

‘SPOT E-AUCTION SCHEME, 2007’ FOR SALE OF COAL IN MCL

Terms & Conditions of Spot e-Auction Scheme 2007

Objective:

Coal distribution through e-Auction has been introduced with a view to provide access to coal for such buyers who are not able to source coal through the available institutional mechanism. In the long run it is expected that e-Auction may help in creating spot as well as future market of coal in the country.

The purpose of e-Auction is to provide equal opportunity to purchase coal through single window service to all intending Buyers.

E - Auction has been introduced to facilitate across the country wide ranging access to book coal on-line for all sections of coal Buyers enabling them to buy coal through a simple, transparent and consumer friendly system of marketing and distribution of coal.

Terms & Conditions

With reference to para VI (4) of the ‘e-Auction Scheme 2007’ for Spot e-Auction the detailed terms and conditions are given below :

1. Eligibility:

- 1.1** Any Indian Buyer (viz. individual, partnership firm, companies etc.) can participate in e-Auction for procurement of coal.
- 1.2** Before the bid is accepted, the bidder shall pay in full all sums of money due to the seller in regard to any pervious supply of coal to the bidder if there are any arrears the seller shall be entitled not to consider such bids.

2. Registration:

- 2.1** Before participation in the e-Auction, a prospective Buyer shall be required to get itself / himself registered with the Service Provider appointed by the CIL / Coal Companies for the purpose, by submitting an application in the prescribed format available on the Website of the respective Service Providers. The application shall be made along with the required documents such as copy of Income Tax return (latest), PAN Number, Sales Tax / Vat Registration Certificate, SSI Registration, Trade License, if applicable, Passport size photograph, etc. as prescribed by the service provider. Registration can be done either online, or at any of the front offices of the service provider.
- 2.2** After the registration, all-prospective Buyers will have an auto generated “Unique User ID” & a “password” based on which they can log in. Details of the registration process with the service provider will be available in their respective websites.
- 2.3** The service provider shall issue “Photo Identity Card” to their registered bidders duly authenticating the identity & signature, indicating a “Unique Registration Number” allotted to them. The “Unique registration number” of the registered bidders shall be communicated to the Coal Companies by the service provider.

- 2.4 Only one registration will be done against one PAN number. However, based on more than one independent valid sales tax/VAT registration, more than one registration against a PAN Number can be considered. In such cases, the details of valid sales tax registration will be indicated in each 'Photo Identity Card'. In the event of one PAN number and one sales tax/VAT registration number for a bidder having multiple units in one state, more than one registration will be allowed based on independent valid excise registration number or factory licence for such units and the same will be indicated in each "Photo Identity Card".

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- 2.5 All Buyers having been registered with the service providers shall also have to furnish **non-interest bearing Earnest Money Deposit (EMD) at the rate of Rs.400/- per tonne for coal having GCV of 4300 K.Cal/Kg and below and Rs.500/- per tonne for coal having GCV more than 4300 K.Cal/Kg, with the Service Provider.** This EMD shall not be specific for a particular Subsidiary Coal Company and shall be available with the Service Provider for participation in the e-Auction across the Subsidiary Coal Companies of CIL, as long as the required amount of EMD is available in the bidders a/c. with the Service Provider.

3. Notification:

- 3.1 Coal companies would draw program for conducting at least two e-Auctions per month and notify the same, minimum 7(seven) days in advance, through display on the Company's notice board and putting the same on the Coal Company's websites for wide publicity. The program will be intimated to the Service providers accordingly for hoisting the same on their websites also.
- 3.2 There will be separate auction for dispatches by rail and road mode. The minimum quantity for bidding would be 50 (fifty) tonnes for a source for Road mode, where as in case of Rail the minimum quantity for bidding would be 1 (one) rake. The rake size shall be as per prevalent Railway Rules. The quantity of coal in a rake shall be as indicated in the notice of E-auction.
- 3.3 The Buyer should satisfy itself / himself about the Rake fit stations / destinations from the Railways before participation in e-Auction by rail, Non-acceptance of the programme, even after the option exercised under extant Railway rules, on account of rake-fit stations / destinations being not accepted by the Railways shall be treated as a failure of the Buyer leading to forfeiture of relatable EMD.

4. Bidding Process

- 4.1 The registered Bidders shall be required to record their acceptance after login, of the Terms & Conditions of the e-Auction before participation in the actual Bidding Process.
- 4.2 Before participating in e-Auction, bidders are to satisfy themselves with the quality of coal being offered from a source.

4.3 Prospective Bidders are entitled to Bid for the quantity to the extent of amount of EMD for which is available with the service provider in the bidder's account at the time of bidding.

4.4 The Buyers while bidding shall quote their "Bid price" per tonne in Indian Rupee as base coal price on FOR/FOB colliery basis, exclusive of other charges like statutory levies, surface transportation charges, sizing/beneficiation charges, taxes, cess, royalty, SED, & any other charges as will be applicable at the time of delivery. These charges as well as freight etc. shall be on the Buyers' account.

4.5 The bidder has to bid for a price equal to or above the reserve price to secure consideration in the concerned e-Auction.

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4.6 The date, time and period of e-Auction as notified in advance including closing time on portal of service provider shall be adhered to but for the event of force majeure. However, the closing time of e-Auction will be automatically extended up to last Bid time, plus 5 minutes, so that opportunity is given to other Bidders for making an improved Bid on that item.

4.7 The Bidder shall offer his Bid price (per tonne) in the increment of Rs.10/- (Rupees ten) during the Normal e-Auction period. During the extended period of first two (2) hours, the Bidder shall offer his Bid price in the increment of Rs.20/-. Beyond this extended period of two hours the bid price increment would be Rs. 50/- (Rs.Fifty) only.

4.8 While maintaining the secrecy of Bidder's identity, the web site shall register and display on screen the lowest successful Bid price at that point of time. The system will not allow a Bidder to Bid in excess of his entitled quantity as per his EMD. However once a Bidder is out-bided by another (in part or full) the particular Bidder shall become eligible for making an improved Bid.

4.9 Following criteria would be adopted in deciding the successful bidders:-

(a) Precedence will be accorded to the highest bid price in the descending order (H1, H2, H3 and so on) as long as the offered quantity is available for allocation.

(b) If two or more buyers bid the same highest price, precedence for allotment will be accorded to the buyer who has placed the bid for the higher quantity.

(c) In case two or more buyers bid the same price and the same quantity, precedence will be given to the buyer who has accorded his bid first with reference to time.

5. **Post e-Auction process:**

- 5.1 Each successful bidder will be intimated through e-mail / SMS by the Service Provider on the same date after the closure of e-Auction. However, it will be the responsibility of the bidder to personally see and download the result displayed on website, on the same date after close of e-Auction.
- 5.2 The successful bidders after the e-Auction, will be required to deposit coal value with the concerned coal company, within a period of 10 (Ten) working days, after the date of closing of e-Auction. 10 (Ten) working days would be reckoned as applicable to the respective Subsidiary Coal companies' office where the payment/ deposit is required to be made.
- 5.3 Equivalent amount of EMD of successful bidder corresponding to successful bid quantity, shall be blocked and will be transferred to Coal Company by the service provider along-with the bid sheet in respect of successful bidders.

6. Terms of payment:

- 6.1 The coal value to be deposited in advance by the successful bidders shall be computed and deposited after making provision for the EMD amount for the successful bid quantity already transferred by the service provider to the subsidiary company. In other words, the coal value to be deposited and EMD amount together, shall be equivalent to the 100 % coal value.

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- 6.2 EMD amount shall not be treated as an adjustment towards the coal value but would stand converted into a 'Security Deposit' for performance of the bidders towards completion of the said transaction.
- 6.3 The above security deposit (as converted from the EMD amount) would be adjusted as coal value, only after completion of lifting of coal covered under coal value paid, excluding security deposit. However, in the event of default in performance by the bidder, the provision of forfeiture of the 'Security Deposit' (as converted from the EMD) as stipulated, would be applicable.
- 6.4 In case of road supplies, once the coal value is deposited by way of demand draft /pay order, drawn in favour of the concerned coal company, along-with the debit advice issued by the bank, certifying that the DD/pay order/RTGS Mode has been issued, by debiting the account of the concerned Buyer, Sale/Delivery orders shall be issued within seven days by the coal company after encashment of buyer's financial instrument.

In case of successful bidders, if the coal value is deposited for less than the allotted Quantity but not below 50% of the allotted quantity or, 50 tonne whichever is higher, the coal company shall accept the payment for the said amount and forfeit the EMD for the failed quantity. However if the buyer fails to deposit the coal value for at least 50% of

the allotted quantity or 50 tonnes whichever is higher then the entire EMD of the allotted quantity shall be forfeited.

- 6.5 However, a successful bidder whose allotted quantity is only 50 tonnes will be allowed to deposit coal value for minimum 90% i.e 45 tonnes within the stipulated period of 7 days without which the amount shall not be accepted. In such event they shall be permitted to deposit the balance fractional amount, limited to 10 % of the total coal value of 50 tonne, within the subsequent period of 3 (three) working days. In spite of this, if they fail to deposit full coal value of 50 tonne (minimum bid quantity), EMD for entire 50 tonne shall be forfeited.
- 6.6 In case of rail borne supplies, there shall be two options available. While submitting program, the bidder at his option can deposit 100 % BG on the prescribed format from the buyers own account or else may deposit 100% amount through demand draft /pay order, drawn in favour of the concerned coal company, along with the debit advice, issued by the bank certifying that the DD/pay order has been issued by debiting the account of the concerned Buyer.
- 6.7 In case of Buyers who have booked their rail program through BG, a notice for deposition of coal value by way of DD/Pay order/RTGS Mode, will be displayed on the notice board of the coal company, at least three working days in advance before the expected date of offer to the Railways for allotment. The Buyer will be accordingly required to deposit DD/Pay Order/RTGS Mode along with the debit advice to the tune of BG involved in the program, within 48 hours of such notice. But in any case it is to be noted that buyers who wish to avail Bank Guarantee facility are required to deposit coal value under e-auction prior to 7 working days of the validity of the sanction. In case of failure to deposit, the EMD so deposited will be forfeited. *All the buyers must satisfy themselves with quality, size and other aspects by inspecting the material available for proposed e-auction before bidding.*

In the event of non-deposition of 100% coal value by the Bidder in terms of Clause-6.7 above, the consent given against rake programme will be withdrawn by the coal company and EMD as per e-Auction scheme will be forfeited.

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- 6.8 The Buyers shall also have the option of e-Payment once the system in the Coal companies is suitably developed & the same is notified on the websites accordingly.
- 6.9 Successful Buyers are requested to deposit the coal value to the extent of 3 Demand Drafts only. More than 3 Demand Drafts will not be accepted and failure on the part of the Buyer to deposit the coal value within the validity period will be liable to forfeiture of EMD.
- a) The successful buyer shall pay any additional sum which may become payable by the seller under any statutory provision over and above the amount claimed in the invoice. The successful bidder will also be entitled to a refund of the sum of taxes to the seller on account of reduction, if any of the statutory levies claimed in the invoice by the seller.

6.10 Consumers/Buyers are requested to deposit Original Road Delivery Orders to the colliery for lifting of coal. Those who are willing to lift the coal are also requested to deposit the Consumers' Copy. Those who fails to deposit original Consumers copy of RDO to the colliery end, the refund of amount will not be processes until and unless is same is deposited at the area/colliery. All consumers are also requested to receive the coal bills after completion of RDO or after the expiry of the validity period from the colliery by 25th of succeeding month.

7. **Procedure of Coal Delivery**

By Road:

7.1 Coal company shall issue Sale / Delivery Orders to the successful bidders in terms of Clause 6.4 after realisation of payment. The Buyer has to submit the option before the issue of the Sale / Delivery Order for movement of the coal "within state" or "outside state" and the Sale / Delivery Order would indicate the same accordingly. However, the challan issued by the Coal Company shall indicate the destination.

7.2 The validity period to complete lifting of coal by road shall be 45 days from the date of issue of Sale/Delivery Order. No extension of validity will be allowed in any case.

By Rail:

7.3 The seniority of buyers in case of rail borne supplies shall be guided by the seniority list as provided by the service provider based on buyer's bids.

7.4 The quantity allotted against each rake is indicative quantity only and delivery shall be made on the basis of actual weighment by the Seller at the loading end.

7.5 The validity period for seeking allotment of rake in case of rail supplies shall be 45 days from the date of issue of consent by the coal company. Once the rake is allotted it shall remain valid for supply of coal as per prevailing Railway Rules.

7.6 Although loading will be the responsibility of the coal company, but to avoid any complaint regarding over-loading, under loading and quality, the Buyer himself or his authorized representative may supervise loading at the loading point. The authorized representative must carry valid authority letter along with photocopy of Identity Card issued by Service Provider.

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7.7 *The overloading and under loading charges, if any, at the rates applicable as per Railway rules, will be borne by the Coal Company and the respective Buyer / Bidder as follows:*

(i) Any penal freight for over-loading charged by the Railways for any consignment shall be payable by the Purchaser. However, if over-loading is detected from any particular

colliery, consistently during three (3) continuous months, on due intimation from the Purchaser to this effect, the Seller undertakes to take remedial measures.

- (ii) Any idle freight for under-loading below the stencilled carrying capacity, as shown on the wagon, for Grade A, Grade B, Steel Grade I, Steel Grade II, Washery Grade I, Washery Grade II, Semi-coking Grade I, Semi-coking Grade II and washed coal ; and below the stencilled carrying capacity as shown on the wagon, plus two (2) tones for all other grades of coal shall be payable by the Seller.
- (iii) Idle freight resulting from under-loading of wagons, as per Clause (ii) shall be adjusted in the bills. Idle freight shall be reckoned as :
 - (a) the difference between the freight charges applicable for the stencilled carrying capacity, as shown on the wagon, less the freight payable as per actual recorded weight of coal loaded in the wagon for Grade A, Grade B, Steel Grade I, Steel Grade II, washery Grade I, Washery Grade II, Semi-coking grade I, Semi-coking Grade II and washed coal ; or
 - (b) the difference between the freight charges applicable for the stenciled carrying capacity, as shown on the wagon, plus two (2) tones less the freight payable as per actual recorded weight of coal loaded in the wagon for all other grades of coal.

7.8 The weighment at the loading end shall be final and binding for all commercial purposes.

8. Refund of EMD for Unsuccessful bidders:-

In case of unsuccessful bidders, EMD shall be refunded by the Service Provider after the auction is over, on the bidder's request. However, if no such request is received the Service Provider will retain the EMD for participation in e-Auction in future.

9. **Forfeiture of EMD:-**

The EMD submitted by the successful Bidders will be liable for forfeiture in the following cases: -

- 9.1 If after completion of e-Auction, a successful bidder fails to make payment for the coal value including all other charges within the stipulated time, the proportionate EMD equivalent to the failed quantity shall be forfeited subject to the provisions at Clause 6.4 and/or Clause 6.5 of this document, and/or,
- 9.2 **If the successful bidders does not lift the booked quantity within the stipulated validity period, the proportionate Security Deposit @ of Rs.400/- per tonne for coal having GCV of 4300 K.Cal/Kg and below and Rs.500/- per tonne for coal having GCV of more than 4300 K.Cal/Kg, (as converted from the EMD amount) for the unlifted quantity would be forfeited.**

Such forfeiture shall be made only if the balance Unlifted Quantity is equal or more than a Truck Load i.e.9 or 10 tonnes as applicable.

Such forfeiture, however, would not take place if the coal company has failed to offer full or part of the successful bid quantity within the validity period. In such cases again, no forfeiture would take place if the balance quantity is less than a truck load/rake load.

- 9.3 **If the Buyer cancels the order/Rake after booking, the EMD @ Earnest Money Deposit (EMD) at the rate of Rs.400/- per tonne for coal having GCV of 4300 K.Cal/Kg and and Rs.500/- per tonne for coal having GCV of more than 4300 K.Cal/Kg, shall be forfeited for the rake cancelled.**

10. **Refund of Coal value:**

The balance coal value of the unlifted quantity after the expiry of the validity period for supply of coal and completion of required commercial formalities shall be refunded subject to forfeiture of EMD if required, in terms of the forfeiture clause as above.

New Consumers/Buyers are requested to submit the Mandate Form along with the application at the time of deposit of coal value so that the refund, if any, will be made through e-payment mode. The Mandate Form may be downloaded from MCL's website (www.mahanadicoal.nic.in & www.mahanadicoal.gov.in). Old Consumers who have not deposited Mandate Form are also requested to submit Mandate Form, otherwise no refund will be processed after 15.12.2008.

11. **General Terms & Conditions:**

- 11.1 The coal procured under e-Auction is for use within the country and Not for Export.
- 11.2 All terms and conditions of Scheme are subject to force majeure conditions as applicable.
- 11.3 Bidders must always ensure to keep their email address valid. In any case Buyers can not be absolved from fulfilling the responsibility of compliance of any of the terms and conditions herein including payment terms due to non-receipt of emails from the Service Provider.
- 11.4 Bidders must be extremely careful to avoid any error in bidding (whether typographical or otherwise) and they are fully responsible to check and rectify their bid before submitting their Bid into the live e-Auction floor by clicking the "Bid" button. During the auction if the incremental bid price is more than 50% of the immediate preceding bid price, then the system will seek a re-confirmation from the Bidder before the bid is registered.
- 11.5 There is no provision for bidding in decimals. The Bidder shall be solely responsible for all consequences arising out of the bid submitted by him (including any wrongful bidding by him) and no complaint /representation will be entertained by the Service Provider/Coal Company in this regard.

11.6 The decision of the Director-In-Charge of Marketing of CIL / Coal Company in matters related to this e-Auction shall be final and binding on the bidders / Buyers.

11.7 Quantity mentioned in notice are only indicative and may undergo a change depending on factors like actual production of coal, bottlenecks in coal transportation etc.

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11.8 There will not be any joint/ third party sampling facility extended to any buyer. Refusal on account of non-suitability and /or sub-standard quality for the allotted quantity of coal shall not be acceptable.

11.9 Coal Company / Service Provider reserve the right to cancel the sale of coal under this e-Auction from any source / location in part or whole at any stage at its sole discretion without assigning any reason thereof and no party shall have any right whatsoever to raise any claim in that regard on that count.

11.10 CIL/Coal Company reserves their rights to amend/modify and revise the terms and conditions contained herein in full or in part at any point of time and no party shall have any right whatsoever to raise any claim in that regard on that count.

11.11 While the sale under e-auction is independent both parties shall be entitled to claim and recover from the other any excess or differential tax and statutory levies as provided in clause 6.9 at any time within a period of 3 years from the date on which the sum becomes recoverable. Both parties shall have a lien on any sums of money belonging to the other, which may come to their possession or control to the extent of the sum recoverable from the other..

11.12 In the event of any dispute, Bidder / Buyer is necessarily required to represent in writing to the General Manager (Sales) of the concerned coal company, who would deal with the same in a period of one month from such representation. Thereafter, if required the matter be determined by the Director-In-Charge of Marketing of the concerned coal company. Any interpretation of any clause of this will be subject to clarification by CIL, which will be deemed as firm and final. All disputes arising out of this scheme, or in relation thereto in any form whatsoever shall be dealt exclusively by way of arbitration in terms of the Arbitration and Conciliation Act, 1996. The arbitration shall be conducted at Calcutta at a place to be notified by CIL. The arbitrator shall be appointed by the Chairman and Managing Director, CIL upon written request in this behalf. The award rendered by the Arbitrator shall be final and binding on the parties. (The place of arbitration & nomination of arbitrator be varied appropriately in view of the Coal Company involved)".