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File No: NA- NA-104/13/2023-NA

Government of India/भारत सरकार

Ministry of Coal/कोयला मंत्रालय

O/o Nominated Authority / नामनिर्दिष्ट प्राधिकारी का कार्यालय

R.No.120- 1st Floor, F-Wing Shastri Bhawan,
New Delhi, Dated:01st December, 2023

TERMINATION NOTICE

To,

The Director,
Mahavir Coal Resources Private Limited,
Godrej Anandham City,
Flat No. 802, Tower B Umred RO/
Nagpur Maharashtra 440018
Email: info@mcrpl.com

Subject: Termination of Coal Block Development and Production agreement with respect to Dongeri Tal-II Coal Block.

Sir,

The undersigned is directed to refer to the Tender Document Dated November 03, 2022 and Coal Block Development and Production Agreement (hereinafter referred to as "Agreement") executed on 29th March 2023 between Nominated Authority and M/s Mahavir Coal Resources Pvt Limited (MCRPL) for Dongeri Tal-II Coal Block. Attention is invited to clause 3 (3.1) of the Agreement which prescribes the Vesting Conditions, inter alia, furnishing of Fixed Cost Amount and First Installment of Upfront Amount of Rs.30,99,10,858/- and Rs.25,00,00,000/- respectively in the account of Ministry of Coal and furnishing of Performance Security (PBG) in form of Bank Guarantee for Rs. 2,75,08,57,309.78/- for issuance of Vesting Order in favor of Successful Bidder. **Original due date for completion of Vesting conditions (including successful payment of aforementioned amounts) was 8th May,2023.**

2. As per sub-clause 6.1.1 of the Agreement, M/s MCRPL was required to submit Performance Security amounting to **INR 2,75,08,57,309.78 (Indian Rupees Two Hundred Seventy-Five Crore Eight Lakh Fifty-Seven Thousand Three Hundred Nine and Seventy-Eight Paise only)** within 40 days of the Agreement as specified in sub-clause 3.2.2. The sub-clause 3.2.2 of the Agreement clearly states that M/s MCRPL is required to provide a Written Notice/ Completion Notice (as mentioned in sub-clause 3.2.1) within 40 days of the



Agreement date upon satisfaction of each of the vesting conditions specified in sub-clause 3.1 of the Agreement failing which the Nominated Authority may terminate the Agreement without incurring any liability whatsoever by providing a Written Notice to M/s MCRPL and Successful Bidder shall not be entitled to receive the Vesting Order. Further, Nominated Authority shall be entitled to dispose the Coal mine in the manner provided in the Act and Rules, including re-auction/re-allotment or through appointment of a designated custodian.

3. A Standing Operating Procedure (SOP) dated 03-03-2023 has been issued by this Office for deciding requests for Change Notice under CMDPA/CBDPA. As per SOP, upon receipt of first request from a successful bidder prior to expiry of time period prescribed in CMDPA/CBDPA, Nominated Authority may decide the request for allowing an extension of time period up to 30 days to be reckoned from the last day of the prescribed time period. Upon receipt of second request from a mine allocate prior to expiry of time period so extended by the Nominated Authority, Hon'ble Minister of Coal may decide the request for allowing an extension of time period upto 60 days to be reckoned from last day of extended time period.

4. A letter dated 29-04-2023 was received from M/s Mahavir Coal Resources Private Limited(MCRPL) requesting for first extension of two months for submission of Fixed Amount, Performance Security and Upfront Amount. This office requested for some documentary evidence establishing difficulty faced by MCRPL in arranging PBG including details of steps taken as per SOP. Upon furnishing the same, first extension of thirty days was granted with the approval of Nominated Authority to MCRPL till 07-06-2023. Subsequently, **Fixed Cost and Upfront Amount were deposited by MCRPL on 05-06-2023 in the account of MoC.** Again vide letter dated 05.06.2023, MCRPL requested for second extension for submission of Performance Security. Here again supporting documents were requested from them to consider this request. Upon production of same, second extension was granted till 06-08-2023 with the approval of Hon'ble Minister of Coal. Vide email dated 02-08-2023, MCRPL forwarded a letter dated 31-07-2023 requesting further (third) extension of two months for submission of Performance Security stating that PBG with BG No.IBKL4099000CK004146 dtd.20.07.2023 has been submitted by IDBI bank directly to the Office of NA. However, due to non-availability of SFMS confirmation, MCRPL is approaching other banks for issuance of new Bank Guarantee. To verify the claim of MCRPL, a call was made to the IDBI bank branch mentioned in the scanned PBG. Official of bank categorically denied of issuance of any PBG for MCRPL and informed that scanned copy of PBG is not genuine. Matter was immediately brought to the notice of higher authorities of Office of Nominated Authority. MCRPL,vide letter dated 03.08.2023 claimed that they themselves have been duped by the scammer in the case concerning fake issuance of Bank Guarantee and they come to know of this on August 01-08-2023. A copy of FIR was also shared with this office. However, there is no provision of third extension request in the SOP. Also, there is no such precedence of grant of third extension to any bidder. Thus, Payment of Performance Security amounting to **INR 2,75,08,57,309.78 has not been made till date by M/s MCRPL.**



5. The sub-clause 26.3.1 (d) under clause 26.3 of the agreement clearly states that the agreement may be terminated upon failure of the Successful Bidder to complete the vesting conditions within the time specified in Clause 3.2. Further, sub-clauses 26.3.2 and 26.3.3 are mentioned below:

“26.3.2. Upon occurrence of a Termination Event, the Nominated Authority may elect to terminate this Agreement by providing a 15 Business Days written notice to the Successful Bidder. The determination of the Nominated Authority regarding occurrence of a Termination Event shall be final and binding on the Successful Bidder.”

*“26.3.3. In case the Nominated Authority elects to terminate this Agreement except under Clause 26.3.1(j), **then the Performance Security and all other payments made by the Successful Bidder shall be forfeited** and the Successful Bidder shall not be entitled to any benefits under this Agreement but would continue to be liable towards any antecedent liability, all obligations accrued before the effective date of the surrender/ termination and also for the obligations that must be fulfilled after termination. In case Nominated Authority elects to terminate this Agreement under Clause 26.3.1(j) after accepting the Event of Force Majeure, then i) the Performance Security submitted by the Successful Bidder shall not be forfeited and ii) the balance Upfront Amount, if any, after adjustment of Monthly Payments in accordance with Clause 9.4 shall be refunded. The Successful Bidder shall not be entitled to any benefits under this Agreement but would continue to be liable towards any antecedent liability, all obligations accrued before the effective date of the surrender/ termination and also for the obligations that must be fulfilled after termination.”*

6. In view of the above, in terms of sub-clause 3.2.2 under clause 3.2 of the agreement, it has been decided to terminate the Coal Block Development and Production agreement dated 29.03.2023 with respect to Dongeri Tal-II coal block executed between Nominated Authority and M/s MCRPL. Termination of the Agreement shall take effect from 15 business days from the date of issue of this Termination Letter.

7. Further, clause 5.12.3 (k) of the Tender Document provides that in the event a Bidder is declared as Successful Bidder, and such Successful Bidder, within the specified time limits, fails to furnish Performance Security, pay the Fixed Amount and pay the Upfront Amount, the Nominated Authority reserves the right to reject any bid. The clause 6.1.5 of the Tender Document provides as under:

“6.1.5 The Nominated Authority shall be entitled to forfeit and appropriate the Bid Security as damages, inter-alia in any of the events specified in Clause 5.12.3 of this Tender Document, without prejudice to its other rights or remedy available under this Tender Document, the Agreement or Applicable Law, without incurring any liability whatsoever. The Bidder, by submitting its Bid pursuant to this Tender



Document, shall be deemed to have acknowledged and confirmed that the Nominated Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this Tender Document. No relaxation of any kind on Bid Security shall be given to any Bidder”

8. In view of the above, the Bid Security [BG No. 0041NDDG00057123 dated 10-01-2023] amounting to INR 20,00,00,000.00 (Rs. Twenty Crore only) submitted by MCRPL stands forfeited as damages. Further, Fixed Cost Amount of Rs.30,99,10,858/-, first installment of Upfront Amount of Rs.25,00,00,000/- which are already available in the account of Ministry of Coal stands forfeited.

Mijn 1.12.23

[M. Nagaraju]

Nominated Authority



Enclosure:

1. Bid Security [BG No. 0041NDDG00057123 dated 10-01-2023] amounting to Rs. 20,00,00,000.00/- INR

Copy to:-

1. Branch Manager, ICICI Bank Ltd., D-16, South Extension Part II New Delhi-110049 with a request to treat this Notice as Demand under Bid Security submitted as Bank Guarantee No.:BG No. 0041NDDG00057123 dated 10.01.2023 and to **IMMEDIATELY** encash 100%, i.e. an amount of Rs. 20,00,00,000/- (Rs. Twenty Crore only/-) and transfer the same to the account of PAO Ministry of Coal whose details are as below:

Bank Name	PUNJAB NATIONAL BANK (PNB)
Bank Branch	CONNAUGHT CIRCUS
Account No.	0276050414586
IFSC	PUNB0027620
MICR Code	110024773
Bank Address	J C DAS BUILDING 90/8, CONNAUGHT CIRCUS NEW DELHI-110001
Bank Contact No	(011)-23360661, 23347012

This encashment is on account of non-compliance of M/s MCRPL with the provisions of Coal Block and Development Agreement signed between Nominated Authority and M/s MCRPL in respect of Dongeri Tal-II Coal Block.

2. Coal Controller, Coal Controller Organisation, Kolkata.

3. US (P&S-II)/ US(IFD), MoC
4. PAO, Ministry of Coal with request to deposit the amount received in detailed head 8443.00.117.03.07.00 until further directions from this office to deposit the above mentioned amount in CFI.

