_

For \_\_\_\_\_

(Indicate the name of bank)

**APPENDIX – IV**

**Power of Attorney for signing of Bid  
(To be placed in Packet A of the Bid)**

Know all men by these presents, We, \_\_\_\_\_ (name of the company and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms \_\_\_\_\_ , son/daughter/wife of \_\_\_\_\_ and presently residing at \_\_\_\_\_, who is holding the position of \_\_\_\_\_], as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the “ [insert name of the work]” proposed by the Hindustan Copper Limited ( “HCL”) including but not limited to signing and submission of all Tenders, Bids and other documents and writings, participation in Bidders' and other conferences and providing information / responses to HCL, representing us in all matters before HCL, signing and execution of all contracts including the Contract and undertakings consequent to acceptance of our Bid, and generally dealing with HCL in all matters in connection with or relating to or arising out of our Bid for the said Work and/or upon award thereof to us and/or till the execution of the Contract with HCL.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this power of attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, \_\_\_\_\_, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS \_\_\_\_\_DAY OF \_\_\_\_\_, 2017.

For \_\_\_\_\_

(Signature)

(Name, Title and Address)

Witnesses:

- 1.
- 2.

Accepted

[Notarized]

(Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants (s) and when it is so required, the name should be under common seal affixed in accordance with the required procedure.*



- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this power of attorney for the delegation of power hereunder on behalf of the Bidder.*

## **APPENDIX – V**

**(To be placed in Packet A of the Bid)**

### **INTEGRITY PACT**

The Integrity Pact (“**Pact**”) essentially envisages an agreement between the Bidder and the owner (“**HCL**”), committing the persons/officials of both the parties, not to exercise any corrupt influence on any aspect of the Contract. Only those Bidders who have entered into such a Pact with the HCL would be qualified to submit their bids. In other words, entering into this Pact would be a preliminary qualification. The Pact shall be effective from the stage of invitation of Bids till the execution of the Contract. Thereafter, the Selected Bidder shall be required to execute a separate Integrity Pact, which shall form part of, and be appended to the Contract.

The Pact envisages a panel of Independent External Monitors (“**IEM**”) approved for HCL. The IEM is to review independently and objectively, whether and to what extent the parties have complied with their obligations under the Pact. It has right of access to all Work documentation. The IEM may examine any complaint received by it and submit a report to the CMD of HCL, at the earliest. He may also submit a report directly to the Chief Vigilance Officer and the Central Vigilance Commission, in case of suspicion of serious irregularities attracting the provisions of the Prevention of Corruption Act. However, even though the Contract may be covered by the Pact, the Central Vigilance Commission may, at its discretion, have any complaint received by it relating to such a Contract, investigated.

Shri M. K. Deshmukh, on the advice of CVC, has been appointed by HCL as the IEM. Shri Deshmukh has been assigned by HCL to oversee implementation of the Pact relating to the Contract, in line with the terms and conditions of the Integrity Pact Agreement, to be signed between the Bidder and HCL.

**APPENDIX - VA**

**INTEGRITY PACT AGREEMENT**

Between

Hindustan Copper Limited (HCL) hereinafter referred to as “the Principal”

and

.....hereinafter referred to as “The Bidder”

**Preamble**

The Principal intends to award, under laid down organizational procedures, Contract/s of “[insert name of the work]”. The Principal values full compliance with all relevant laws of the land, rules, regulations, economic use of resources and of fairness/transparency in its relations with its Bidder(s).

In order to achieve these goals, the Principal has appointed Sri M.K.Deshmukh and Sri Debashis Bandyopadhyay an Independent External Monitors (IEMs), who will monitor the tender Process and the execution of the Contract for compliance with the principles mentioned above.

**Section I – Commitments of the Principal**

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles:-
  - a. No employee of the Principal, personally or through family members, will in connection with the bidding , or the execution of a contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
  - b. The Principal will, during the Bidding Process treat all Bidder(s) with equity and reason. The Principal will in particular, before and during the Bidding Process, provide to all Bidder(s) the same information and will not provide to any Bidder(s) confidential/additional information through which the Bidder(s) could obtain an advantage in relation to the Bidding Process or the Contract execution.
  - c. The Principal will exclude from the process all known prejudiced persons.
- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the Indian Penal Code / Prevention of Corruption Act, or if there be a substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer and in addition can initiate disciplinary actions.

**Section 2 – Commitments of the Bidder(s)**

- (1) The Bidder(s) commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the Bidding Process and during the Contract execution.

The Bidder(s) will not, directly or through any other person or company, offer, promise or give to any of the Principal’s employees involved in the Bidding Process or the execution of the Contract

- a. or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the Bidding Process or during the execution of the Contract.
  - b. The Bidder(s) will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of Bids or any other actions to restrict competitiveness or to introduce cartelization in the Bidding Process.
  - c. The Bidder(s) will not commit any offence under the Indian Penal Code / Prevention of Corruption Act; further the Bidder(s) will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Principal as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
  - d. The Bidder(s) will, when presenting his Bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the Contract.
- i. The Bidder(s) will not instigate third persons to commit offences outlined above or be an accessory to such offences.

### **Section 3 – Disqualification from Bidding Process and exclusion from future contracts**

If the Bidder(s), before award or during execution has committed a transgression through a violation of Section 2, above or in any other form such as to put his reliability or credibility in question, the Principal is entitled to disqualify the Bidder(s) from the Bidding Process or take action as per the procedure mentioned in the “Guidelines on Banning of Business Dealings”.

### **Section 4 – Compensation for damages**

- a. If the Principal has disqualified the Bidder(s) from the Bidding Process prior to the award according to Section 3, the Principal is entitled to demand and recover the damages equivalent to Bid Security.
- b. If the Principal has terminated the Contract according to Section 3, or if the Principal is entitled to terminate the Contract according to Section 3, the Principal shall be entitled to demand and recover from the Bidder, liquidated damages/penalties of the Contract value or the amount equivalent to Performance Security.

### **Section 5 – Previous transgression**

- a. The Bidder declares that no previous transgressions occurred in the last 3 (three) years with any other company in any country conforming to the anti corruption approach or with any other public sector enterprise in India that could justify his exclusion from the Bidding Process.
- b. If the Bidder makes incorrect statement on this subject, he can be disqualified from the Bidding Process or action can be taken against them as per the procedure mentioned in “Guidelines on Banning of Business Dealings”.

## **Section 6 - Equal treatment of all Bidders**

- a. The Bidder(s) undertake(s) to demand from all subcontractors a commitment in conformity with this Integrity Pact Agreement, and to submit it to the Principal before execution of the Contract.
- b. The Principal will enter into agreements with identical conditions as this one with all Bidders,
- c. The Principal will disqualify from the Bidding Process all Bidders who do not sign this Integrity Pact Agreement or violate its provisions.

## **Section 7 – Criminal charges against violating Bidder(s)**

If the Principal obtains knowledge of conduct of a Bidder or of an employee or a representative or an Associate of a Bidder which constitutes corruption, or if the Principal has substantive suspicion in this regard, the Principal will inform the Chief Vigilance Officer of the same.

## **Section 8 - Independent External Monitor/Monitors**

- a. The Principal has appointed competent and credible Independent External Monitor (“IEM”) for this Integrity Pact Agreement. The task of the IEM is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.
- b. The IEM is not subject to instructions by the parties/ their representatives and performs its functions neutrally and independently. It reports to the Chairman- cum-Managing Director of HCL.
- c. The Bidder(s) accepts that the IEM has the right of access without restriction to all Work documentation of the Principal .The Bidder will also grant the IEM, upon its request and demonstration of a valid interest, unrestricted and unconditional access to his Work documentation. The same is applicable to Subcontractors. The IEM is under a contractual obligation to treat the information and documents of the Bidder(s) with confidentiality.
- d. The Principal will provide to the IEM sufficient information about all meetings among the parties related to the Work provided that such meetings could have an impact on the contractual relations between the Principal and the Bidders. The parties offer to the IEM the option to participate in such meetings.
- e. As soon as the IEM notices, or believes, that there is a violation of this Integrity Pact Agreement, it will so inform the management of the Principal and request the management to discontinue or take corrective action, or to take other relevant action. The IEM can, in this regard, submit non-binding recommendations. Beyond this, the IEM has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- f. The IEM will submit a written report to the Chairman-cum-Managing Director of HCL within 8 to 10 weeks from the date of reference or intimation to him by the Principal and, should the occasion arise, submit proposals for correcting problematic situations.
- g. The IEM shall be entitled to compensation on the same terms as being extended to/provided to Independent Directors of HCL.
- h. If the IEM has reported to the Chairman-cum-Managing Director of HCL, a substantiated suspicion of an offence under relevant Indian Penal Code/PC Act, and the Chairman-cum-Managing Director of

HCL has not, within reasonable time taken visible action to proceed against such offence or reported it to the Chief Vigilance Officer, the IEM may also transmit this information directly to the Central Vigilance Commissioner.

**Section 9 - Pact Duration**

This Integrity Pact Agreement begins when both parties have legally signed it. It expires for the Selected Bidder 12 (twelve) months after the last payment under the Contract, and for all other Bidders 6 (six) months after the Contract has been awarded.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid despite the lapse of this Integrity Pact Agreement as specified above, unless it is discharged/determined by Chairman-cum-Managing Director of HCL.

**Section 10 - Other provisions**

- a. This agreement is subject to Indian laws. Place of performance and jurisdiction is the registered office of the Principal, i.e. Kolkata.
- b. Changes and supplements as well as termination notices need to be made in writing. Side agreements have not been made.
- c. Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement as to their original intentions.

\_\_\_\_\_  
(For & On behalf of the Principal)  
(Office Seal)

\_\_\_\_\_  
(For & On behalf of the Bidder)  
(Office Seal)

Witness 1: \_\_\_\_\_  
(Name & Address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness 2: \_\_\_\_\_  
(Name & Address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPENDIX – VI**

**(To be placed in Packet A of the Bid)**

**Information for Financial Qualification**

Name of the Bidder: -----

| S. No. | Head   | Year    |         |         |
|--------|--|---------|---------|---------|
|        |  | 2016-17 | 2017-18 | 2018-19 |
| 1.     | Gross Turnover Less Excise Duty / GST/Sales Tax Less Service Tax (as applicable)<br><br>OR<br><br>Net Sales (as per INDAs).<br><br>(Rs.) |         |         |         |

Name of Statutory Auditor's firm: \_\_\_\_\_

Seal of the Statutory Auditor's firm: (Signature, name and designation of the Authorized Signatory along with Registration Number)

Dated this \_\_\_\_ day of \_\_\_\_\_ 2020

(Name & Signature of Authorized Signatory)\_\_\_\_\_

In the capacity of \_\_\_\_\_ (position) duly authorized to sign this Tender for and behalf of \_\_\_\_\_ (name of the Bidder).

\_\_\_\_\_ (Address)

**Instructions:**

1. The Bidder shall attach copies of Audited Annual Reports for the last 3 consecutive audited financial years ending 31.03.2019 for Indian Bidder. The Audited Annual Reports shall:
  - a. be audited by Statutory Auditor;
  - b. be complete, including all notes to the financial statements; and
  - c. correspond to accounting periods already completed and audited (no statements for partial period shall be requested or accepted).

**APPENDIX – VII**  
**(To be placed in Packet A of the Bid)**

**1. Information for Technical Qualification (Refer Pre-Qualification Criterion of the tender)**

**2. Name of the Bidder:**

| S No | Particulars   | : | Details                | Remarks<br>(If any) |
|------|---|---|------------------------|---------------------|
| 1.   | Name of the Organization  | : |                        |                     |
| 2.   | Officer- in-Charge  | : |                        |                     |
| 3.   | Description of Work & Quantity  | : |                        |                     |
| 4.   | Time Period (time period must be any period during the preceding seven (7) year period ending on the last day of the month previous to the one in which Notice Inviting Tender (NIT) is issued) | : |                        |                     |
| 5.   | Period for execution of work as per work order/contract   | : |                        |                     |
| 6    | Actual time taken for satisfactory execution  | : |                        |                     |
| 7    | Rate  | : |                        |                     |
| 8    | Work Order proof  | : | <b>Attached Yes/no</b> |                     |

**3. Certificate:**

We declare that all information stated in the table above is correct and complete in all respect. Any error or omission in mentioning the information shall entitle HCL, at its sole discretion, to reject our Tender.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2020

(Name & Signature of Authorized Signatory)\_\_\_\_\_

In the capacity of \_\_\_\_\_ (position) duly authorized to sign this Tender for and behalf of \_\_\_\_\_ (name of the Bidder).

\_\_\_\_\_ (Address)

**The bidders are advised to use separate sheets in case there are using the experience of more than one work for satisfying Technical Eligibility Criterion.**



**APPENDIX – VIII**

**(To be placed in Packet A of the Bid)**

**Details of Loading & Hauling Equipment planned to be deployed (Loading equipment of bucket capacity ranging from 3 m<sup>3</sup> to 4.5 m<sup>3</sup> and Hauling equipment of 50 T / 60 T capacity Dumper):**

NAME OF WORK:

NAME OF THE BIDDER:

The Bidder shall submit herein details of Loading/Hauling equipment required to perform as per scope of work:

| Sl | Category          | Description, Make, Capacity & No. of Units ( <b>in possession or arrangements made with OEMs to possess</b> ) | Year of Manufacturing ( <b>Refer Note 3 below</b> ) | Present Location ( <b>in case of possession</b> ) | Details of OEMs in case arrangements made to possess with delivery schedule |
|----|-------------------|---|---|---|---|
| 1. | Loading Equipment |   |   |   |   |
| 2. | Hauling Equipment |   |   |   |   |

(Signature of the Authorized signatory)

(Name and designation of the of the Authorized signatory)

Name and seal of Bidder

**NOTE:**

1. The Bidder should specify the bucket capacity, boom height of loading equipment and capacity of Hauling equipment and delivery schedule, if arrangement has been made to possess the same in the appropriate column of the above table.
2. The Bidder should enclose catalogue of Loading & Hauling equipment proposed to be deployed for this work.
3. Year of manufacture of Loading & Hauling equipment proposed to be deployed for this work should not be older than 2017/2018 and should be in good working condition.
4. The bidder should give details of possession of minimum 1 nos. of Loading and minimum 3 nos. Hauling equipment of required capacity as per NIT to be deployed for this work as per above table. In case of purchase of new equipment, the bidder should mention such arrangements made with the OEMs, supported by documentary evidence.

**APPENDIX – IX A**

**(To be placed in Packet A of the Bid)**

**STATEMENT OF LEGAL CAPACITY**

[To be printed on the authorized Letterhead of the Bidder including full postal address, telephone no., fax no. and e-mail address]

Date:

To

[Insert the name and address]

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the Tender document.

We have agreed that \_\_\_\_\_ (insert individual's name) will act as our representative and has been duly authorized to submit the Tender. Further, the authorized signatory is vested with requisites power to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signatory, name and designation of the authorized signatory)

For and on behalf of \_\_\_\_\_

**APPENDIX – IX B**  
**HINDUSTAN COPPER LIMITED**  
**CORPORATE OFFICE**  
**KOLKATA**

Name of work: Bid for Loading and Hauling of 8 LBCM of rock at Malanjkhanda Open Pit Mine

Name of tenderer: \_\_\_\_\_

PROPOSED SITE ORGANISATION

The tenderer is to indicate herewith proposed site organization to be set up for execution of the work which should include qualified Engineers for supervision of the work. It is understood that this will be augmented from time to time depending on the requirements for timely completion of work as indicated by Engineer –in Charge.

Bio-data of Site-in-Charge and key personnel etc.

(Signature of the Authorized signatory)  
(Name and designation of the of the Authorized signatory)  
Name and seal of Bidder

**APPENDIX – IX C**  
**HINDUSTAN COPPER LIMITED**  
**CORPORATE OFFICE**  
**KOLKATA**  
**CERTIFICATE OF SITE VISIT**

Tender No. : HCL/M&C/MCP/L&H-8 LBCM/2020/01 Dated 14.10.2020

Name of work: Bid for Loading and Hauling of 8 LBCM of rock at Malanjkhanda Open Pit Mine

Name of tenderer: \_\_\_\_\_

This is to certify that I, Shri. .... as authorized representative of M/s. .... have visited the site on ..... and understood the total scope of work of NIT complying Clause No. 1.12.4 and 2.1 of NIT.

(Signature of the Authorized signatory)  
(Name and designation of the of the Authorized signatory)  
Name and seal of Bidder

This is to certify that the authorised representatives of M/s..... have visited the site on / from ..... to understand the work for the purpose of participating the above tendering process.

Date : (Signature of the Authorized signatory)  
(Name and designation of the of the Authorized signatory)  
Hindustan Copper Limited

**APPENDIX – IX D**

**(To be placed in Part-I of the Bid)**

Affidavit declaring that no such bar has been implied by Central/ State Government.

**APPENDIX – IX E**

**(To be placed in Part-I of the Bid)**

Affidavit declaring that no arbitration case is filed.

**APPENDIX – X**

**PRICE BID (Part-II)**

**(To be quoted in e-tendering portal only)**

NAME OF WORK:

NAME OF THE BIDDER:

**SCHEDULE OF RATES:**

Quoted Rates in Rs./BCM for the scope of work as detailed in Technical Specifications & Special Conditions of Contract for Loading and Hauling work are as under:

| Sl. No. | Item                                | Quantity | Unit | Rate **<br>(Rs./Unit)  | Total Amount<br>(Rs.)  |
|---------|-------------------------------------|----------|------|--|--|
| 1.      | Loading & Hauling from Mine benches | 8,00,000 | BCM  | <b>Only to be quoted in e-tendering portal and not to be filled in hard copy</b> | <b>Only to be quoted in e-tendering portal and not to be filled in hard copy</b> |

**\*\* Quoted rates should be exclusive of GST, which will be paid extra by HCL at the applicable rates, as per provisions of GST Act but should be inclusive of other taxes and duties of State and Central Government.**

(Signature of the Authorized signatory)

(Name and designation of the of the Authorized signatory)

Name and seal of Bidder

**APPENDIX - XI**

**CHECKLIST**

| <b>Sl</b> | <b>Requirement</b>  | <b>Complied with<br/>(Yes / No)</b> |
|-----------|---|-------------------------------------|
| 1         | All the pages numbered serially   |                                     |
| 2         | Each page of the book initialed in indelible ink by the authorised signatory  |                                     |
| 3         | Tender fees of Rs. <b>5600/-</b> /- (Rupees <b>Five Thousand Only</b> ) inclusive of GST @12% in form of RTGS/NEFT in favour of “ <b>Hindustan Copper Limited</b> ” payable at Kolkata  |                                     |
| 4         | Bid Security of Rs. <b>50,00,000/-</b> (Rupees <b>Fifty Lacs Only</b> ) in the form of NEFT/RTGS or a Bank Guarantee in the Format at Appendix III, as per Clause 2.14 of NIT.  |                                     |
| 5         | Covering Letter <i>as prescribed</i> in Appendix I<br>i. Signed by authorized signatory<br>ii. On the letterhead of the Applicant   |                                     |
| 6         | Details of Applicant <i>as prescribed</i> in Appendix II<br>i. Signed by authorized signatory<br>ii. Attached copy of Memorandum of Association & Article of Association  |                                     |
| 7         | Power of Attorney for signing of Bid executed on non-judicial stamp paper of appropriate value and duly notarised <i>as prescribed</i> in Appendix IV A; Extracts of the charter documents such as board or shareholders’ resolution/ power of attorney in favour of the person executing the Power of Attorney   |                                     |
| 8         | Integrity Pact Agreement <i>as prescribed</i> in Appendix–V&VA  |                                     |
| 9         | Information for Financial qualification – Turnover <i>as prescribed</i> in Appendix VI and Net Worth positive as per Clause 1.5.3 (1) (ii) of NIT<br>i. Signed by Authorized Signatory<br>ii. Signed and sealed by Statutory Auditor of Applicant<br>Attached copies of Audited Annual Reports for 3 (three) preceding consecutive audited financial years ending 31.3.19 for Applicant |                                     |
| 10        | Information for Technical qualification as prescribed in Appendix VII<br>i. Signed by Authorized Signatory<br>Copies of all relevant documents/evidences in support of their technical eligibility including Certified copy of proof of production from the employer and copy of the Work Order   |                                     |
| 11        | Details of Minimum number of equipment including make, year of make, bucket capacity, capacity of equipment etc in the format prescribed at Appendix-VIII   |                                     |



|    |   |  |
|----|---|--|
|    | <ul style="list-style-type: none"> <li>i. Signed by Authorized Signatory</li> <li>ii. Delivery schedule in case equipment is to be purchased</li> <li>iii. Catalogue of equipment proposed to be deployed for this work.</li> </ul>   |  |
| 12 | <p>Statement of legal capacity <i>as prescribed</i> in Appendix IX A</p> <ul style="list-style-type: none"> <li>i. Signed by Authorized Signatory on the letterhead of the Applicant</li> </ul>   |  |
| 13 | <p>Proposed Site Organization <i>as prescribed</i> in Appendix-IX B</p> <ul style="list-style-type: none"> <li>i. Signed by Authorized Signatory</li> <li>ii. Bio-data of Site-in-Charge and key personnel</li> </ul>   |  |
| 14 | <p>Certificate of Site visit in the format <i>as prescribed</i> in Appendix-IX C</p> <ul style="list-style-type: none"> <li>i. Signed by Authorized Signatory</li> <li>ii. Counter signed by Unit Head or his representative</li> </ul>   |  |
| 15 | Affidavit declaring that no bar has been implied or subsists as on date of the tender, by HCL on the bidder, as per Clause 1.6.2 of NIT in Appendix-IX D.   |  |
| 16 | Affidavit declaring that the bidder has neither failed to perform on any contract related to HCL, as evidenced by an arbitral or judicial authority, a judicial pronouncement or arbitration award against the bidder and no arbitration case is filed against them in this respect, as per Clause 1.6.3 of NIT in Appendix-IX E. |  |
| 17 | A copy of the tender document with each page initialed by the person signing the bid in pursuance of the power of attorney, as a token of acceptance.   |  |
| 18 | Price Bid has been submitted  |  |

**SECTION II**  
**CONTRACT**  
**BETWEEN**  
**HINDUSTAN COPPER LIMITED**

**AND**

*[Please Insert the name of the Contractor]*

**(CONTRACTOR)**

**FOR**

*[Please insert the name of the work]*

Contract for Loading & hauling of 8 Lakh BCM rock at Malanjhand open pit mine for a period of 15 (Fifteen) months from..... to .....(excluding mobilization period of 60 days) is entered into on this the [●] day of [●] 2020 at [●] (hereinafter referred to as the “**Contract**”)

**BETWEEN:**

**HINDUSTAN COPPER LIMITED**, a company incorporated under the Indian Companies Act 1956 (hereinafter referred to either as the "**Employer** or **HCL**" which expression shall include its successors and permitted assigns) having its registered office at 1, Ashutosh Chowdhury Avenue, Kolkata – 700019 India of the **FIRST PART**;

**AND**

*[Please Insert the Name of the Contractor]*, a Proprietorship/Partnership or a limited company incorporated under the provisions of the Indian Companies Act, 1956, having its registered office at *[Please Insert the Address of the Contractor]* or, in case of a Consortium, *[please insert the details of the consortium members]*, who have, vide a power of attorney, duly authorized *[Please Insert the Name of the Contractor]*, a company incorporated under the provisions of the Indian Companies Act, 1956, having its registered office at *[Please Insert the Address of the Contractor]*, to execute this Contract for and on their behalf collectively, hereinafter referred to as the "**Selected Bidder** or **Contractor**" (which expression shall unless repugnant to the subject or the context include its successors and permitted assigns) of the **OTHER PART**.

**WHEREAS:**

- (A) HCL is a public sector undertaking under the administrative control of the Ministry of Mines. HCL has decided to expand loading and hauling capacity at Malanjhand open cast mine.
- (B) For undertaking the Work (as defined hereinafter), the Employer has conducted a competitive bidding process for inviting tenders from eligible parties. HCL, after evaluating the tender submitted by the parties, selected *[Please Insert the details of the Selected Bidder]*

(“**Contractor**”) and issued a Letter of Intent (“**LoI**”) for the Work which was duly accepted by the Selected Bidder.

- (C) The Contractor has represented that it has the experience, expertise, capability and know-how to ensure that the Works are executed and completed in accordance with the terms of the Contract in a safe and environmentally responsible manner and that the Works will be capable of seamless integration with Related Works and be carried out on, under and over the Work Site (as defined hereinafter).
- (D) Relying upon the representations in Recital C, the Employer appoints the Contractor for execution of the Work, and the Contractor agrees to carry out and complete the Works and remedy any defects therein, on the terms and conditions of the Contract.
- (E) The Contractor acknowledges that the Employer has entered into or will enter into other contracts with other contractors and/or parties for elements of the Work (as defined hereinafter) (and not comprised in the Works) and that the Employer will have Related Works performed and that it is of paramount importance that the Works are fully and completely co-ordinate with the Related Works in view of their concurrent and sequential nature.
- (F) This Contract has been executed and delivered in accordance with the laws of India.
- (G) The terms and conditions of this Contract have been fully negotiated between the Employer and the Contractor as parties of competent capacity and equal standing.

NOW THEREFORE in reliance of the mutual covenants and agreements, HCL is desirous of regulating its relationship with the Contractor in accordance with and subject to the terms hereof and in the manner set forth herein.

NOW THIS CONTRACT WITNESSETH AS FOLLOWS:

## ARTICLE - 1

### DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Contract or any documents either issued or that may be issued in connection with this Contract, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

**"Applicable Laws"** means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India including any revisions, amendments or re-enactments including without limitation, the Mines Act, 1952, The Mines Rules, 1955, Mines and Minerals (Development and Regulations) Act, the Metalliferous Mines Regulations, 1961, Minimum Wages Act, and Workmen Compensation Act, PF Act including any rules, regulations and notifications made there under and judgments, decrees, injunctions, writs, orders and notifications issued by any court of record or any appropriate authorities, as may be in force and effect during the subsistence of the Contract.

**"Applicable Permits"** means any clearance, permit, authorization, consent, license, lease, ruling, exemption, filing, agreements, or approval, required to be obtained and maintained by the Employer and/or the Contractor from time to time, in order to implement the Work and/or to design and execute the Works in accordance with this Contract.

**"Appointed Date"** means the date of issue of Letter of Intent (LoI).

**"Approved"** shall mean approved in writing including subsequent written confirmation of previous verbal approval.

**"BCM" or "Bank Cubic Metre"** shall mean the volume of rock in situ without being disturbed.

**"Bidder"** shall mean the person, firm, association of firms, company or corporation who is eligible for the work as per terms and conditions stipulated in tender document and shall include his / their executors, administrators, successors and permitted assignees.

**"Bid Security"** shall mean the bid security as furnished by the Contractor in response to the tender in the format attached at Appendix III.

**"Business Day"** means a day other than a Sunday or a public holiday on which scheduled commercial banks are open for business in Madhya Pradesh, India.

**"Change in Law"** means (i) any enactment or issuance of any new Applicable Law; (ii) any change in the interpretation or Tender of an existing Applicable Law by any Government Agency having direct authority for such interpretation or Tender; (iii) any amendment, alteration or modification of an existing Applicable Law by any Government Agency having direct authority for the enactment, enforcement or interpretation, thereof; or (iv) the repeal and re-enactment of any existing Applicable Law.

**“Commencement Date”** shall mean the date falling on the expiry of the mobilisation period of 2 months (60 days) from the date of issue of LoI.

**“Completion”** means the completion of the entire scope of Work herein specified to the required standards accordance with this Contract to the satisfaction of the Engineer-in-Charge, and the terms "Complete" "Completed" "Completion" and "Completing" shall be construed accordingly.

**“Completion Certificate”** means the certificate to be issued by the Engineer-in-Charge in accordance with provision of Article 6.4 certifying Completion of the awarded Work

**"Confidential Information"** means the Contract and everything contained therein, all documentation, data, particulars of the Works and technical and/ or commercial information made by (or on behalf of) the Employer or obtained directly or indirectly from the Employer or the Employer's Representative by the Contractor or which is generated by the Contractor or any Sub-Contractor or any information or data that the Contractor receives or has access to as a result of the Contract, other than information which is generally available in the public domain other than by any unauthorized actions or fault of the Contractor; or which is in the possession of the Contractor with a right to disclose.

**"Contractor's Documents"** means those documents to be prepared by the Contractor under the Contract including without limitation, such data, Drawings, designs, design information, descriptions, calculations, schedules, specifications, plans, samples, patterns, models, mock-ups, computer software drawings, inspection and test plans, manuals, programmes, erection and test data and all other information and documents including all eye readable or computer/other machine readable data relating to the design (to the extent required under the Contract) for execution of the Works or otherwise for the performance of the Contract.

**“Contract Period”** means the period of Contract 15 (Fifteen) months.

**“Contractual Quantity”** means the quantity for which contract has been entered into.

**“Contract Price”** shall have the meaning ascribed in the applicable clauses in the tender.

**“Contract Payment Due Date”** means **credit period of 30 days** from the acceptance of the bill by the engineer In Charge within 7 days on receipt of Bill from the Contractor, for the month of completion of the job, after deduction of LD, if any.

**“Contract Payment Period”** means the period within which, payment is to be made by HCL to the Contractor for the actual work done by the Contractor during the month for which payment is sought.

**“Day”** means the twenty four hours period ending at 24.00 midnight (Indian Standard Time).

**“DGMS”** means Directorate General of Mines Safety, Government of India.

**“Dispute”** shall have the meaning ascribed thereto in applicable clauses in the tender.

**“Emergency”** means a condition or situation that is likely to endanger the Mine safety as per Good Industry Practice on or about the Work Site/Work Facilities including safety of users thereof or which poses an immediate threat of material damage to any of the Work Site/Work Facilities.

**“Emergency Works”** shall mean and include all such works necessary to be undertaken to prevent the occurrence/ happening/ further deterioration/ damage/ disaster/ accident/ incident anticipated by the Engineer-in-Charge that could seriously affect the safety of persons/production of Mine or part thereof.

**“Encumbrance”** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Work, physical encumbrances and encroachments on the Work Site/Work Facilities.

**“Engineer-in-Charge/HCL’s Representative”** shall mean such officer or officers having such rights and obligations set out in **Schedule I**, to be designated, deputed or authorized, by HCL for the purpose of this Contract and shall include Engineer-in-Charge’s authorized representatives.

**“Event of Default”** shall have the meaning ascribed thereto in applicable clauses in the tender.

**“Force Majeure Event”** shall have the meaning ascribed thereto in Article 9.

**“Force Majeure Period”** means, as determined by the Engineer-in-Charge, the period commencing from the date of occurrence of a Force Majeure Event and ending on (i) the date on which the Affected Party acting in accordance with the Good Industry Practice, resumes or should have resumed such of its obligations the performance of which was excused as per terms mentioned elsewhere in the tender or (ii) the Termination Date, as applicable.

**“Good Industry Practice”** means those practices, methods, techniques, standards, skills, diligence and prudence which are generally and reasonably expected of and accepted internationally from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Contract and acting generally in accordance with the provisions of all Applicable laws, and would mean good engineering and mining practices in the design, engineering, expansion, construction and work management and which would be expected to result in the performance of its obligations by the Contractor and in the operation and maintenance of the Mining Facilities, in accordance with this Contract, Applicable Laws, Applicable Permits, reliability, safety, environment protection, economy and efficiency. For avoidance of doubt, it is clarified that in the event of a conflict between any Good Industry Practice and any requirement and/or standard prescribed by the DGMS, the latter shall prevail and the Contractor shall have to oblige with the provisions of the latter.

**“Gol”** means the Government of India and includes any agency, authority (including any regulatory authority) department, inspectorate, ministry or statutory person (whether autonomous or not) under the control and direction of the Government of India.

**"GoMP"** means the Government of Madhya Pradesh and any agency, authority (including any regulatory authority) department, inspectorate, ministry or statutory person (whether autonomous or not) (including any successor there for) under the control and direction of the Government of Madhya Pradesh.

**"Government Agency"** means GoI, GoMP, HCL or any state government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Contractor, the Work Site/ Work Facilities or any portion thereof, or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Contract.

**"Hauling"** shall mean Mechanized hauling of blasted rock/ore from any bench/area using diesel operated off road dumpers of 60 T capacity.

**"HCL's Requirements"** means the document or documents identified as such and included in the Contract and any modifications thereof or addition thereto as may from time to time be issued by (or on behalf of) the Engineer-in-Charge in accordance with the Contract.

**"Joint Measurement Certificate"** shall have the meaning ascribed thereto under Schedule X, clause – 4.

**"LBCM"** shall mean Lakh Bank Cubic Metre.

**"Loading"** shall mean Mechanized Loading of blasted rock/ore from any bench/area using suitable diesel operated hydraulic excavator of bucket capacity ranging from 3 m<sup>3</sup> to 4.5 m<sup>3</sup> in to diesel-operated dumpers of 50/60 T capacity.

**"Material Adverse Effect"** means material adverse effect on (a) the ability of the Contractor to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Contract and/or (b) the legality, validity, binding nature or enforceability of this Contract.

**"Material Breach"** means a breach by either Party of any of its obligations under this Contract which has or is likely to have a Material Adverse Effect on the Work and which such Party shall have failed to cure.

**"Mine"** means Malanjkhand Copper Mine at Balaghat District, Madhya Pradesh State India.

**"Mine Manager"** means a person authorized in writing by Owner under Section 17 of Mines Act, 1952 to be in-charge of the Mine who is responsible for the overall management, control, supervision and direction of the Mine.

**"Mobilization Period"** means the period of 2 months (60 days) from the date of issue of Letter of Intent, during which, the Contractor is required to mobilize his resources and commence the Works at the Site.

**“Month”** means a period beginning at 00-00 hours (Indian Standard Time) on the first day of a given English calendar month and ending at 00-00 hours (Indian Standard Time) on the first day of the next succeeding English calendar month.

**“Mtpa”**, means million tonne per annum.

**“Owner”** means the Director (Mining) of HCL.

**“Parties”** means the parties to this Contract collectively and **“Party”** means either of the Parties to this Contract individually.

**“Security Deposit”** means the deposit for security of performance of its obligations during the Contract Period to be provided by the Contractor in accordance relevant applicable clause/clauses mentioned in the tender.

**“Period of Liability”** in relation to a Work means a period of twelve (12) months from the date of Completion, during which the Contractor stands responsible for rectifying all defects that may appear in the Work.

**“Person”** means (unless otherwise specified or required by the context), any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or Government Agency or any other legal entity.

**“Preliminary Notice”** means the notice of intended Termination by the Party entitled to terminate this Contract to the other Party setting out, inter alia, the underlying Event of Default.

**“Shift”** means the eight hours period consisting three shifts in a day of 24 hours (Indian Standard Time).

**“Work”** means engineering, procurement, construction and designing of the Works and all Related Works in relation to the Work, in accordance with the provisions of this Contract.

**“Work Agreements”** means collectively this Contract and any other material contract entered into or may hereafter be entered into by the Contractor in connection with the Work.

**“Project Manager”** means any person appointed and authorized by the Contractor, who will take decision at Work Site independently and on behalf of the Contractor during the implementation of the Contract.

**“Work Site / Site”** means Malanjhand copper mine at Balaghat District, India where the Work is to be implemented by the Contractor in accordance with the Work Requirements or provision of any Temporary Work or for any other purpose for execution of Work.

**“Related Works”** means works other than the Works, performed or undertaken by the Employer or other contractors or suppliers of the Employer or any contractor employed in connection with the Work and/or services related thereto or by public or private utilities or by any Government Agency or other authorities or by any relevant authority, either prior to, concurrently or sequentially with the Works at, on, over or adjacent to the Work Site in connection with or related to the Work and which may be connected to, associated with, ancillary to or otherwise related to or relevant to the Works.



**“Representative”** means either the HCL’s representative or the Contractors representative.

**“Retention money”** means the money which is hold by HCL for successful performance of the contract.

**"Specifications"** shall mean all directions, various technical specification, provisions and requirements attached to the contract, which pertain to the method and manner of performing the work or works to the quantities and qualities of the work or works and the materials to be furnished under the contract.

**"Site"** shall mean the lands and other places on, under, in or through which the permanent works are to be carried out and any other lands or places provided by HCL for the purpose of the contract.

**“Tender”** means collectively the tender issued to bidders including any supplements/amendments thereto and other documents, drawings, specifications, agreed variations, if any.

**“Rs” or “Rupees”** refers to the lawful currency of the Republic of India

**“Tax”** means and includes all taxes, fees, cesses, levies that may be payable by the Contractor under any Applicable Law.

Tax shall not include any penalty, interest or other penal sum levied on or payable by the Contractor on account of non-payment, short payment or delayed payment of Tax or on account of any other default.

**"Temporary Works"** shall mean every work which is of a temporary nature, and which the Contractor shall remove, or at the option of HCL, hand over to HCL, upon such temporary works having fulfilled the reason for which they were required by the Contractor.

**“Termination”** means early termination of this Contract pursuant to Termination Notice or otherwise in accordance with the provisions of this Contract but shall not, unless the context otherwise requires, include the expiry of this Contract due to efflux of time in the normal course.

**“Termination Date”** means the date specified in the Termination Notice as the date on which Termination occurs.

**“Termination Notice”** means the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Contract

**“Tests”** means the tests to be carried out by Contractor to ascertain the safety and reliability of the Works carried out by the Contractor for the Work.

**“Tonnes” or “tonne” or “te” or “Te” or “t”** means a metric tonne of 1,000 (One thousand) kilograms.

**“Work/ Works/ Job”** shall mean all or any portion of the entire activities to be performed in relation to the Work of hauling of rock in accordance with the scope of the work, whether supplemented or not by HCL or the Engineer-in-Charge during the progress of execution of the activities by the Contractor by explanatory instructions.

## **1.2 Interpretation**

In this Contract, unless the context otherwise requires,

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (b) references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or byelaws which have the force of law in any State or Union Territory forming part of the Union of India;
- (c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- (d) the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Contract;
- (e) the words "include" and "including" are to be construed without limitation;
- (f) references to "construction" include investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- (g) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (h) the Schedules to this Contract form an integral part of this Contract and will be in full force and effect as though they were expressly set out in the body of this Contract;
- (i) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
- (j) references to recitals, Articles, sub-articles, Clauses, or Schedules in this Contract shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, Clauses and Schedules of or to this Contract;
- (k) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Contract from or by any Party or the Engineer-in-Charge shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the Engineer-in-Charge, as the case may be, in this behalf and not otherwise;
- (l) Unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days and dates.

### **1.3 Measurements and Arithmetic Conventions**

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

#### **1.4 Ambiguities and Discrepancies**

In case of ambiguities or discrepancies within this Contract, the following shall apply:

- (a) Between two Articles of this Contract, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
- (b) Between the written description on the Drawings and the Specifications, the latter shall prevail;
- (c) Between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail;
- (d) Between any value written in numerals and that in words, the latter shall prevail.

#### **1.5 Resolution of Inconsistencies in Contract Documents**

The provisions of the various Articles of this Contract shall prevail over those of any other documents forming part of the Contract. Should there be any discrepancy, inconsistency, error and omission or any of them arises in the Contract, the matter may be referred to the Engineer-in-Charge, who shall give his decision and issue instructions to the Contractor, directing the manner in which the work is to be carried out. The decision of the Engineer-in-Charge shall be conclusive and final and the Contractor shall carry out the work in accordance with the decision of the Engineer-in-Charge.

#### **1.6 Background Information and the manner in which discrepancies are resolved**

**1.6.1** The Employer gives no warranty or undertaking as to the completeness, accuracy or fitness for purpose of any of the Background Information or the various documents that together comprise the Contract. Subject to the express provisions of the Contract, neither the Employer nor any of its agents or servants shall be liable to the Contractor in contract, tort (including negligence or breach of statutory duty), statute or otherwise as a result of:

- (a) Any inaccuracy, omission, unfitness for purpose or inadequacy of any kind whatsoever in the Background Information;
- (b) Any failure to make available to the Contractor any materials, documents, drawings, plans or other information relating to the Works or the Work;
- (c) Any ambiguities, discrepancies, inconsistencies, divergences, design or construction impracticalities or omissions from, within, or between the documents which comprise the Contract.

**1.6.2** The Contractor warrants and represents to the Employer that:

- (a) it has conducted its own analysis and review of the Background Information and that it has satisfied itself as to the accuracy, fitness for purpose and completeness of all such Background Information; and

- (b) the Contractor has thoroughly examined the documents comprising the Contract and is satisfied that there are no ambiguities, discrepancies, inconsistencies, divergence, design or construction impracticalities or omissions from, within and between such documents and that such documents are accurate, complete and sufficient in all respects for the purposes of the design and execution of the Works; and
  - (c) after a complete and careful examination, it has made an independent evaluation of the scope of the Works required and has determined the nature and extent of the difficulties, risks and hazards that are likely to arise or may be faced by it in or about of the performance of all its obligations in the Contract. The Contractor hereby acknowledges its responsibility in respect of all such risks and hazards and agrees that the Employer shall not be liable in respect of the same in any manner whatsoever to the Contractor whether in contract, tort, statute or otherwise.
- 1.6.3** Without prejudice if, notwithstanding the Contractor's analysis and examination of the documents comprising the Contract, any ambiguities, discrepancies, inconsistencies, divergence, design or construction impracticalities or omissions from, within or between any of the documents comprising the Contract, come to the attention of either Party, that Party shall immediately notify the other Party and HCL's representative, specifying the ambiguity, discrepancy, inconsistency, divergence, design or construction impracticality or omission (as the case may be) and HCL's Representative shall issue instructions in regard thereto.
- 1.6.4** The Parties agree that any ambiguity, discrepancy, inconsistency, divergence, design or construction impracticality or omission as aforesaid shall not vitiate the Contract. No instruction given by HCL's Representative, shall amount to a change and the Contractor shall not be entitled to any extension of time or additional payment in respect thereof.
- 1.6.5** HCL's Requirements shall remain in the sole custody of HCL's Representative but two copies thereof shall be furnished to the Contractor free of charge. The Contractor shall provide and make at its own expense any further copies required by it.

## **ARTICLE - 2**

### **CONTRACT**

#### **2.1 Grant of Contract**

Subject to and in accordance with the terms and conditions set forth in this Contract, HCL hereby grants and authorizes the Contractor to investigate, study, design, engineer, procure, finance and carry out office/camp construction and any other work related to the awarded work in accordance with the provisions of the Contract and Good Industry Practices and to exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Contract.

#### **2.2 Contract Period**

The Contract shall be for a period of **15 (Fifteen) months** excluding 2 months (60 days) of mobilization period for Loading & Hauling work, commencing from the date of issue of LoI, during which the Contractor is authorized to implement the Work in accordance with the provisions hereof. The Contract Period may be extended further as stipulated under Article 8.7 hereunder, provided that the period of any such extension shall be decided by HCL in its sole and absolute discretion.

#### **2.3 Contractual Quantity**

Loading & Hauling of 8 Lakh Bank Cubic Meter (LBCM) of rock in 15 (Fifteen) months' period, excluding the mobilization period of maximum 2 months (60 days) as per monthly tentative schedule indicated in the scope of work. However, the contractual quantity can be increased by two extensions of 25% each at HCL's discretion, based on the conditions during the execution of the contract and the contract period will be extended on pro rata basis accordingly.

#### **2.4 Acceptance of Contract**

In consideration of the Contract Price agreed to be paid by HCL and other good and valuable consideration expressed herein, the Contractor hereby accepts the Contract and agrees and undertakes to implement the Work/provide and operate Work Facilities, and to perform/discharge all of its obligations as per Good Industry Practices and in accordance with Applicable Laws and the provisions hereof.

**ARTICLE - 3**  
**CONDITIONS PRECEDENT**

**3.1 Conditions Precedent**

The rights and obligations of the Contractor under this Contract are subject to the satisfaction in full of the following conditions precedent to be fulfilled on or before Commencement Date unless any such condition has been waived as provided in this Article:

- (a) the Contractor shall have applied for or obtained necessary Applicable Permits unconditionally or if subject to conditions then all such conditions have been satisfied in full and such Applicable Permits are and shall be kept in full force and effect for the relevant period during the subsistence of this Contract;
- (b) certified true copies of all Work Agreements have been delivered by the Contractor to HCL;
- (c) the Performance Security has been provided by the Contractor to HCL and the same is in full force and effect;
- (d) all of the representations and warranties of the Contractor set forth in this Contract are true and correct as on date of this Contract and as on the Commencement Date;
- (e) HCL shall have received from the Contractor copies (certified as true copies by an authorized officer of the Contractor) of the constitutional documents of the Contractor;
- (f) HCL shall have received copies (certified as true copies by a director of the Contractor) of all resolutions adopted by the Board of Directors of the Contractor authorizing the execution, delivery and performance by the Contractor of this Contract and each of the Work Agreements;
- (g) HCL shall have received from the Indian legal counsel of the Contractor a legal opinion with respect to the authority of the Contractor to enter into this Contract and the Work Agreements and the enforceability of the provisions thereof;
- (h) The Contractor having executed the Integrity Pact as given in **Appendix VA**.
- (i) The Contractor ensuring that its personnel have adequate insurance coverage and are medically fit (as per legal requirements for working in mines), and have adequate vocational training.

Any of the conditions precedents as set forth above may be waived fully or partially by HCL at anytime in its sole discretion.

**3.2 Obligation to Satisfy the Conditions Precedent**

The Contractor shall make all reasonable endeavors to satisfy the conditions precedent set out in Article 3.1 above and shall bear its respective cost and expense of satisfying such condition precedent unless otherwise expressly provided.

### **3.3 Termination upon failure to satisfy the Conditions Precedent**

If the conditions precedent are neither fulfilled on or before the Commencement Date or any other later date as may have been stipulated by HCL, nor waived, then HCL shall have the right to terminate this Contract without any liability to any Party by giving thirty (30) days' notice and Bid Security or Performance Security, as the case may be, by the Contractor shall stand forfeited.

**ARTICLE - 4**  
**WORK SITE**

**4.1 Handover of Work Site**

- (a) HCL shall assign work to the Contractor at the designated Work Site free from encumbrance together with the necessary right of access for the purpose of implementing the work within 2 months (60 days) from the date of issuance of LoI.
- (b) Upon the Work Site or any part thereof being handed over pursuant to the Article 4.1 (a), the Contractor shall, subject to the provisions of Article 3, have the right to enter upon, occupy and use the Work Site or part thereof delivered to it by HCL and to make at its costs, charges and expenses, such investigation, expansion, excavation and improvements in the Work Site as may be necessary or appropriate to implement the Work in accordance with the provisions of this Contract.

**4.2 Rights, Title and Use of the Work Site**

- (a) The Contractor shall have the right to the use of the Work Site in accordance with the provisions of this Contract and for this purpose it may regulate the entry and use of the same by other parties with HCL's permission. Provided that such access or use by the Contractor and/or any other party shall not result in a Material Adverse Effect and that the Contractor shall, in the event of any physical damage to the Work Site/Work Facilities on account thereof, ensure that the Work Site/Work Facilities are promptly restored at its cost and expenses.

Provided further, that to the extent such access and use allowed to the Contractor affects the performance of any of its obligations hereunder, the Contractor shall not be deemed or construed to be in breach of its obligations nor shall it incur/suffer any liability on account thereof.

- (b) The Contractor shall not part with or create any Encumbrance on the whole or any part of the Work Site save and except as set forth and permitted under this Contract.
- (c) The Contractor shall not without the prior written consent or approval of HCL use the Work Site for any purpose other than for the purpose of the Work/the Work Facilities and purposes incidental or necessary thereto.

**4.3 Peaceful Possession**

HCL hereby warrants that:

- (a) The Work Site together with the necessary access to the Work Site having been acquired through the due process of law belongs to and is vested in HCL, and that HCL has full powers to hold and deal with the same consistent, inter alia, with the provisions of this Contract and that the Contractor shall, in respect of the Work Site, have no liability regarding any compensation payment on account of land acquisition or rehabilitation/resettlement of any Persons affected thereby.



- (b) The Contractor shall, subject to complying with the terms and conditions of this Contract, execute work at the designated work site during the contract period. In the event the Contractor is obstructed by any Person claiming any right, title or interest in or over the Work Site or any part thereof or in the event of any enforcement action including any attachment, distain, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/ charge on the Work Site or any part thereof, HCL shall, if called upon by the Contractor, defend such claims and proceedings and also keep the Contractor indemnified against any consequential loss or damages which the Contractor may suffer, on account of any such right, title, interest or charge.

**ARTICLE - 5**  
**ENGINEER-IN-CHARGE**

**5.1 Nomination of Engineer-in-Charge**

HCL shall immediately and in any case not later than one (1) week of the Appointed Date (date of issue of LoI), nominate an officer to carry out roles and responsibilities of Engineer-in-Charge for the Work and communicate the details of the same to the Contractor.

Further, the Engineer-in-Charge shall nominate another officer who could act in his position on instances of the said officer (*i.e.* the Engineer-in-Charge) being away from the Work Site.

**5.2 Rights and Obligations of Engineer-in-Charge**

Engineer-in-Charge shall be the representative of HCL to review, monitor, co-ordinate activities and issue directions related to the Work.

Acts of Engineer-in-Charge as far as it is within the rights and obligations set out in **Schedule I** shall be deemed to be acts of HCL.

**5.3 Notifications of change in Office of Engineer-in-Charge**

In the event of change in the office of Engineer-in-Charge due to retirement/ replacement / vacation of the nominated officer, HCL shall promptly notify the details of such change to the Contractor.

## ARTICLE - 6

### CONTRACTOR'S OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Contract, the Contractor shall have the following obligations:

- 6.1 Performance Security Deposit:** Security deposit appearing in **Schedule VII** shall be submitted within 30 days from the date of issue of LoI. Performance Security deposit appearing in Schedule VII shall consist of two parts;
- a. Performance Security to be submitted at the award of work, and
  - b. Retention money to be recovered from Running Bills.
- a) The Contractor shall, for due and punctual performance of its obligations during the Contract Period, deposit a Performance Security which shall be equal to Five per cent (5%) of the Contract Price with HCL, within thirty (30) days from the issuance of LoI.
  - b) The Performance Security Deposit for the complete amount, as stated in (a) above, shall be payable by the Contractor by way of Demand Draft/ Pay Order/Banker's Cheque/Bank Guarantee from a schedule commercial bank in the format prescribed under **Schedule VII**. Performance Security Deposit in any other format is not acceptable. Payment shall not be released if PSD has not been deposited in totality.
  - c) The Bank Guarantee (BG) shall be valid initially for a period of 12 (twelve) months from the date of issue of LoI and shall be renewed for same period on or before at least 30 (thirty) days prior to the date of expiry of year and the same procedure to be continued till the end of the Contract period and / or till six months after the issue of completion certificate, whichever is later. In case of failure of the contractor to extend the BG before the expiry date, HCL will have the right to encash the BG. HCL will intimate the bank one month prior to expiry date of BG for encashment of the same if BG is not extended beyond expiry date.
  - d) HCL is at liberty, after having given fourteen (14) days' written notice to the Contractor and without any further reference to the Contractor, to realize and / or forfeit the Performance Security deposit for non-fulfillment and or for unsatisfactory performance of the Contract or any clauses thereof.
  - e) Performance Security Deposit in the form of Bank Guarantee shall remain binding notwithstanding such variations, alterations or extensions in time as may be made, given, conceded or agreed to between the Contractor and HCL, and the Contractor agrees to extend the Bank Guarantee suitably if the Work is not completed as per the Contract Period or it is extended by the written consent of HCL.
  - f) HCL shall not be liable for payment of interest under Performance Security Deposit.
  - g) The Performance Security Deposit shall be released, on application by the Contractor within one (1) month of issue of final work completion certificate by HCL.

- h) The Bank Guarantee shall not in any way be construed as a limitation of the Contractor's responsibility or liability pertaining to its obligation and guarantees under the Contract and shall be without prejudice to any other remedies available to HCL as expressly set out in the Contract.
- i) The method of submission of Bank Guarantee is as below:
- i. The bank guarantees issued by the issuing bank on behalf of the successful bidder in favour of Hindustan Copper Limited (HCL) shall be in paper form as well as Structured Financial Messaging System (SFMS).
  - ii. HCL has chosen State Bank of India to act advising bank of HCL. The bank issuing the guarantee can chose the bank to send confirmation through SFMS.
  - iii. The details of beneficiary (i.e. HCL) for issue of bank guarantee in SFMS platform is as furnished as below.

State Bank of India as advising bank of HCL

|  |     |                                   |   |
|--|-----|-----------------------------------|---|
| Name and Details of Beneficiary  | I   | Name                              | Hindustan Copper Limited  |
|  | II  | Address                           | TamraBhavan,<br>1, Ashutosh Chowdhury<br>Avenue, Kolkata 700019 |
|  | III | Area                              | Kolkata 700019  |
|  | IV  | Name of Bank                      | State Bank of India   |
|  | V   | Bank A/C No                       | 00000010373629348   |
| Beneficiary's Advising Bank, Branch and Address for Confirmation of BGs through SFMS | I   | Name of the Bank                  | State Bank of India   |
|  | II  | Name of the Branch of the Bank    | CAG Branch Kolkata  |
|  | III | MICR Code                         | 700002199   |
|  | IV  | IFSC Code                         | SBIN0009998   |
|  | V   | Address of the Branch of the Bank | 34- J L Nehru Road.<br>Reliance House, Kolkata<br>700071        |

- iv. The Successful bidder is required to take note of it that above particulars are to be incorporated by the issuing bank properly while issuing the Bank Guarantee under SFMS mode to avoid any future problem in accepting the BGs.
- v. The Guarantor (BG issuing bank) shall send information about issuance of this Guarantee through SFMS gateway to the State Bank of India, CAG Branch Kolkata (IFSC- SBIN0009998), to aid in the process of confirmation of Bank Guarantee.

- vi. The Original Bank Guarantee issued by the outstation bank shall be sent by the Issuing Bank to the Hindustan Copper Limited at Kolkata by Speed Post /Registered Post (AD).
  
- j) In addition to Performance Bank Guarantee, the Retention money shall be Five percent (5%) of the Contract amount, i.e. remaining 5% of the Security Deposit and to be recovered at the rate of 5% (five percent) from Running Bills subject to subject to the condition that maximum amount of accumulated retention money will not exceed 5% of the total Contract Price. However, 50% of the accumulated retention money can be refunded to the contractor, on a written request by the successful bidder, against submission of Bank Guarantee from a scheduled commercial bank for the equal amount. Such refund will be made at an interval not earlier than six months.

## **6.2 Contract Execution Plan**

### **6.2.1 Work Plan**

- (a) The Contractor shall, within thirty (30) days of date of issue of LoI, in consultation with the Engineer-in-Charge finalize and submit to the Engineer-in-Charge, a Work Plan. The plan will contain resource mobilization plan giving details of manpower (statutory, supervisory, skilled, semi skilled and unskilled), machinery, equipment tools and tackles and other major materials/ consumables as required for completion of the work as per schedule.

The Engineer-in-Charge shall review the Plan submitted by the Contractor within five (5) days of the receipt thereof and convey its comments/observations to the Contractor including the need, if any, to modify the same. If the comments/ observations of the Engineer-in-Charge require, the Plan to be modified, the Contractor shall suitably modify the same and resubmit it to the Engineer-in-Charge for further review within five (5) days. The Engineer-in-Charge shall give its observations and comments, if any, within three (3) days of receipt of such revised Plan, which shall be incorporated by the Contractor into the final Plan.

In the event that the Engineer-in-Charge is not able to review the Plan in full within the prescribed time, the Engineer-in-Charge may advise the Contractor to commence the Works. Notwithstanding any such review or failure to review by the Engineer-in-Charge, the Contractor shall be solely responsible for the adequacy of the Plan and the Contractor shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.

### **6.2.2 Other submissions**

The Contractor shall before the Commencement Date i.e. within 02 (two) months (60 days) from the date of issuance of LoI, will submit to HCL / Engineer-in-Charge, the following information, for the records of HCL:

- i. Provident Fund Account Details
- ii. Organization Structure

- iii. Details of Work Manager, Key supervisory staff
- iv. Contract Labour License
- v. Medical Examination Records of the Employees as per Mines Act
- vi. Permanent account number of Income tax (PAN)
- vii. GST Regn Number
- viii. Other information as per requirement of contract, if any

### **6.3 Works**

- (i) The Contractor is required to commence the Works on the Commencement Date **i.e. within 02 (two) months (60 days) from the date of issuance of LoI.**
- (ii) The Contractor shall in accordance with Good Industry Practices adhere to the Plan and complete the Works on or before the expiry of the Contract Period or as per agreed schedule.
- (iii) The Contractor shall, before commencement of the Works;
  - (a) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Work, to deal with the Engineer-in-Charge /HCL and to be responsible for all necessary exchange of information required pursuant to this Contract;
  - (b) construct, provide and maintain a reasonably furnished site office accommodation for its Project Manager and key supervisors at the Work Site.
  - (c) have achieved Completion of Mobilization.

Failure to achieve the Completion of Mobilization before the commencement of Works shall not constitute a ground for extension of Contract Period.

- (iv) For the purposes of determining that the Works are being undertaken in accordance with the Work Requirements, the Contractor shall on its own and/or whenever directed by Engineer-in-Charge, with due diligence, carry out all necessary and periodical Tests in accordance with the instructions and under the supervision of the Engineer-in-Charge. The Contractor shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- (v) On completion of the Works as per the Plan, the Contractor will notify the same to Engineer-in-Charge and ascertain the completeness and acceptability of the work.
- (vi) The Engineer-in-Charge may, by written notice, require the Contractor to suspend forthwith the whole or any part of the Works if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Work Requirements and/or Plan.

### **6.4 Material Breach of Work Requirements**

- (i) The Contractor shall be deemed to be in Material Breach of Work Requirements if the Engineer-in-Charge acting reasonably and in accordance with the provisions of this Contract, has determined that due to breach of its obligations by the Contractor:
  - (a) There has been failure/undue delay in implementation of the Works and the Works have not been carried out in accordance with the Work Requirement/ Plan;
  - (b) There has been a serious or persistent default in adhering to safety requirements and standards as prescribed by DGMS and thereby the Mining Facilities or any part thereof is not safe for operations;
  - (c) There has been persistent breach of Work Requirements/ Plan.

For avoidance of doubt, persistent breach shall mean:

- i. Any breach of Work Requirements by the Contractor which has not been remedied by the Contractor despite a notice to remedy in respect thereof issued by the Engineer-in-Charge/HCL; or
  - ii. Recurrence of a breach by the Contractor, during the pendency of notice to remedy by the Engineer-in-Charge/HCL requiring the Contractor to remedy a breach; or
  - iii. Repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to notice to remedy or otherwise.
- (ii) **HCL's Rights**

Upon occurrence of a Material Breach of Work Requirements, HCL shall, without prejudice to and notwithstanding any other consequences provided therefore under this Contract, be entitled to terminate this Contract.

## **6.5 Insurance**

- (a) The Contractor shall at its cost and expense, purchase and maintain, during the Contract Period such insurance as are necessary including but not limited to the following:
  - (i) Comprehensive third party liability insurance including injury or death to personnel / representatives of Persons who may enter the Work Site;
  - (ii) Workmen's compensation insurance;
  - (iii) Any other insurance that may be necessary to protect the Contractor, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.
- (b) **Evidence of Insurance**

The Contractor shall, from time to time, provide to HCL copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Contractor in accordance with this Contract.

(c) **Validity of Insurance**

The Contractor shall from time to time promptly pay insurance premium, keep the insurance policies in force and valid throughout the Contract Period and furnish copies thereof to HCL.

(d) **Application of Insurance Proceeds**

Unless otherwise provided herein, the proceeds of all insurance policies received shall be promptly applied by the Contractor towards repair, renovation, restoration or re-instatement of the Work Facilities or any part thereof which may have been damaged or destroyed. The Contractor may designate the Lenders as the loss payees under the insurance policies or assign the insurance policies in their favour as security for the financial assistance provided by them to the Work. The Contractor shall carry out such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Work Facilities after such repair, renovation, restoration or re-instatement be as far as possible in the same condition as it were prior to such damage or destruction, normal wear and tear excepted.

**6.6 Employment of Labour**

The Contractor shall, at its cost employ all necessary workmen and personnel for due and punctual performance of its obligations during the Contract Period in accordance with all Applicable Laws and the conditions specified in **Schedule II** and Good Industry Practices.

**6.7 Health & Safety, Training, and Environment**

6.7.1 The Contractor shall ensure, at its own cost, that its workers, employees and personnel are suited for undertaking the Works. Additionally, all personnel of the Contractor will have to undergo an Initial Medical Examination (“IME”) before they can commence work on the Work Site. For persons above forty five (45) years of age Periodical Medical Examination (“PME”) has to be conducted at the end of the third (3<sup>rd</sup>) year. IME and PME shall be carried out at Malanjkhanda Copper Project hospital, and shall be chargeable at Rs 450.00 (Rupees four hundred and fifty only) per person. Contractor shall also maintain complete first aid facilities for all his employees and personnel. Industrial injuries shall be reported promptly to the Engineer-in-Charge / HCL, and a copy of Contractor’s report covering each personal injury requiring the attention of a physician shall be furnished to the Engineer-in-Charge.

6.7.2 All personnel of the Contractor will be given vocational training including initial training & special training for operators etc. free of cost at the Vocational Training Centre of Malanjkhanda Copper Project-by HCL.

6.7.3 Additionally, the Contractor shall, at its cost, comply with all necessary environment, health and safety measures for due and punctual performance of its obligations during the Contract Period in accordance with all Applicable Laws and the conditions specified in **Schedule III** and Good Industry Practices.

**6.8 Special Conditions**



- (a) All rock obtained from excavation at the Work Site shall remain the property of HCL and shall be disposed off at the site/location allocated by Engineer-in-Charge.
- (b) All fossils, gold, coins and articles of antique value and interest found at the Work Site shall be the absolute property of HCL and the Contractor shall take reasonable precautions to prevent its workmen or any other person from removing or damaging any such articles and shall inform immediately upon finding thereof and before removal inform the Engineer-in-charge and carry out the Engineer-in-Charge's directions as to the manner of treatment of the same.
- (c) Immediately, on request of HCL, carry out diligently all Emergency Works.

## **6.9 General Obligations**

The Contractor shall at its own cost and expense:

- a. File all necessary and statutory application, returns and reports and obtains all Applicable Permits in conformity with the Applicable Laws and be in compliance thereof at all times during the Contract Period;
- b. Procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Work;
- c. Endeavour to incorporate in each Work Agreement specific provisions that would entitle HCL or a nominee of HCL to step into the same at HCL's discretion, in place and substitution of the Contractor;
- d. Provide all necessary assistance to the Engineer-in-Charge as it may reasonably require for the performance of its duties and services;
- e. Appoint, supervise, monitor and control as necessary, the activities of Sub-Contractors, if any, under the respective Work Agreements;
- f. Make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Contract;
- g. Make its own arrangements for construction materials and observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits;
- h. Be responsible for quality, soundness, durability, safety and the overall Work Requirements notwithstanding the appointment by it of Sub-Contractor(s) to implement and/or operate and maintain the Work/Work Facilities;
- i. Ensure that the Work Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;
- j. Afford access to the Work Site to the authorized representatives of HCL, the Engineer-in-Charge and any Government Agency having jurisdiction over the Work Site, including those concerned with safety, security or environmental protection to inspect the Work and to investigate any matter within their authority and upon reasonable notice, the Contractor shall provide to such persons assistance reasonably required to carry out their respective duties and functions;

- k. Obtain at its costs and charges, special or temporary right of access, occupation or user of any property that may be required by it in connection with implementation of the Work. The Contractor shall also obtain at its cost such facilities as may be required by it for the purposes of the Work and the performance of its obligations under this Contract.
- l. As per recommendations of 10<sup>th</sup> National Conference on safety in Mines, the Contractor shall be required to adhere to the following additional responsibilities for safety in the Mine:
  - I. Prepare a written Safe Operating Procedure (SOP) for the work to be carried out, including an assessment of risk, wherever possible and safe methods to deal with them
  - II. Provide a copy of the SOP to the Engineer-in-charge.
  - III. Keep an up to date SOP and provide a copy of changes to Engineer-in-charge.
  - IV. Ensure that all the Works are being carried out in accordance with the Applicable Laws and SOP and for the same, the Contractor will deploy adequate qualified and competent personnel for the purpose of carrying out the Works in a safe manner.
  - V. Ensure that every person engaged by him in the Mine must wear safety gadgets to be provided by the Contractor at his own cost and expense. If Contractor fails or is unable to provide safety gadgets, Engineer-in-charge will provide the same and the expenses accrued for the safety gadgets will be deducted from the running bill of the Contractor.
  - VI. Submit to DGMS, quarterly returns indicating:
    - i. Name of firm,
    - ii. Registration number,
    - iii. Name and address of persons heading the firm,
    - iv. Nature of work,
    - v. Type of deployment of work persons,
    - vi. Number of work persons deployed,
    - vii. Number of work persons who hold vocational training certificate,
    - viii. Number of persons who have undergone IME and
    - ix. Type of medical coverage given to the work persons.
- (m) Contractor shall be responsible to establish and maintain Time Office at site as required under the statute.

#### **6.10 No Breach of Obligations**

The Contractor shall not be considered to be in breach of its obligations under this Contract nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Contract is affected by or on account of any of the following:

- (a) Force Majeure Event, subject to Article 9.2(b)
- (b) HCL Event of Default,

- (c) Compliance with the instructions of the Engineer-in-Charge/HCL or the directions of any Government Agency other than instructions issued as a consequence of a breach by the Contractor of any of its obligations hereunder;
- (d) Emergency decommissioning of the Work or part thereof;
- (e) Contractor's inability to remove any accident debris due to non-completion of any police / insurance related inquiry/survey despite prompt steps having been taken by the Contractor in that regard.

## **6.11 Related Works**

### **6.11.1 Contractor's acknowledgement**

The Contractor acknowledges that Related Works may be performed and that it is of paramount importance that the design and execution of the Works are fully and completely coordinated with the Related Works in view of their concurrent and sequential nature and that such coordination is of the utmost importance to the successful integration of the Works with the Related Works and to the timely completion of the Work.

### **6.11.2 Related Works' responsibilities**

Accordingly, the Contractor shall at its own cost and expense, at all times and otherwise in accordance with the requirements and directions of HCL's Representative:

- (a) Plan, programme, and perform the design and execution of the Works so as to minimize any interference with or hindrance of the performance of the Related Works; and
- (d) At all times take every necessary step to protect the Works from accidental damage caused by the Related Works; and
- (f) At all times co-operate with the Employer, HCL's Representative and any Related Works contractors so as to promote and foster a coordinated and integrated approach to the Works and the Related Works. The Contractor shall co-ordinate its activities with Related Works contractors so as to prevent, as far as possible, the performance of work by such Related Works contractors from impeding the performance of the Contractor or unreasonably disturbing the free movement of traffic around, on or in the vicinity of the Work Site; and
- (g) Comply with all obligations as to interfacing the Works with the Related Works as are detailed in HCL's Requirements; and
- (h) Advise the Employer if any plans, designs, specifications and drawings of the Related Works contractors supplied by the Employer are in any way incompatible or inconsistent with or otherwise detrimental to the Works. In the case of such incompatibility or inconsistency the Contractor shall supply the Employer with full details of the same and make appropriate recommendations as to how the incompatibility or inconsistency may be remedied; and

- (i) Monitor the coordination and integration of the Works with the Related Works and advise the Employer's Representative in writing as and when it becomes apparent that execution of the Works is likely to be the subject of delay and/or disruption and recommend reasonable proposals to reduce or prevent such delay and/or disruption.

### **6.11.3 Co-ordination meetings**

HCL's Representative shall convene regular co-ordination meetings with the Contractor and Related Works contractors in order to:

- (a) Resolve conflicts in the order and sequence of the Works and Related Works in order to effect reasonable co-ordination and integration of the execution of the Works with the execution of the Related Works; and

### **6.11.4. Failure to co-ordinate**

In the event that the design and execution of the Work and the design and execution of the Related Works are not being coordinated and integrated to the reasonable satisfaction of the Employer's Representative, the Employer's Representative may issue such instructions as is necessary including, but not limited to:

- (a) suspending the progress of the design (to the extent required by the Contract) or execution of the Works or any part thereof; and/or
- (b) changing the Works including the omission of work from the Contract and its execution by others at the risk and cost of the contractor.

For the avoidance of doubt, where the Employer's Representative acting reasonably, determines that an instruction under the relevant clause of the contract is required as a result of a breach by the Contractor of its obligations. The Contractor shall not be entitled to any payment whatsoever in respect of any such instruction or to any extension of time in respect thereof and the costs to the Employer of such instruction including the cost of any such suspension, or removal and execution by others shall, without prejudice to the Employer's other rights under the Contract, be deducted from the Contract Price.

### **6.11.5 The Employer's Representative's assistance**

In the event that the design and execution of the Works and the design (if any) and execution of any Related Works are unable to be coordinated and integrated in accordance with this Article 6.11 as a result of circumstances beyond the control of the Contractor, the Contractor may request the Employer's Representative:

- (a) to issue within ten (10) days of the Contractor's request, such instructions as the Employer's Representative may consider necessary to enable the Contractor to comply with its obligations under this Article 6.11; and/or
- (b) to use its reasonable endeavour to assist in procuring the removal of the hindrance or impedance preventing the Contractor from complying with its obligations under this Article 6.11.

#### **6.11.6 Contractor to bear costs**

The Contractor shall bear all costs and expenses associated with any change or remedied work rendered necessary to the design or execution of the Works or to the design or execution of work of any Related Works contractor as a result of any failure on the Contractor's part to comply with the provisions of this Article 6.11. Subject always to this Article 6.11 if in the opinion of HCL's Representative any cost is or is likely to be incurred partially as a result of a failure by the Contractor and partially as a result of a failure by a Related Works Contractor, then in the event that the Contractor and the Related Works Contractor are unable to agree on the apportionment of such costs between them, HCL's Representative may instruct the Contractor to make a change or carry out any repair it deems necessary and, notwithstanding the provisions of Article 8 in valuing such change or repair, it shall be entitled to make what it in its absolute discretion the assessment of such costs allocable to the Contractor for such change or repair as a result of the Contractor's failure to comply with the requirements of this Article 6.11.

#### **6.11.7 Contractor's obligations**

Without limiting its obligations under this Article 6.11 the Contractor shall exercise due care and diligence in the design and execution of the Works where such design and execution of the Works affects or is likely to affect the Related Works and shall bear all costs, expenses, damages and losses suffered by any Related Works Contractor as a result of its failure to comply with such obligations.

#### **6.11.8 Contractor's Indemnities**

The Contractor shall indemnify and keep indemnified the Employer against all claims, proceedings, damages, costs, losses, charges and expenses of any nature whatsoever arising from the Contractor's failure to comply with its obligations under this Article 6.11.

#### **6.11.9 Temporary Works**

The Contractor shall be fully responsible for the cost of all delays to the Works or any part where such delays have been occasioned to or in connection with Temporary Works by the defaults or omissions of any Related Works Contractor and it shall not be entitled to any extension of time or additional payment in respect thereof. Such responsibility shall in no way be in derogation of the Contractor's other obligations under this Article 6.11.

#### **6.12 Contractor's Documents**

**6.12.1** The Contractor shall prepare all Contractors' Documents. The Contractor shall submit to HCL's Representative and the Engineer-in-Charge

- (a) within such time as may be directed by HCL's Representative, those Contractor's Documents called for in the Contract or as HCL's Representative may require and in the numbers and format required by the Contract or, if no such number and format is stated in the Contract, as required by HCL's Representative; and

- (b) during the progress of the Works such additional Contractor's Documents within such times and in such numbers and format as HCL's Representative may reasonably require.
- 6.12.2** HCL's Representative shall review and comment on any Contractor's Documents submitted in accordance with Article 6.12.1 within 21 (twenty-one) Business Days after receipt of the Contractor's Document ("the **Review Period**"). HCL's Representative shall signify "no comment" or "comments made" or "resubmit" and return one copy of the Contractor's Document to the Contractor. If the Employer's Representative fails to so do within the Review Period, it shall be deemed that the Employer's Representative has signified "no comment".
- 6.12.3** The notes "no comment" or "comments made" will enable the Contractor to proceed on the basis of the Contractor's Documents provided that the Contractor fully addresses any comments made by the Employer Representative.
- 6.12.4** If, before reviewing and commenting on any design contained in any Contractor's Documents, the Engineer-in-Charge considers any change or modification is necessary to such Contractor's Documents, HCL's Representative may notify the Contractor accordingly whereupon the Contractor shall effect the same and re-submit the Contractor's Documents in accordance with this Article 6.12
- 6.12.5** Where any Contractor's Document is marked "resubmit" the same shall be amended, modified or prepared again, as the case may be, and resubmitted by the Contractor and the procedure set out in this Article 6.12 shall apply to the re-submitted Contractor's Document.
- 6.12.6** Notwithstanding any of the provisions of the Contract relating to the Contractor's Documents, the Contractor shall be fully responsible for:
- (a) The adequacy of the Contractor's Documents in accordance with the Contract; and
  - (b) any failures of any Contractor's Documents whether to comply with the Contract and/or to meet its obligations there under or otherwise and for any ambiguities, failures, discrepancies, insufficiencies, lack of fitness for purpose, errors, omissions, design or construction impracticalities in any such Contractor's Documents howsoever such ambiguities, failures, discrepancies, insufficiencies, lack of fitness for purpose, errors, omissions, design or construction impracticalities may have arisen.
- 6.12.7** The Contractor shall at its own expense carry out any alterations or remedial work necessitated by reason of any ambiguities, failures, discrepancies, insufficiencies, lack of fitness for purpose, errors, omissions, design or construction impracticalities in any Contractor's Documents and shall modify the Contractor's Documents accordingly, or if the same be done by or on behalf of the Employer, the Employer shall be entitled to recover from the Contractor all costs reasonably incurred therein and may, without prejudice to any method of recovery, deduct the same from any monies due or which may become due to the Contractor.

- 6.12.8** The Contractor is aware of the time required by HCL's Representative for the review of the Contractor's Documents and shall allow adequate time for such review. Furthermore, HCL's Representative shall not be obliged to comment upon any Contractor's Documents without first satisfying himself that to the extent required, such comment is issued with the consent, non-objection or approval of the Engineer-in-Charge or a Government Agency.
- 6.12.9** No design or execution of any part of the Works shall commence during the Review Period for those Contractor's Documents which are relevant to its design and execution except as may be expressly agreed in writing by HCL's Representative.
- 6.12.10** If the Contractor wishes to modify any Contractor's Document (including any design contained in Contractor's Documents) which has previously been reviewed by HCL's Representative, the Contractor shall immediately give notice to the Employer's Representative. Thereafter, the Contractor shall submit revised documents to HCL's Representative and the provisions of this Article 6.12 shall apply.
- 6.12.11** Save as expressly provided in this Contract, the Contractor shall not seek to recover from the Employer any loss or claim which may arise from the adoption, use or application by or on behalf of the Contractor or any other Person for whom the Contractor is responsible of the design in any Contractor's Documents.
- 6.12.12** No review, comment, suggestion, approval on any other communication by HCL's Representative made in accordance with the review procedure specified in this Article 6.12 shall relieve the Contractor of any of its obligations under the Contract.

## ARTICLE - 7

### HCL's OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Contract, HCL shall have the following obligations:

#### 7.1 Specific obligations

HCL shall:

- (a) Appoint/nominate the Engineer-in-Charge in accordance with Article 5.1 above.
- (b) Instruct Engineer-in-Charge for carrying out all the obligations and exercise all the rights set out in **Schedule I**.
- (c) Ensure that Engineer-in-Charge reviews and finalizes the Plan, Drawings and other documents within a reasonable time and in any case within the respective time specified elsewhere in this Contract.
- (d) Provide to Contractor in accordance with the Plan, supply of specific items set out in **Schedule IV** upon exercise of the Contractor's option to obtain these utilities from HCL.
- (e) Make payment of Contract Price in accordance with the provisions of this Contract.
- (f) Grant in a timely manner, all such approvals, permissions and authorizations which the Contractor may require or is obliged to seek from HCL in connection with implementation of the Work and the performance of its obligations, under this Contract.
- (g) Take all steps and make all applicable applications, filings, returns and reports for a license holder of a mine in accordance with the Applicable Laws to ensure compliance, expansion, operations and maintenance of the Work/Work Facilities.

#### 7.2 General obligations

HCL shall:

- (a) grant or where appropriate provide necessary assistance to the Contractor in securing all Applicable Permits;
- (b) ensure peaceful use of the Work Site by the Contractor under and in accordance with the provisions of this Contract without any hindrance from HCL or any Governmental Agency or persons claiming through or under it/them;
- (c) Pay Dead Rent / Royalty, payment to District Mineral Fund (DMF), National Mineral Exploration Trust (NMET) and surface rent;
- (d) Observe and comply with all its obligations set forth in this Contract.



**ARTICLE - 8**  
**CONTRACT PRICE**

**8.1 Contract Price**

Subject to the provisions of this Contract and in consideration of undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Contract, HCL agrees and undertakes to make to the Contractor, the following payments (“**Contract Price**”) as per the provisions of this Article:

**(a) Payment for work done**

Payment for actual work done shall be for Scheduled Items and shall be at the rates against each respective item set out under **Schedule V** hereafter achieved and certified by Engineer-in-Charge during any Contract Payment Period.

The rates for payment set out in **Schedule V** shall be revised on monthly basis on the first day of each month under review based on the mechanism set out under **Schedule VI** hereafter.

**8.2 Payment Mechanism**

**8.1.1 8.2.1 The contract price relating to each month shall be payable for actual work done by the contractor for the month through e-payment only as per format given in Schedule VIII (“contract payment period”). Contractor shall submit the bill for the actual work done during a contract payment period to the engineer-in-charge on contract payment due date.**

The bill shall be based on the Joint Measurement Certificate. Joint measurements of work completed during a month and cumulative shall be made on last day of each month and the results of such joint measurements should be recorded and jointly signed in a bound book. Engineer-in-Charge shall certify the quantities and arrange for the payment of Contractor’s bill after allowing adjustments for the supplies rendered HCL and for other deductions.

**Payment of the work done shall be made with a credit period of 30 days** from the acceptance of the bill by the Engineer In Charge (EIC), after deduction of LD, if any. EIC to accept the Bills within 7 days of receipt of the completed Bills from the contractor, for the month of completion of the job. However, no claim shall be entertained for any delay in payment. The R.A. bills should be submitted to the Engineer-in-Charge within three weeks of completion of work.

The payment for each month’s actual work done shall be made after recovery of statutory deductions if any.

The Contractor will submit proof of depositing of provident fund of the previous month with the bills.

**8.2.2 Joint measurement shall be done as given in Schedule X. Successful Bidder shall submit the bill for the work done during the previous months in accordance with the joint measurement to**

the Engineer-in-charge in the first week of every month. The results of such joint measurements should be recorded and jointly signed in a bound book. Engineer-in-charge shall certify the quantities and arrange for the payment of Successful Bidder's bill after allowing adjustments for the supplies and services rendered by the company and for other deductions.

### **8.3 Withholding of payments to Contractor and HCL's lien on money due to the Contractor**

Payments may at any time be withheld or reduced if, in the opinion of HCL, the Contractor is not diligently and efficiently endeavoring to comply with the terms of the Contract or if the Contractor should fail to pay wages to his labour or for material.

HCL shall have a lien on all amount that may become due and payable to the Contractor under this Contract or transaction of any nature whatsoever between HCL and the Contractor and the Performance Security furnished by the Contractor under the Contract or any sum that may become due and payable to the Contractor till the Contractor pays and clears the claim immediately on demand.

### **8.4 Final Payment and Release**

On Completion the Engineer-in-Charge will issue a Completion Certificate to the Contractor on the application of the Contractor after satisfying himself (Engineer in charge) that the work has been completed in accordance with the contract documents and verifying from the following completion documents:

- (a) All surplus materials, rubbish, equipment etc are cleaned off the site completely.
- (b) The work has been measured,
- (c) All temporary works, labour and staff colonies/camp constructed are removed.
- (d) Performance Security, if any remaining after set-off by HCL of any amounts owed by the Contractor to HCL, and which amounts not having been paid by the Contractor to HCL,

Material appropriation statement for the material, if issued by HCL for the Work and list of surplus material returned to HCL's stores duly supported by necessary documents. If the contractor fail to comply with the requirements of this clause on or before the date fixed for the completion of the work, the Engineer-in-Charge may at the expenses of the contractor remove such surplus materials and rubbish and dispose off the same as he thinks fit. The contractor shall forthwith pay the amount of all expenses so incurred and shall have no claim in respect of any such surplus materials as aforesaid except for any sum actually realized by the sale thereof.

The Contractor, after obtaining the completion certificate, is eligible to present the final bill for the work executed by him under the terms of contract.

After the issue of Completion Certificate by the Engineer-in-Charge as aforesaid and on the particulars contained therein and after getting the final bill for the work executed by the contractor, HCL shall determine the total value of the Work done by the Contractor and after adjusting all sums paid to him already or due to HCL, and such further sums as HCL may require

to reserve or retain under the terms of the Contract, release eighty percent (80%) of the final payment due to the Contractor subject to undertaking given by the contractor. The remaining twenty percent (20%) of the outstanding final payment shall be paid by the HCL within seven (7) days after the expiry of the Period of Liability, provided that no set-offs are required to be made by HCL, during the Period of Liability, for remedying any work done by the Contractor under the Contract. Such final payment shall be made only when the Contractor furnishes to HCL an undertaking to the effect that Contractor has no further claim of whatever nature or description against HCL.

The Contractor should file no claim after final payment and HCL will not be liable to pay any money to the Contractor except as specifically provided for in the Contract. Acceptance by the Contractor of the final payment as aforesaid shall release HCL from all acts of omission and commission by HCL or by the Engineer-in-Charge.

### **8.5 Variation in Schedule Items**

The Itemized quantities indicated in **Schedule V** can be increased by two extensions of 25% each at HCL's discretion, based on the conditions during the execution of the contract and the contract period will be extended on pro rata basis accordingly.

### **8.6 Liquidated Damage (LD)**

**8.6.1** Time is the essence of the contract. The contractor is liable to pay Liquidated damage to HCL for the quantity fallen short of quarterly target. Liquidated Damages shall be calculated in the manner specified in this Article 8.6.2.

**8.6.2** Liquidated Damage will be levied on the Contractor, and calculated in the following manner:

Liquidated Damage shall be deducted on quarterly basis from the RA @ 10% on value of the work fallen short of quarterly target in BCM (for loading & hauling work) for that particular quarter as mentioned in the work schedule at Clause No. 1.3 under 'Scope of Work'.

However, if there is shortfall in the quarterly achievement due to such circumstances, which are under the control of HCL/MCP, liquidated damages will not be applicable & in that case, proportionate reduction in the monthly/quarterly target will be allowed.

Non achievement of loading & hauling target due to shortfall in the drilling by HCL, which is not under the control of the contractor, will not attract any Liquidated Damages.

Non-achievement of targets will, however, not attract any liquidated damages in case the same is established due to force majeure conditions as stipulated under the contract.

The liquidated damage will be maximum of 10% of the total awarded value (excluding GST).

HCL shall have the right to adjust the Liquidated Damage which HCL may become entitled to from any amount payable by HCL to the contractor under the contract and in case no payment is due from HCL to the contractor, the contractor shall promptly and without demur or protest arrange remittance to HCL on demand.

If the delay in completion of execution of job is attributable to HCL, or due to a Force Majeure event, then Competent Authority may consider waiving of LD, provided the occurrence of the event is informed by notice to HCL, immediately thereof.

Also, HCL shall reconcile measurement of work done at the end of each financial year, and excess amount of LD, if found deducted from the bills of the successful bidder on quarterly basis during the financial year, shall be refunded to the successful bidder on achievement of 100% of the annual target.

#### **8.7 Situation when Reduction not leviable:**

The Contractor is not liable to Reduction, if such Reduction is triggered on account of following events:

- (i) delay in delivery of the Work Site or any part thereof by HCL,
- (ii) suspension of Works or part thereof by HCL or the Engineer-in-Charge, for reasons not attributable to the Contractor,
- (iii) Change of Scope Order
- (iv) HCL Event of Default, and
- (v) Any other event as may be expressly notified by HCL during the Contract Period.

#### **8.8 Payments for Emergency Works**

In the event the Contractor, having executed Emergency Works beyond the Works for which rate have been indicated against Scheduled Item, and such Works are not part of the work and due to the nature of work being an Emergency, a Change of Scope Order has not been issued, payments for such works shall be arrived based on mutual discussions between the Parties subject to recording of such jobs to be done in a specified time which is to be indicated.

#### **8.9 Taxes and Duties**

- (a) The Contractor agrees to and does hereby accepts full and exclusive liability for the payment of any and all taxes, duties, octroi etc. now or hereafter imposed, increased or modified, insurance and old age pensions or annuities now or hereafter imposed by any Central or State Government which are imposed with respect to or covered by the wages/salaries or other compensations paid to the persons employed by the Contractor. The Contractor shall be responsible for the compliance with all obligations and restrictions imposed by any applicable labour law or any other law affecting employer-employee relationship and the Contractor further agrees to comply, and to secure the compliance of all Sub-Contractor(s) if any, with all applicable Central, Municipal laws and regulations and requirements of any Central, State or local Government Agency or authority.

(b) **GST /Sales Tax/Turnover Tax/ and Other Taxes as applicable from time to time**

The rates at which Contract Price is arrived under **Schedule V** are inclusive of all taxes, duties, and levies etc. but excluding GST. GST shall be reimbursed on production of proof of deposit and CENVAT bill. The statutory variation in taxes and duties shall be reimbursed at actual on submission of proof of documentary evidence. **In case of any change in statutory tax/ levy of any new tax by statutory authority, the same shall be applicable subject to documentary evidence.**

**8.10 Tax deduction at source:** Income Tax or any other statutory tax will be deducted at the time of payment at the prevailing rate as applicable from time to time.

**8.11 Currency for payment:** All payments shall be made in Indian Rupee. Payment will not be made in any other currency.

**ARTICLE - 9**  
**FORCE MAJEURE**

**9.1 Force Majeure Events**

If at any time during the continuance of this contract, the performance in whole or in part by either party of any obligation under this contract shall be prevented or delayed by reasons of war, act of hostility of public enemy, civil disruption or sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes, lock-outs or acts of God (here-in-after referred to as events), provided notice of the happening of any such eventuality is given by the either party to the other within 21 days from the date of occurrence thereof, neither party shall by reasons of such event be entitled to terminate this contract nor shall either party have any claim for damages against the other in respect of such non – performance or delay in performance / execution under this contract. Provided also that such performance/execution under the contract should commence as soon as practicable, after such event has come to an end or ceased to exist, and the decision of HCL as to whether the performance has been so resumed or not shall be final and conclusive. Provided further that if the performance in whole or in part or any execution under this contract is prevented or delayed by reasons of any such event for a period exceeding 60 days, either party may opt to terminate the contract. If the contract is terminated under this clause, HCL shall have liberty to take over from the contractor at a reasonable price, all unused, undamaged and acceptable materials, machinery, equipments, etc. at the site being used for the performance of the contract and in the possession of the contractor at the time of such termination of such portion thereof as HCL may deem it fit, except such materials, equipments, etc that the contractor may with the concurrence of HCL elect to retain. It is also understood in addition that this force Majeure clause will cover parties' inability to perform on account of change in law or imposition of rules or restrictions by the Government.

**9.2 Foreclosure of Contract Full or in Part**

If at any time after acceptance of the TENDER, HCL shall decide to foreclose or reduce the scope of the Works and hence not require the whole or any part of the Work to be carried out, the Engineer-in-Charge shall give 3 months' notice in writing to that effect to the Contractor, provided that:

In the event, any such action is taken by HCL, the Contractor shall be paid full amount for the up to date quantum of Work executed at Work Site as per billing schedule under the relevant items of Work under this Contract and in addition, a reasonable amount as certified by the Engineer-in-Charge or any other agency appointed by HCL for those supplied items which could not be utilized for execution of the Work to the full extent because of the foreclosure.

## **ARTICLE - 10**

### **MATERIAL BREACH AND SUSPENSION**

#### **10. MATERIAL BREACH AND SUSPENSION**

- 10.1** If the Contractor shall be in Material Breach of this Contract, HCL shall be entitled in its sole discretion and without prejudice to its other rights and remedies under this Contract including its right of Termination hereunder, to (i) suspend all or any of the rights of the Contractor under this Contract including payment of Contract Price by HCL and (ii) exercise the rights of the Contractor under this Contract itself or authorize any other person to exercise the same during such suspension. Such suspension by HCL shall be by a communication in writing to the Contractor and shall be effective forthwith upon the issue thereof to the Contractor. Provided, however, that the period of such suspension under this Article shall not exceed one hundred and twenty (120) days.
- 10.2** Subject to Article 10.1 above, HCL shall have the right to utilize the proceeds of Contract Price and Performance Security for meeting the costs incurred by HCL to remedy and rectify the cause of such suspension and for defraying the maintenance expenses during such suspension period. Provided, however, that if the Contractor is making diligent efforts to remedy and rectify such cause, then HCL shall allow the Contractor reasonable time and opportunity for such remedy or rectification.
- 10.3** The suspension of the rights of the Contractor by HCL pursuant to Article 10.1 above shall be revoked by HCL forthwith upon the Contractor having remedied the Material Breach during such suspension period to the satisfaction of HCL unless in the meantime this Contract has been terminated by HCL in accordance with Article 12.
- 10.4** At any time during the period of suspension under this Article, the Contractor may in writing notify to HCL that it does not intend to cure the breach or default that had caused such suspension. Within seven (7) days of receipt of such notice, HCL shall terminate this Contract as if a Material Breach of this Contract had occurred on account of a Contractor Event of Default.

## **ARTICLE - 11**

### **EVENTS OF DEFAULT AND TERMINATION**

#### **11.1 Events of Default**

The following events shall be termed as Events of Default:

If the Contractor shall not execute the contract in the manner as stipulated in the Contract or if the Contractor or of it, in the opinion of the HCL:

- (a) Does not execute the contract in conformity with the provisions of the Contract, or
- (b) Substantially suspends any part of its execution for a period of fourteen (14) days without authority from HCL, or
- (c) Fails to carry on and execute the Contract to the satisfaction of HCL or
- (d) Commits or permits any other breach of any of the provisions of the Contract (on the part of the Contractor to be performed or observed) or persists in any of the above mentioned breach of the Contract for fourteen (14) days, after notice in writing shall have been given to the Contractor by the HCL requiring such breach to be remedied, or
- (e) Abandon the Work(s), or
- (f) During the continuance of the Contract, becomes bankrupt, makes any arrangement or composition with its creditors, or permits any execution to be levied or goes into liquidation other than for the purpose of amalgamation or reconstruction; or
- (g) Does not perform as per the agreed programme submitted by the Contractor.

#### **11.2 Termination due to Events of Default**

- (a) If HCL decides to terminate this Contract, it shall in the first instance issue Preliminary Notice to the Contractor. Within 15 days of receipt of the Preliminary Notice, the Contractor shall submit to HCL in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the “**Contractor's Proposal to Rectify**”). In case of non submission of the Contractor's Proposal to Rectify within the said period of fifteen (15) days, HCL shall be entitled to terminate this Contract by issuing Termination Notice, and to appropriate any Security, if subsisting.
- (b) If the Contractor's Proposal to Rectify is submitted within the period stipulated thereof, the Contractor shall have to its disposal a further period of fifteen (15) days to remedy / cure the underlying Event of Default. If, however it fails to remedy/cure the underlying Event of Default within the stated period, HCL shall be entitled to terminate this Contract, and to appropriate the Security, if subsisting.

#### **11.3 Rights of HCL on Termination**



- (a) HCL shall have the power to terminate the Contract and enter upon the Work(s) and take possession thereof and of the material, Temporary Works, Construction Plant, and stock thereon, and to revoke the Contractor's license to use the same, and to complete the Work(s) by its agents, other contractor or workmen, or to re-let the same upon any terms and to such other Persons as HCL in its absolute discretion may think proper to employ and for this purpose use or authorize the use of any material, Temporary Works, Construction Plant, equipment, stock etc. as aforesaid without making payment or allowance to the Contractor for the said material, other than such as may be certified in writing by the Engineer-in-Charge to be reasonable, and if HCL shall by reason of its taking possession of the Work(s) or of the Work(s) being completed by other contractor (due account being taken on any such extra work or Works which may be omitted) incur any extra cost then the amount of such excess as certified by the Engineer-in-Charge shall be deducted from any money which may be due for Work done by the Contractor under the Contract and not paid for and/or Performance Security . Any deficiency shall forthwith be made good and paid to HCL by the Contractor and HCL shall have power to sell in such manner and for such price as it may think fit, all or any of the Construction Plant, material etc. constructed by or belonging to and to recoup and retain the said deficiency or any part thereof out of the proceeds of the sale.
- (b) The money that may have been due to the Contractor on account of Work executed by it shall not be payable to the Contractor before the expiry of six (6) calendar months reckoned from the date of Termination of the Contract or from the taking over the Work or part thereof by HCL as the case may be, during which period the responsibility for faulty materials or workmanship in respect of such Work under the Contract will be exclusively with the Contractor and such money shall be subject to deduction of all amount due from the Contractor to HCL, whether under the terms of the Contract or otherwise, or required to be retained by HCL.
- (c) The rights and remedies of HCL as per this Article shall not constitute as limitation of Contractor's liabilities but shall be exclusive and in addition to any other rights and remedies provided under the Contract or by law for the time being in force.
- (d) Any waiver by HCL of any breach of the terms or conditions of the Contract shall not constitute a waiver of any subsequent breach of the same.
- (e) Any failure by HCL at any time or from time to time to enforce or require strict performance by the Contractor of any of the terms and conditions of the Contract, shall not constitute a waiver by HCL of a breach of any such terms or conditions and shall not affect or impair such terms or conditions in any way or the right at any time to avail himself of such remedies as it may have for any such breach or breaches of such terms or conditions.
- (f) Failure to enforce any condition herein contained shall not operate as a waiver of the condition itself or any subsequent breaches thereof.

#### **11.4 Rights of Parties**

Notwithstanding anything to the contrary contained in this Contract, Termination pursuant to any of the provisions of this Contract shall be without prejudice to accrued rights of either Party including its right to claim and recover money, damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under this Contract, including without limitation those relating to Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

## **11.5 Termination Payments**

**11.5.1** In the event, any such action is taken by HCL, the Contractor shall be paid full amount for the up to date quantum of Work executed at Work Site as per billing schedule under the relevant items of Work under this Contract

## **ARTICLE - 12**

### **DIVESTMENT OF RIGHTS AND INTERESTS**

#### **12. DIVESTMENT OF RIGHTS AND INTERESTS**

**12.1** Upon Termination of this Contract, the Contractor shall comply with the following:

- (a) notify to HCL forthwith the location and particulars of all Work Facilities;
- (b) deliver forthwith actual or constructive possession of the Work Site and Work Facilities free and clear of all Encumbrances and execute such deeds, writings and documents as may be required by HCL for fully and effectively divesting the Contractor of all of the rights, title and interest of the Contractor in the Work Facilities free of any charge or cost to HCL; and
- (c) comply with the divestment requirements set out in Article 12.2 below.

**12.2** Upon Termination of this Contract, the Contractor shall comply and conform to the following Divestment Requirements in respect of the Work Facilities:

- (a) all Work Facilities including the equipment, roads, pavements, shall have been renewed and cured of all defects and deficiencies as necessary so that the Facilities are compliant with the Work Requirements set forth in this Contract ;
- (b) the Contractor delivers relevant records and reports pertaining to the Work;
- (c) the Contractor executes such deeds of conveyance, documents and other writings as HCL may reasonably require to convey, divest and assign all the rights, title and interest of the Contractor in the Work Facilities free from all Encumbrances absolutely and free of any charge or tax unto HCL or its nominee; and
- (e) the Contractor complies with all other requirements as may be prescribed under Applicable Laws to complete the divestment and assignment of all the rights, title and interest of the Contractor in the Work free from all Encumbrances absolutely and free of any charge or tax to HCL or its nominee.

**12.3** Not earlier than three (3) months before the expiry of the Contract Period but not later than thirty (30) days before such expiry, or in the event of earlier Termination of this Contract, immediately upon but not later than fifteen (15) days from the date of issue of Termination Notice, the Engineer-in-Charge shall verify, in the presence of a representative of the Contractor, compliance by the Contractor with the divestment requirements in relation to the Work Facilities and, if required, cause appropriate Tests to be carried out at the Contractor's cost for determining the compliance therewith. If any shortcomings in the divestment requirements are found by either Party, it shall notify the other of the same and the Contractor shall rectify the same at its cost.

**12.4** Upon the Contractor conforming to all divestment requirements and handing over actual or constructive possession of the Work Site to HCL or a person nominated by HCL in this regard, HCL shall issue a certificate (the "**Vesting Certificate**") within one month of Contractor

conforming to all divestment requirements and handing over actual or constructive possession of the Work Site and Work Facilities to HCL, which will have the effect of constituting evidence of divestment of all rights, title and lien in the Work Site and Work Facilities by the Contractor and their vesting in HCL pursuant hereto. Issue of the Vesting Certificate shall not be unreasonably withheld by HCL. The divestment of all rights, title and lien in the Work shall be deemed to be complete on the date when all the divestment requirements have been fulfilled and Vesting Certificate has been issued, it being expressly agreed that any defect or deficiency in any divestment requirement shall not in any manner be construed or interpreted as restricting the exercise of any rights by HCL or its nominee on or in respect of the Work on the footing as if all divestment requirements have been complied with by the Contractor.

## **ARTICLE - 13**

### **MODE OF PAYMENT BY HCL**

#### **13.1 Mode of Payment**

The Contractor hereby expressly authorizes HCL to make payment of Contract Price, Termination Payment, if any, and any other payment which becomes payable by HCL to the Contractor under this Contract directly to the credit of such bank account at \_\_\_\_\_, (Designated Account), and/or to make/issue and deliver cheques, drafts or other instruments in respect of such payments in favour of a bank at \_\_\_\_\_ (Designated Bank).

Payment will be made through e-mode for which Bank Mandate Form, as given in **Schedule-VIII**, duly filled up has to be submitted by the successful bidder.

#### **13.2 Valid Discharge**

The Contractor hereby agrees, undertakes and confirms that;

- (a) the payment to the credit of the Designated Account or to the Designated Bank shall be made by HCL notwithstanding any instructions to the contrary issued or disputes raised by the Contractor.
- (b) any payment made in accordance with Article 13.2 (a) shall be valid and HCL shall, to the extent of the payment so made, be relieved and discharged of all its obligations in respect of such payments under this Contract. Provided no such discharge shall prejudice any claim which the Contractor may have against the Lenders.

**ARTICLE - 14**  
**DISPUTE RESOLUTION**

**14.1 Amicable Resolution**

- (a) Save where expressly stated to the contrary in this Contract, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Contract including disputes, if any, with regard to any acts, decision or opinion of the Engineer-in-Charge and so notified in writing by either Party to the other (the "**Dispute**") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in part (b) below.
- (b) Either Party may require such Dispute to be referred to the work in charge of HCL and the Contractor for amicable settlement. Upon such reference, the two shall meet at the earliest as per their mutual convenience and in any event within fifteen (15) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within fifteen (15) days of such meeting, either Party may refer the Dispute in accordance with the provisions of part (c) below.
- (c) In the event that any Dispute has not been resolved as per the provisions of (b) above, the same shall be referred to the director or a person of equivalent designation, of HCL and the Contractor for amicable settlement. Upon such reference, the two shall meet at the earliest as per their mutual convenience and in any event within fifteen (15) days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within fifteen (15) days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Arbitration clause.

**14.1 Arbitration**

All question(s), dispute(s) or difference(s) of any kind whatsoever arising out of, or relating to the contract shall be referred by the parties to this contract for decision within 30 days from the occurrence of difference or the dispute, to a Sole Arbitrator.

The venue of the arbitration shall be Kolkata only. The award of the arbitrator shall be final and binding on the parties.

Subject to the above, the provision of Arbitration and Conciliation Act, 2015 and the rules there under and the statutory modifications thereof shall govern such arbitration proceedings and shall be deemed to apply and be incorporated in this contract.

Any dispute, if arises at any point of time out of arbitration shall have jurisdiction of the Court of Kolkata, West Bengal.

**ARTICLE - 15**  
**MISCELLANEOUS**

**15.1 Assignment and Charges**

- (a) Subject to Articles 15.1 (b) and Article 15.1 (c) herein below, neither Party shall assign this Contract or the rights, benefits and obligations hereunder save and except with prior consent of the other Party.
- (b) Except as provided in Article 15.1 (c) herein below, the Contractor shall not create nor permit to subsist any Encumbrance over or otherwise transfer or dispose of all or any of its rights and benefits under this Contract except with prior consent in writing of HCL, which consent HCL shall be entitled to decline without assigning any reason whatsoever.
- (c) Restraint set forth in Article 15.1 (a) and Article 15.1 (b) above shall not apply to:
  - (i) liens/Encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Contractor;
  - (ii) mortgages/pledges/hypothecation of goods/assets other than Work Site, as security for indebtedness, in favour of the Lenders and working capital providers for the Work;
  - (iii) assignment of Contractor's rights and benefits under this Contract to or in favour of the Lenders as security for financial assistance provided by them.

**15.2 Indemnity**

- (a) The Contractor shall at all times, indemnify and keep HCL and the Engineer-in-Charge indemnified against any claim and hold them harmless from any and all liabilities for death, bodily injury and/or damages resulting from or arising out of or in any way connected with the operations covered by the Contract. The Contractor shall be responsible for all risks arising in connection with or on account of the operations covered under the Contract and it shall make good all losses and damages arising there from. In case HCL or the Engineer-in-Charge incurs any cost, expense or loss on account of any claim, demand or cause of action brought against them and arising out of the operations covered by the Contract, HCL shall recover such cost, expense or loss from the Contractor. HCL shall have power, without being bound to do so, to defend, contest or compromise any such claim, demand or cause of action and any amount that may become payable by HCL and any expense that may be incurred by HCL in this behalf, shall also be recoverable from the Contractor.
- (b) The Contractor shall, at all times, indemnify and keep indemnified HCL and the Engineer-in-Charge and hold them harmless against any claim or demand which may be made, arising out of any use of existing patents, or alleged infringement of such patent or of other patent rights committed by the Contractor in carrying out the operations covered by the Contract and against all liabilities in respect thereof, and against all acts, suit proceedings, claim, cost and expense

whatsoever, which may be lodged against or incurred and become payable by HCL in respect thereof.

### **15.3 Governing Law and Jurisdiction**

This Contract shall be governed by the laws of India. The courts at Balaghat, India shall have jurisdiction over all matters arising out of or relating to this Contract.

### **15.4 Waiver**

- (a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Contract:
  - (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Contract;
  - (ii) shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
  - (iii) shall not affect the validity or enforceability of this Contract in any manner.
- (b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Contract or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Contract.

### **15.5 Survival**

Termination of this Contract shall not relieve the Contractor or HCL of any obligations except as otherwise provided in this Contract or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

### **15.6 Confidentiality**

The Contractor shall at all time keep confidential all oral and written information relating directly or indirectly to the Work; either disclosed to the Contractor by/or on behalf of HCL; or acquired by the Contractor during the course of performance of the Contract. The Confidential Information shall be held in strict confidence and used only for purposes of this Contract. The Contractor shall not disclose such information to any third party without HCL's prior written approval. If the Contractor is required to disclose any confidential information by operation of law, the Contractor shall notify HCL immediately and shall cooperate in seeking a reasonable protective order. Any contravention of the provision of this Article will tantamount to breach of the Contract.

### **15.7 No Third Party Rights**



This Contract and all rights hereunder are intended for the sole benefit of the Parties hereto and, to the extent expressly provided in this Contract, for the benefit of the Lenders and, except as set forth in the Contract, it shall not imply or create any rights on the part of, or obligations to, any other entity or individual.

**15.8 Amendments**

This Contract and the schedules together constitute a complete and exclusive understanding of the terms of the Contract between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

**15.9 Notices**

Unless otherwise stated, notices to be given under this Contract including but not limited to a notice of waiver of any term, breach of any term of this Contract and Termination of this Contract, shall be in writing and shall be given by hand delivery, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to HCL

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If to the Contractor

-----  
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Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

**15.10 Severability**

If for any reason whatsoever any provision of this Contract is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Contract or otherwise.

**15.11 No Partnership**

Nothing contained in this Contract shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

**15.12 Language**

All notices required to be given under this Contract and all communications, documentation and proceedings which are in any way relevant to this Contract shall be in writing and in English language.

**15.13 Exclusion of Implied Warranties etc.**

This Contract expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by any Party not contained in a binding legal agreement executed by the Parties.

**15.14 Counterparts**

This Contract may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Contract but shall together constitute one and only the Contract.

IN WITNESS WHEREOF THE, PARTIES HAVE EXECUTED AND DELIVERED THIS CONTRACT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of HCL by:

For and on behalf of CONTRACTOR by:

\_\_\_\_\_

\_\_\_\_\_

Signature:

Signature:

Name:

Name:

Designation:

Designation:

Seal:

Seal:

In the presence of:

In the presence of:

1)

1)

**SCHEDULE - I**  
**ENGINEER IN CHARGE**

**PART A - RIGHTS AND OBLIGATIONS OF ENGINEER-IN-CHARGE**

Engineer-in-Charge shall be the officer as may be designated, deputed or authorized, by HCL for the purpose of the Work with the following rights and obligations:

1. Co-ordination with the various agencies/ contractors engaged in the Work Site and ensures minimum interference among such agencies/ contractor.
2. Ensure exchange of technical information with the Contractor in order to complete the Work economically with full efficiency.
3. Ensure smooth sharing of certain facilities, if any, among various contractors, inter se.
4. Take cognizance of changes (leave/travel) in Work Managers or other key personnel of the Contractor.
5. In case of emergency/ contingency situations, execute work which are under scope of Contractor and the Contractor is unwilling or unable to execute the same
6. Review and record daily progress reports (containing details of progress of execution of the work, resources deployed, etc) prepared by Contractor.
7. Issue necessary instructions for Work for which specifications/ drawings have not been prescribed or issued by HCL. The instructions shall include execution of all details which shall cover incidental works whether temporary or permanent, which must evidently, required by reasons of the nature of the Works included in the Contract and are to be carried out by the Contractor in all respect.
8. Review and approve drawings, prints, articles, machinery or fabricated materials of work entering into or forming part of the permanent construction prepared by the Contractor, specifications/ details of which are not provided by HCL in advance.
9. Direct the Contractor to repair or replace the materials in case the same was issued by HCL and has been damaged or lost by the Contractor.
10. In case of delay in execution of Work by Contractor on account of non-procurement of certain material, issue such materials if available with HCL at the risk and cost of the Contractor.
11. Authorize the Contractor for the utility of materials for manufacturing the items which can be obtained from manufacturer in finished form.
12. Issue necessary directions to Contractor for execution of an indemnity bond in the prescribed form for the safe custody and accounting of the all materials issued by HCL.

13. Issuing materials at his own discretion from HCL's site store (however any item issued from the site store has to be recorded and regularized from the central store).
14. Inspection of the materials used by the Contractor during the work process in the Work Site.
15. For the fabrication of the items required for the work, issue prior permission to remove the materials (in case of damage or waste).
16. During the transportation of the materials to the Work Site of erection, issue instructions prior to their actual erection and ensure that the things are not left lying around indefinitely.
17. Ensure that the staff employed by Contractor are as per the technical proposal of the Contractor and have valued qualifications and are efficient to perform the work
18. Periodically reviewing on time to time basis the attendance of a Work Manager or a contractor in the site of the work.
19. Take decision on the strata whether the ground qualifies to be termed as "bad ground", and if the ground is liable to be termed as such, then have discussions with Contractor to finalize the minimum over break.
20. Approving and ensuring the levels and alignment of grouting below base plates.
21. Testing, commissioning and approving the machinery and equipments during installation and assembling in the company.
22. Provide guidance to Contractor, in case of erection of fencing and barricades during execution of the work.
23. Enjoy accessibility of the records of all pours showing dates, quantities, locations, weather, and temperature conditions, a tabulation of the code numbers of all test cylinders cast and the result of all slump tests.
24. Issue written approval in case of proposal from Contractor for use of any kind of additives.
25. On routine basis measurement and inspection of the lines and grades for the better and accurate result.
26. Check and approve all lines, levels, benches and gradients
27. If required, direct removal of survey stations

**PART B - Power of the Engineer-In-Charge to Order Suspension of Work:**

The Engineer-in-Charge may, as he deems fit, by giving directions in writing and without invalidating the Contract, order the Contractor to suspend the Work or any part hereof for such time and for such reasons, as he may consider necessary. The Contractor shall not, after such directions to suspend the Work or any part thereof has been given, proceed with the Work or part

thereof until he receives a written order from the Engineer-in-Charge to do so. In the event of such suspension, the Employer may, under the provision of the Contract, extend the time for Completion of the Work or part thereof by such period as it may consider reasonable, provided the suspension is not due to violation of regulations by Contractor. The decision of the Employer in the matter shall be final and binding on the Contractor.

The Work or any part thereof shall not be suspended by the Contractor in any circumstance without prior knowledge and approval of the Engineer-in-Charge excepting accident(s) involving loss of life or serious bodily injury. If the Contractor proposes to suspend the Work or any part thereof, he should report to the Engineer-in-Charge furnishing the reasons necessitating such suspension(s) of Work in detail, and should obtain his prior written order before such suspension(s).

If it appears to the Engineer-in-Charge that any Work has been executed with unsound, imperfect or unskillful workmanship or with material or articles of unsound or of a quality inferior to the requirement of the Contract, the Contractor shall on order in writing from the Engineer-in-Charge, rectify or remove and reconstruct the Work forthwith so specified in whole or in part as the case may be, remove the material or articles at his own cost notwithstanding that the same may have been passed, certified and paid for. In the event of his failing to do so within a period as specified by the Engineer-in-Charge in his aforesaid order then the Engineer-in-Charge may rectify, remove, reconstruct and/or re-execute the Work or remove and replace with other material or articles as the case may be at the risk and cost of the Contractor.

## **SCHEDULE - II**

### **CONDITIONS FOR EMPLOYMENT OF LABOUR**

1. The Contractor shall carry out its operations in strict compliance of its obligations under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and various notifications issued from time to time under the act.
2. The Contractor shall perform all its operations preferably mechanically and shall engage a minimum number of workers.
3. The workers engaged by the Contractor shall be on its roll. The Contractor shall ensure that all labour engaged by the Contractor or by any approved Sub-Contractor, whose assistance the Contractor has taken with prior written approval of HCL, shall be properly trained and qualified craft persons. The Contractor shall pay all their wages, other dues and benefits and shall abide by the Applicable Laws relating to employment of labour like Payment of Wages Act, Minimum Wages Act, Workmen's Compensation Act, Contract Labour (Abolition and Regulation) Act, and Workmen's Health Insurance etc.
4. When a Sub-Contractor whose assistance the Contractor has sought with the prior written approval of HCL is employed, the provision of this Contract relating to the Contractor's workers, shall apply to the worker of the Sub-Contractor mutatis mutandis.
5. The Contractor shall maintain all records required under the Applicable Laws relating to employment of workers in general and to Mine workers. HCL shall have the right to inspect all such records and the Contractor shall have the obligation to rectify all omissions and commissions relating to these records.
6. The Contractor shall, at its cost provide all facilities including medical facilities, canteen, training centre, recreation facilities etc. as may be required by the Applicable Laws or otherwise.
7. For employment of skilled/semi skilled/unskilled labour the Contractor will give preference to local people.
8. When so required by HCL, the Contractor shall furnish certificate of qualifications and experience of all workers employed by the Contractor and its Sub-Contractors, whose assistance it has sought with the prior written approval of HCL, and HCL, if so required by law, retain these certificates in its custody.

## **SCHEDULE - III**

### **CONDITION FOR ENVIRONMENT, HEALTH & SAFETY MANAGEMENT**

**1. Environment, Health and Safety Management**

During the entire Contract Period, the Contractor shall observe and abide by the general guidelines and specific guidelines on environment, health and safety applicable to mining works in accordance with Applicable Laws and Good Industry Practices.

**2. Environment**

2.1 During the entire Contract Period, the Contractor's men and equipment shall conform to the provisions of all directions and orders issued by HCL in respect of environment protection.

2.2 The Contractor shall abide by and perform all Works in accordance with all applicable environmental laws, regulations and permits in force.

2.3 If after the execution of this Contract, any change in the Work or additional work is required due to new environmental laws and regulations not previously applicable to the Work, the Contractor and HCL shall agree upon the changes required and Additional Cost, if any. An addendum to the Contract will be executed incorporating the required changes and additional price, if any.

**3. Safety**

3.1 The Contractor shall, at all times, exercise all reasonable precautions for the safety of its personnel and employees/workers in the performance of its obligations under the Contract and shall comply with all lawful instructions of HCL and/or DGMS or other authority relating to safety in general and in particular to the safety of the Mine and its operations and safety of all persons engaged in the Mine and shall abide by all applicable provisions of the safety laws drawn up by the DGMS, GOR or GOI or municipalities and other authorities in India and shall provide all facilities and gadgets required for the purpose. Any compensation to be paid to the workers/employees or others on any account including failure to observe safety laws shall be the responsibility of the Contractor.

3.2 **THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPLEMENTATION OF SAFETY RULES AS PER GOOD INDUSTRY PRACTICES AND APPLICABLE LAWS AND DIRECTIONS OF DGMS.**

**4. Fire Prevention**

The Contractor shall take all reasonable precautions to prevent break out of fire of any nature in the place or in the vicinity of the Mining Facilities. The Contractor shall be responsible for all damages due to fire directly or indirectly attributable to its activities or of its workers/employees or to the activities of its Sub-Contractor(s) or its/their workers/employees. The Contractor shall have to provide a suitable, reliable and adequate fire fighting system by way of water pipeline with fire fighting hydrant points at various strategic locations in the Mining Facilities. In addition

to this, fire extinguishers of different types such as CO<sub>2</sub> type, foam type, dry chemical powder type and soda-acid type, suitable for industrial use shall be provided at different required locations. Fire hydrants and fire fighting facilities shall also be provided at vulnerable points like workshops, fuelling facilities, mine offices etc. within the Work Site. The Contractor shall prepare a plan for this purpose, obtain the approval of HCL and shall implement the plan, after such modifications/ additions as HCL may prescribe. The fire fighting plan should comply with all Applicable Laws and the Contractor shall obtain necessary approvals from the statutory authorities.

**5. Sanitary and Medical Requirements**

The Contractor shall promptly and fully comply with the Applicable Laws and provide sanitary and medical requirements, or as may be prescribed by HCL or by Engineer-in-Charge for proper work, safety and health of the workers/employees and of the local communities. In case of such non-compliance of the Contractor, the same may be provided by the Engineer-in-charge at the Contractor's cost.

**6. Cleanliness**

All portions of the work shall be maintained and kept neat, clean and proper sanitary conditions shall be maintained at all time.

**7. First Aid**

The Contractor shall keep first aid facilities and provisions as required under Applicable Laws at the work site.

**8. Protection of Work**

The Contractor and its workmen shall protect the work, excavations, equipment existing installation and material belonging to the Contractor and HCL from damage until the issuance of Completion Certificate to the satisfaction of the Engineer-in-Charge. Should any damage occur, due to negligence of the Contractor he shall repair it at his own cost, to the satisfaction of the Engineer-in-Charge.

**9. Drinking Water**

The Contractor shall make necessary arrangements for sufficient supply of cool and wholesome drinking water as per the provisions of Applicable Law.

**10. Conservancy**

The Contractor shall make necessary arrangements urinals and latrines at the Work Site in accordance with the Mines Act and rules thereto.



**11. Work Hours**

The Contractor shall comply with the requirements of the work hours and wages as prescribed by the Mines Act and rules thereto.

**SCHEDULE - IV**  
**SUPPLIES FROM HCL**

1. **Power:** Subject to availability, HCL shall supply power at one common point to the Contractor. The Contractor at his own cost shall make own arrangements for extending the supply lines to any surface installation, office, buildings, workshop, go downs etc.  
The Contractor at his own cost will also provide suitable electric meters, fuses, switches etc. which should be in the custody and control of HCL. The recovery rate for power supply shall be as per prevailing rate of *MPSEB*, which may vary from time to time. HCL shall not however guarantee for the supply of power and no compensation for any failure or shortage of supply of power will be entertained and this also does not relieve the Contractor of his responsibility for timely completion of this work. Present power tariff is Rs. 7.75 per Unit (KWH). However the rate may vary time to time.
  
2. **Water:** Water both raw & for drinking will be supplied @ Rs 7.15 per kilolitre at the Water Hydrant located near Mines Canteen at Malanjkhanda Copper Project, and Contractor will have to make own arrangements for supply of water for execution of Works. All pumping installations, pipe network and distribution system will have to be carried out by the Contractor at his own cost. HCL shall provide adequate water for operation. Water recycling has to be done by the Contractor at his own cost to conserve water by using best efforts and HCL shall render reasonable assistance to the Contractor in this exercise. All further water arrangement will be done by the Contractor at his cost and expense.  
Any further extension of the water connection by the Contractor to execute the Works shall be done at the Contractor's sole cost and expense.
  
3. **Land for Contractor's Field office, Go downs, Workshop:** HCL will at own discretion and convenience and for the duration of the execution of the work make available near the mine site, land at a rent @ Rs. 31,133/- per acre per annum to the Contractor for construction of temporary structures for Contractor's field office, go downs, workshops and assembly yard, labour colony etc required for the execution of the Contract on an "as-is basis" at no cost to HCL. In case of any modifications, upgrades etc that need to be carried out by the Contractor at his own cost. Any duty/taxes payable to State Authorities will be paid by the Contractor. Proper housekeeping and sanitary of the area will be contractor's responsibility.
  
4. **Residential Accommodation:** The following residential accommodation in the HCL Colony can be given to the Contractor on chargeable basis, subject to availability. The Monthly Rent applicable at present shall be as follows:

| Type of Accommodation | Monthly Rent (Rs.) |
|-----------------------|--------------------|
| Type B (600 Sq. Ft.)  | 2,000              |

|                        |       |
|------------------------|-------|
| Type A (400 Sq. Ft.)   | 1,000 |
| Barracks (495 Sq. Ft.) | 1200  |

In addition to monthly rent, the contractor has to:

- a. Deposit a refundable, interest free security deposit amounting to Rs. One Lakh.  
Also,
  - a) To bear a maintenance fee charged @ 10% of Monthly Rent
  - b) To pay electricity charges and water charges as mentioned above

**SCHEDULE - V**

**Schedule of items and Rates**

**As given in Appendix XII**

## SCHEDULE - VI

### ESCALATION

Awarded Loading & Hauling rates shall remain firm during the entire contract period. However, suitable compensation will be provided for variation in rate of the following items to be calculated in manner given in formula below:

#### 1. ESCALATION FOR LOADING & HAULING WORK:

i) **HSD Escalation** = Awarded Rate in Rs. per BCM\*  $\frac{(F_2-F_1)}{F_1}$  \*0.40

Where:

F<sub>1</sub>= Government notified diesel (HSD) rate at MALANJKHAND (IOC/HPCL/BPCL) (in Rs/Ltr.) as on the last date of submission of tender.

F<sub>2</sub>= Revised Government notified diesel (HSD) rate at MALANJKHAND (IOC/HPCL/BPCL) (in Rs/Ltr.) on the date of last purchase by party on the first day of the month under review.

ii) **Labour Escalation** = Awarded Rate in Rs. per BCM\*  $\frac{(L_2-L_1)}{L_1}$  \*0.10

Where:

L<sub>1</sub>= Minimum wages of Skilled Labour in non-coal mines (above ground) for schedule employment as per Central or State Govt., whichever is higher as on the last date of submission of tender.

L<sub>2</sub>= Minimum wages of Skilled Labour in non-coal mines (above ground) for schedule employment as per Central or State Govt., whichever is higher on the first day of the month under review.

iii) **Escalation on All India Wholesale Price Index** = Awarded Rate in Rs. per BCM\*  $\frac{(M_2-M_1)}{M_1}$  \*0.10

Where:

M<sub>1</sub> = All India Wholesale Price Index (New Series) (Base 2011-12 =100) of all commodities as on the month of Tender submission.

M<sub>2</sub> = All India Wholesale Price Index (New Series) (Base 2011-12 =100) of all commodities as on the first day of the month under review.

**Revised rate per BCM of loading & hauling for the month under review = Awarded rate + changes due to HSD escalation (i) + changes due to Labour escalation (ii) + changes due to change in All India Wholesale Price Index of all commodities (iii).**

**NOTE:**

- i. The compensation for escalation shall be worked out on monthly basis on the first day of every month.
- ii. HSD escalation calculation will be based on Government notified diesel rates and compensation will be made for increase/decrease in rate of HSD as per formula detailed above, by taking the actual purchase rate of HSD subject to furnishing the last purchase Invoice in the month under review as documentary evidence.
- iii. Documentary evidence of Government notified diesel rate from the authorized diesel company, copy of minimum wages circular will be submitted by the contractor for claiming escalation.
- iv. Documentary evidence regarding increase in All India Wholesale Price Index of all commodities will also have to be submitted by the successful contractor for claiming escalation.
- v. If the contract is to be extended beyond the stipulated period for completion of the work due to fault on part of the contractor, escalation on prices/wages will not be allowed. In such case, the rate with escalation as applicable prior to commencement of the extended period shall be paid to the contractor during the extended period of the contract. However, if the delay in the completion of work by the contractor is due to HCL's fault, escalation on prices/wages will be allowed during the extended period.

**SCHEDULE – VII**

**PERFORMA FOR BANK GUARANTEE TOWARDS SECURITY DEPOSIT**

(ON NON-JUDICIAL STAMP-PAPER OF APPROPRIATE VALUE)

**To,**

**Hindustan Copper Limited,  
‘Tamra Bhawan’  
1, Ashutosh Chowdhury Avenue,  
Kolkata – 700 019  
Dear Sir,**

M/s----- upon being awarded the work of loading & hauling of rock at MCP open pit mine under tender/LOI/Work Order No. ----- approached us with the request to furnish Hindustan Copper Limited at Corporate Office, Kolkata a Bank Guarantee for Rs. -----only (Rupees ----- only) towards security deposit. At their request and in consideration of the promises we ----- have agreed to give guarantee as hereinafter mentioned.

1. We ----- hereby agree and undertake that if in your opinion any default is made by the said M/s ----- in performing any of the terms and/or conditions of the agreement or if in your opinion he commits any breach of agreement or there is any demand by you against the said M/s. ----- then on notice to us by you we shall on demand without demur and without reference the said M/s. ----- immediately pay to your, in any manner in which you may direct, the said amount of Rs.----- only (Rupees ----- only ) or such portion thereof as may be demanded by you not exceeding the said sum and as you may from time to time require. Our liability to pay is not dependent or conditional on your proceeding against the said M/s ----- and we shall be liable to pay the aforesaid amount as and when demanded by you merely on a claim being raised by you and even before any legal proceedings are taken against the said M/s -----.
2. You will have full liberty without reference to us and without affecting this guarantee. Postpone for any time or from time to time the exercise of any of the powers and rights conferred on you under the contract with the said M/s. ----- and to enforce or to forbear from endorsing any power or rights or by reason of time being given to the said M/s. ----- which under law relating to sureties would but for the provision have the effect of releasing us.
3. Your right to recover the said sum of Rs. ----- only (Rupees ----- from us in manner aforesaid will not be affected or suspended by reason of the fact that any dispute or

disputes have been raised by the said M/s. ----- and/or that any dispute or disputes are pending before any officer, tribunal or court.

4. Our guarantee herein contained shall not be determined or affected by the liquidation or winding up of dissolution or change or constitution or in solvency of the said M/s. ----- but shall in all respects and for all purposes be binding and operative until payment of all money due to you in respect of such liability or liabilities.
5. Our liability under this guarantee is restricted to Rs. -----only (Rupees ----- only). Our guarantee shall be valid up to ----- and we are liable to pay the guaranteed amount or any part thereof under the Bank Guarantee only and only if you serve upon us a claim or demand or a suit/action to enforce a claim under guarantee is filed against us on or before -----.
6. We have power to issue this guarantee in your favour under Memorandum and Articles of Association and the undersigned has full power to do under the power of attorney dated ----- granted to him by the Bank.

Yours faithfully,

-----

-----

----- Bank

(Signature of a person duly authorized to sign on behalf of the Bank).



**SCHEDULE - VIII**

**MANDATE FORM FOR ELECTRONIC PAYMENT THROUGH INTERNET**

To

Hindustan Copper Limited,

.....  
.....  
.....

Dear Sir,

**Sub:** Authorization for release of payment due from HCL,-----through  
Electronic fund transfer by Internet Mode.

Refer Work Order No.....

Dated.....

(Please fill in the information in CAPITAL LETTERS. Please TICK wherever it is applicable)

1. Name of the Party:

2. Address of the Party: .....

.....

.....

City:.....Pin Code.....

E-mail Id:.....

Permanent Account Number:.....



## **SCHEDULE - IX**

### **PROCEDURE FOR SURVEY, MEASUREMENTS AND COMPUTATION OF QUANTITY/ VOLUME OF ROCKS EXCAVATED/LOADED BY THE LOADING & HAULING CONTRACTOR**

Detailed Survey procedures for the loading and hauling contract shall be as follows:-

#### **1. Procedure for recording the Area of Excavation:-**

- 1.1 Initially a block of heap (in case of already blasted rocks) which is required to be excavated/ loaded shall be identified with some identification number.
- 1.2 Then the bench/ heap where excavation is to be done shall be surveyed by Total Station for taking initial face position of bench/ heap. The Crest as well as Toe (both) shall be surveyed for the particular area.
- 1.3 The initially surveyed face position is then plotted with the help of computer/ printer and a plan is prepared on the basis of that plot.
- 1.4 When excavation is completed or material is removed in the allocated area, the benches shall be re-surveyed by Total Station for taking final position of bench/ Heap. Again the Crest as well as Toe (both) shall be surveyed of that particular area.
- 1.5 The resultant final bench face positions shall be plotted on the same plan as mentioned at Sl. No. III.
- 1.6 After plotting both initial and final face positions, the displacement of bench/ heap shall be measured by Digital planimeter /software (AutoCAD/ Auto Plotter). Then area shall be calculated for actual work done of that particular block/ heap.

$$\text{Average Area (Block/Heap)} = (\text{Excavated Area of Crest} + \text{Excavated Area of Toe})/2$$

#### **2. Procedure for recording the Depth/ Height of Excavation:-**

- 2.1 Initially, before commencement of excavation/ loading, spot levels shall be recorded at suitable intervals in grid pattern to represent the levels at the top of the identified block/ bench to serve as top levels, by total station.
- 2.2 The intervals between spot levels shall be between 4.0-8.0 m (as per field conditions and mutually agreed by all survey teams) in both directions.
- 2.3 At least two reduced level (in case of block less than 5.0 meters) shall be necessary at the top as well as at the bottom of the bench.
- 2.4 After excavation/ loading, spot levels shall again be recorded in the same manner as described above at the bottom of the said block/ bench by total station which shall serve as bottom levels.

- 2.5 The depth of cutting or height of Block/ heap shall be calculated by the subtracting the Average Top Level of a block/ heap and the Average Bottom level recorded for the same block/ heap as follows:  
**(Depth/ Height= Av. Top RL of Block - Av. Bottom RL of the same Block)**

### 3. Procedure for Volume Computation:-

- 3.1 Volume of any block/ heap shall be calculated on the basis of area derived from displacement of face position and difference of average top levels to the average bottom levels pertaining to the same block.

**Volume (Block/Heap) =Average Area\* Depth or Height**

- 3.2 The initial and final measurement of bench position (for block) and of heap (for already blasted rocks) shall be made with reference to HCL Survey Stations by Total- Station.
- 3.3 In case of toe cleaning or at places where only toe have been excavated, the same shall be taken by Total station and calculated accordingly.
- 3.4 The location of blocks or heaps shall be marked with their identification numbers on a plan in 1: 1000 Scale for reference and use. This plan shall be signed by Authorized Officer of HCL/ MCP (Joint Survey), Rep. of Engineer-in-Charge, Contractor/ Authorized Representative & Engineer-in-Charge.
- 3.5 The face position and spot levels recorded during each measurement shall be taken from an established Survey station having Benchmark. It should be checked before recording measurements .In case of any difference, necessary correction should be applied in this regards.
- 3.6 To minimize errors, the same benchmarks/ survey stations shall be used for taking the initial and final survey of a particular block as far as practicable.
- 3.7 The heaps of blasted rock shall be measured as per the shape of heap and loose volume so calculated shall be divided by 1.67 to derive the corresponding Bank (in-situ) volume.

*[ An in house detailed study on 'Swelling/ Bulking Factor of blasted rock' concluded that for the material having 'bulk in-situ densities' varying between 2.41 and 2.95 have Swell/ Bulking Factor varying between 60% and 72 % . A default value of 67% has been assigned, by the researchers for the un-weathered rocks, if no swell factor data is available.*

*For Example: If the blasted rock volume measured is 180 m<sup>3</sup>, having a swell factor of 67%, the corresponding Bank (in-situ) volume (V<sub>in-situ</sub>) shall be derived by the following formula*

$$V_{in-situ} = 180 \text{ m}^3 / 1.67 = 107.78 \text{ m}^3.]$$

- 3.8 Survey measurements recorded each time will be treated as final and no separate final measurement will be made.

4. **Recording of Survey data and computation of work done:-**

- 4.1 Survey Data shall be recorded by Electronic Total Station having accuracy of 5.0mm and more. It shall have capabilities of recording and downloading the data with auto plotter and other related software.
- 4.2 02 (two) Nos. of Total Stations shall be required for conducting the survey. One for Joint Survey Team and One for check Survey Team. Out of these two, the Total Station required for Joint Survey Team shall be provided by HCL/ MCP and other Total Station required for Check Survey Team shall be arranged by the Contractor.
- 4.3 Both the Joint and Check survey team shall have to fix their instrument at close proximity to each other i.e. within 1-5m distance, for better communication.
- 4.4 Both the Joint and Check survey team shall use common Survey station for back sight and benchmark.
- 4.5 Both the Joint and Check survey team shall use common Target for recording the bench position and spot levels.
- 4.6 Spot levels shall not be taken on bund or in drain unless it is more than 2.5 m wide and in case any change is required, reason for the same shall be recorded in this regard.
- 4.7 All the downloaded records including bench position and levels shall be signed by Authorized Officer (Joint Survey), Rep. of Engineer-in-Charge, Contractor/Authorized Representative & Engineer-in-Charge. These downloaded records shall be duly maintained, serially numbered & preserved in the safe-custody of HCL/ MCP.
- 4.8 The details of survey (i.e. Date of Survey, Name/ Co-ordinate/ RL of Instrument Station & Back Sight Station/ Bench mark, Instrument Height, Target height, observations of Back sight and RL of Bench Mark shall be recorded in bound page book. Difference in observations, if any, shall also be recorded.
- 4.9 These records shall be signed by Authorized Officer (Joint Survey), Representative of Engineer-in-Charge, Contractor/ Authorized Representative & Engineer-in-Charge.
- 4.10 All the above Survey shall be carried out jointly by the authorized Surveyor of HCL and that of the contractor. A joint Measurement Book shall be prepared on the basis of the measurements for computing the Volume of work done in a month. Measurement Books shall be signed by Authorized Officer (Joint Survey), Representative of Engineer-in-Charge, Contractor/Authorized Representative & Engineer-in-Charge.
- 4.11 The contractor shall prepare RA Bills on the Basis of Measurements Recorded in Measurement Book (Joint Survey) and submit the same to Engineer-in-Charge for releasing payments.

5. **Check Survey and Measurement:**

- 5.1 Check Survey by the Officer/ Engineer from Civil/ Any other department of HCL/ MCP shall be carried out simultaneously to check independently and ascertain the accuracy of Joint Survey.
- 5.2 Procedure for recording Check Survey & computation of quantity/ volume shall be the same as specified for Joint Survey.

6. **Processing of RA bill for Payment:**

- 6.1 The payment shall be made to the contractor on the basis of the quantity arrived at by **Joint Survey**.
- 6.2 The contractor's R/A bills for the work progress, level and measurement books of joint survey and check survey will be checked/ scrutinized & certified by the Engineer-in-Charge before forwarding the same to the finance department for releasing payment.
- 6.3 The quantity/ volume computed by joint survey and check survey shall be compared by the Engineer-in-Charge. Variation in quantities/ Volumes between joint and check survey shall be permissible within +/- 5%. In case, the difference between the two quantities/ Volumes is substantially high (more than the permissible limits) and check survey quantity is less, then payment shall be restricted up to the quantities/ Volumes measured by **check survey**. However reason for such variations shall be investigated and taken care of during the subsequent joint/ check survey.

All the measurement shall be carried out by the officers duly nominated for the purpose by the competent authority. Above procedure for survey, measurements recording of excavation work progress and processing of bills shall be followed by all the concerned. In addition to this, instructions, orders/guidelines issued in this connection from time to time will also be followed.

The Contractor shall have to maintain liaison with HCL/ MCP Survey Section for conducting the Initial and Final Survey of any Block/ Area. Provision of all necessary support for conducting the survey shall be the sole responsibility of the contractor. The Contractor has to arrange sufficient manpower/ assistance and vehicle required for conducting the survey. The Contractor shall have intimate Joint Survey team well in advance (i.e. at least 24 hours in advance) regarding requirement of any Survey.